

## Freedom of Expression

### **ACCUSED OF DEFAMATION FOR SOCIAL MEDIA POSTS**

Amnesty International Urgent Action, 11-08-2016

Haris Azhar, Executive Coordinator of a leading human rights NGO in Indonesia, is being investigated for defamation for publishing on social media a witness testimony linking security and law enforcement officials to drug-trafficking and corruption.

On 28 July Haris Azhar, Executive Coordinator of the Commission for the Disappeared and Victims of Violence (KontraS), posted a testimony based on conversations he had in 2014 with a convicted drug-trafficker on death row. The testimony linked security and law enforcement officials to drug-smuggling and corruption in Indonesia. The document was posted and widely circulated 24 hours before the prisoner was executed on 29 July, together with 3 other prisoners for drug-related offences, on Nusakambangan Island, Central Java. Since the publication of the testimony, “The dark story of a bandit: testimony from a meeting with Freddy Budiman in Nusakambangan Prison (2014)”, Haris Azhar has received threats from unknown persons and staff at KontraS believe they are under increased surveillance by undercover intelligence officials who have visited their office.

The Indonesian National Police (POLRI), the Indonesian Military (TNI) and the Indonesian National Narcotics Agency (BNN) filed a joint criminal defamation complaint against Haris Azhar on 2 August for violations against the 2008 Electronic Information and Transaction Law (ITE). They have also reported him to the Criminal Investigation Department of the National Police (BARESKRIM). If charged and convicted, Haris Azhar may face a maximum 6 years’ imprisonment and a fine of up to IDR 1 billion (US\$82,610).

To take action: <https://www.amnesty.org/en/documents/asa21/4641/2016/en/>

### **Police postpones suing Haris Azhar**

Kompas, 11-08-2016

The Indonesian police has decided to postpone the investigation into the indictment of slander against the police, the army and the anti-drugs agency BNN, by KontraS coordinator Haris Azhar. The police announced it will prioritize the investigation into the substance of Haris’ claims in a press conference. Head spokesperson of the police, general Boy Rafli Amar (left) said the police will establish an independent investigation team. Coordinator of KontraS Haris Azhar (right) was being sued for posting information he received from the drugs baron Freddy Budiman who was recently executed. According to other preliminary investigation by the Suspected Transfers Agency (PPATK) Budiman’s transfers would amount to over 3.5 trillion Rupiah (some 0.3 billion US\$) in a mix of legal and illegal transactions.



The army TNI leadership , the BNN and the Ministry for Law and Human Rights have each established their own investigation teams – which are all said to be independent.

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### **Medan man gets 14 months' imprisonment for Facebook tag**

The Jakarta Post, 13-08-2016

A man in Medan, North Sumatra, has been sentenced to 14 months in prison and a fine of Rp 5 million (US\$381) after the Medan District Court declared him guilty of violating the Electronic Information and Transactions (ITE) Law in light of a tag on his Facebook page.

The man, Dodi Sutanto, was tagged by a friend in a news story from local online media outlet medanseru.co on the arrest of local businessman Anif Shah by the Corruption Eradication Commission (KPK).

Claiming that Dodi did not offer clarification about the news and that his friends on the social networking site could access the story from his page, Anif reported Dodi to the police for defamation and violating the ITE Law, according to a press statement from the Legal Aid Institute for The Press (LBH Press) on Saturday.

Dodi, who is also the chairman of the National Committee of Indonesian Youth's (KNPI) North Sumatra branch, was taken into custody and the case was processed without supporting evidence, LBH Press research and network division chief Asep Komarudin said.

"The legal process was odd because the editor of the disputed news was not questioned at all by the police. Press Council chairman Yosep Adi Prasetyo also declared that the online media was vague and not under the protection of the Press Council," Asep said in a statement.

The police also named as suspects several of Dodi's friends who shared and were tagged in the story, though their cases are still ongoing. LBH Press feared that more people could be implicated in the same charges. "We regret the court's verdict that declared Dodi guilty without a fair trial. Of all ITE Law violation cases, this case is the worst in terms of the verdict," Asep said.

LBH Press urged the National Police to order the North Sumatra Police chief to stop the investigation, in accordance with a 2005 police circular that prioritized corruption cases over defamation cases. Furthermore, Asep called on the House of Representatives to eliminate the defamation article during deliberations on the revision of the law. The ITE Law has long been lambasted by the public for jeopardizing freedom of speech.

### Police accountability

### **Severe punishment for Army personnel involved in drug networks: Mulyono**

The Jakarta Post, 11-08-2016

The Indonesian Army is ready to impose severe punishments on all personnel found guilty of using drugs or being involved in drug trafficking networks, a top ranking official has said.

Army chief of staff Gen. Mulyono said the institution was still waiting for the results of its investigation into the alleged involvement of a two-star military General in executed drug kingpin Freddy Budiman's business empire. The investigation is being conducted by a team established by and working under the command of Indonesian Military (TNI) commander Gen. Gatot Nurmantyo.

"Personally, I don't want any of my personnel to be involved in drug networks. If anyone is proven guilty, I will immediately take him into a legal process and dismiss him from the military if necessary," Mulyono said on Wednesday.

Mulyono said that in line with ongoing internal reforms in the military, he had also called on all Army personnel to perform ethically, including by avoiding the use of official Army vehicles and facilities for activities outside of official military tasks.

The investigation will be conducted following the widespread circulation of Freddy's testimony released by rights activist Haris Azhar. In his testimony to the coordinator for the Commission for Missing Persons and Victims of Violence (Kontras) in 2014, Freddy revealed the alleged involvement of high ranking officials from the National Police, the TNI and the National Narcotics Agency (BNN) in his drug business.

Freddy claimed he had once delivered drugs from Medan, North Sumatra, using a car belonging to a two-star TNI General. The General even accompanied him in the car during the journey, Freddy said. Haris published the drug lord's testimony one day before he was executed on July 29 (see: <https://www.facebook.com/ulil67/posts/10157316959895533>).

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## Death penalty

### **Violation of the right to life**

The Jakarta Globe, By : Herlambang P. Wiratraman<sup>1</sup>, 08-08-2016

Indonesia executed four prisoners on death row for drug offences early on July 29. The killings were the third round of executions under Joko Widodo's government, and were carried out despite ongoing legal appeals and international pressure.

The firing squad shot dead Humphrey Jefferson Ejike Eleweke and Michael Titus from Nigeria, Seck Osmane from Senegal, and Freddy Budiman, an Indonesian national.

These executions were different from two rounds of executions last year that killed 14 people, including Australians Andrew Chan and Myuran Sukumaran. Then, the government prepared with a lot of fanfare, went through bitter diplomatic fallouts, and endured international criticism. This time, the government carried out the executions abruptly and quietly.

The government notified families of 14 prisoners only on the Tuesday that executions would take place. The government did not explain why the executions of 10 of these prisoners were postponed.

Human rights experts in Indonesia have repeatedly called for the government to stop the use of capital punishment. Hours before the third round of executions, the Indonesia Alliance of Human Rights Lecturers released a short statement addressed to President Joko "Jokowi" Widodo.

"We urged him to stop the executions. Our considerations are simple. Not only does the death penalty violates human rights, executions in Indonesia are carried out under a deeply flawed justice system," the statement said.

The death penalty violates the most fundamental right in human life: the right to life. This right is enshrined in Indonesia's Constitution in Article 28 I.

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<sup>1</sup> Herlambang P. Wiratraman is a director at the center of human rights law studies at Universitas Airlangga.

"The right to life, the right to be free of torture, the rights for freedom of thought and conscience, the rights to religion, the rights to be free from slavery, the rights to be treated equal in front of the law, and the rights to not be charged on retroactive laws are non-derogable rights in any circumstances," according to the Indonesian Constitution.

The Indonesian government ratified the International Covenant on Civil and Political Rights in 2005, committing itself to uphold international human rights law. Indonesia has yet to ratify the optional protocol to abolish the death penalty.

However, Indonesia's penchant for executions will weaken the nation's standing in seeking reprieve for 334 Indonesians on death row in other countries as of last year.

The Indonesian government has repeatedly failed to uphold its own laws regarding death sentencing. For example, under Indonesian law, executions are prohibited when legal processes are still ongoing. Jefferson was executed despite his pending clemency appeal. Jefferson, convicted in 2004 after the police found 1.7 kg of heroin in a room used by one of his employees in a restaurant he ran, maintained that he was innocent and was framed.

By going ahead with the execution despite pending appeals, the government has clearly violated Article 13 on clemency law and ignored the 2015 Constitutional Court decision on the death penalty.

Further, the Attorney General also violated the rights to information of the advocates and families of the prisoners. They have the right to 72 hours notice of execution. The Attorney General only informed lawyers and families 60 hours prior.

The implementation of the death penalty without fixing the corrupt judicial system will not deter people from engaging in the illegal drug trade. Convicting and executing drug dealers will not eliminate drug trafficking in Indonesia as long as corrupt officials are free to abuse the system.

This is clear in the case of Freddy. He was sentenced to death in 2012 for smuggling 1.4 million ecstasy pills from China from behind bars.

Ahead of Budiman's execution, the head of the Jakarta-based Commission for Missing Persons and Victims of Violence (KontraS), Haris Azhar, released a statement on social media that went viral. Azhar said that when he visited Budiman in 2014, Budiman

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implicated military generals, National Anti-Narcotics Agency (BNN) officials and the police in running the drug trade.

In short, indication of involvement of the state apparatus in Indonesia's drug trade is really strong. In the last couple of months there have been many news reports on military and police involvement in the drug network. In April, the Attorney General fired 20 attorneys involved in illegal drug offences. It would not be surprising if the death penalty was merely an attempt to cover up the corrupt law enforcers.

There are deep flaws in the law and legal enforcement, especially in the process of death sentencing and executions. The death penalty is built on weak institutions. This affects not only justice for the condemned but also the attempt to create a just legal system in Indonesia. The strength or weakness of the institution reflects the quality of Indonesia's law.

### **AG Reported to Prosecution Watchdog Over 'Unlawful' Execution**

The Jakarta Globe, 08-08-2016

Legal rights activists filed a report against Attorney General H.M. Prasetyo with the state prosecution watchdog on Wednesday (10/08) over the recent execution of one of four death-row inmates, which they claim had been unlawful.

The government pressed ahead late last month with the execution of four convicted drug offenders, three of whom had filed clemency appeals. The executions also came amid mounting outrage from the international community. A series of clemency appeals were submitted to President Joko "Jokowi" Widodo by Nigerian Humphrey Ejike, Senegalese Seck Osmane and Indonesian Freddy Budiman ahead of the executions.

Jokowi had repeatedly said he would not exercise this prerogative, amid what he declared as a state of emergency over drug-related crimes in Indonesia. However, the 2002 Law on Clemency stipulates that "execution of the death penalty cannot proceed before a convict receives a presidential decree rejecting his or her clemency appeal."

The government's response to the clemency appeals remains unclear, but activists have recently learned that a letter Ejike received to notify him that his appeal for clemency had been rejected did not come from the president.

This prompted the activists to report Prasetyo to the Commission for Public Prosecutions (Kojak) over Ejike's case, which they say could be an "entry point" to thoroughly examine the execution of the other convicts, as well as plans for more executions in the future.

"There has been no clear explanation from the Attorney General's Office," said Afif Abdul Qoyim of the Jakarta-based Legal Aid Institute (LBH), and a member Ejike's legal team. "He has received no presidential letter on his clemency appeal until the day of his execution." However, Prasetyo earlier said all the convicts' legal rights had been fulfilled. Wednesday's report against Prasetyo was also made over the timing of Ejike's execution.

Activists cited the 1964 Law on Procedures for Capital Punishment, which stipulates that "72 hours before the imposition of the death penalty, prosecutors must notify the convict about the imminent execution." The authorities notified Ejike about the time of his execution at around 3 p.m. on July 26, less than 72 hours before he faced the firing squad on Nusakambangan Island in Cilacap, Central Java. "The provision is not negotiable whatsoever," said Erasmus Napitupulu of the Institute for Criminal Justice Reform (ICJR).

Responding to Wednesday's report, Commission for Public Prosecutions chairman Sumarno said: "We will examine this. Laws are indeed like that. There are always pros and cons."

### LGBT Rights

#### **U.S. Condemns Indonesian Anti-LGBT Statements**

Tempo, Saturday, 13 August, 2016 | 18:18 WIB

TEMPO.CO, Jakarta - State Department spokeswoman Elizabeth Trudeau told reporters: "We encourage Indonesia, which rightly prides itself on diversity and tolerance, to respect and uphold international rights and standards by ensuring equal rights and protections for all of its citizens."

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Earlier on Thursday, Indonesian presidential spokesman Johan Budi told AFP that "rights of citizens like going to school and getting an ID card are protected, but there is no room in Indonesia for the proliferation of the LGBT movement."

He was responding to criticism that officials recently unleashed a wave of angry rhetoric against Indonesia's lesbian, gay, bisexual, and transgender (LGBT) community.

Washington is "closely monitoring reports of possible measures in Indonesia that would restrict the freedom of expression for LGBT individuals," Trudeau said.

"In principle and in practice the United States government will always strive to protect and advance the universal right of all people, including LGBT individuals, to express themselves both online and offline," she added. Indonesia's LGBT citizens have long been targeted by vigilante Islamist groups.

But the community experienced an "immediate deterioration" in their rights following a sustained assault by ministers, religious hardliners and influential Islamic organizations -- including a call to ban them from university campuses -- over a two-month period earlier this year, Human Rights Watch said in a report released Thursday.

### Political developments

#### **Netizens see face of communist Aidit, painting removed from Terminal 3**

The Jakarta Post, 13-08-2016

Following uproar on social media on Friday, a painting entitled #The Indonesia Idea (.ID) by Galam Zulkifli at the new Terminal 3 of Soekarno-Hatta International Airport has been taken down by operator Angkasa Pura II because of its apparent inclusion of the face of late Indonesian Communist Party (PKI) leader D. N. Aidit. Before being taken down, the painting was wrapped in white cloth to conceal it.



A detail of a large painting at Soekarno-Hatta airport's Terminal 3, featuring a face apparently that of late Indonesian Communist Party (PKI) leader D. N. Aidit (photo inset, right). In the wake of social media controversy, the airport operator took the painting down on Friday. (Warta Kota/Banu Adikara) and Sutan Sjahrir from Wikipedia.

Netizens engaged in fierce debate about whether Aidit's face was among the hundreds of national figures' faces featured in the painting. AP II corporate secretary and legal head Agus Haryadi responded to the discussion on Friday about 3 p.m., saying that he was not sure it was Aidit, but might rather be Sutan Sjahrir, the first prime minister of Indonesia and the founder of the Indonesian Socialist Party (PSI).

"We have been trying to contact Galam since this morning but he hasn't answered. We want to confirm whether it is indeed Aidit, because it looks like Sutan Sjahrir," Agus said as quoted by kompas.com. Hours later, AP II decided to take the artwork down.

"We have taken it down because it has attracted debate on social media. We're waiting for the curator's explanation about the painting," AP II acting president director Djoko Murjatmodjo told kompas.com.

The painting features hundreds of faces, including those of former presidents Abdurrahman Wahid and Susilo Bambang Yudhoyono and historical leftist figures such as the PKI's Musso and leftist Tan Malaka.

The painting's brief description says, "As a stage, Indonesia is an enduring offering about the search for truth through debate. Ideas meet to find the formula, not only about the state, but also how to blend diversity from different languages to become one soul: national unity."