

Weekly Update Human Rights in Indonesia – 19-09-2016

Impunity

Rights group to highlight RI genocide at UN

The Jakarta Post, 16-09-2016

The International People's Tribunal on the 1965 Crimes against Humanity (IPT 1965) plans to recommend to the UN that the Indonesian government be considered responsible for acts of genocide during the 1965 communist purge in an attempt to press the current government into resolving the issue.

President Joko "Jokowi" Widodo made the resolution of past human rights abuse cases one of his campaign promises but so far he has made no effort to act on his promises.

Following the non-binding verdict reached by the IPT 1965, then coordinating political, legal and security affairs minister Luhut Pandjaitan said Indonesia had its own legal system and no external party could dictate the way the nation solved its problems.

IPT 1965 coordinator Nursyahbani Katjasungkana said her team was preparing to take its verdict to the UN Human Rights Council's (UNHRC) upcoming Universal Periodic Review (UPR) and to the UN Office of the High Commissioner for Human Rights (OHCHR).

"We have met many officials to present our findings. But no one takes any action. This shows that the government is unable and unwilling to resolve the prolonged injustice surrounding this crime against humanity," Nursyahbani said. "We will present our consolidated data before the international human rights meeting. It is time to solve this case once and for all."

The Indonesian government is scheduled to give a presentation on the actions it is taking to protect and promote human rights at home during a UPR session in April and May next year. As a member of the UN, Indonesia will have to sit through a review during the quadrennial meeting. Nursyahbani said the IPT 1965 would present its findings during that session in order to counter reports prepared by the government, which will likely exclude details on the violence that erupted in 1965.

International law expert Jaka Triyana believes the UPR is the right mechanism through which rights groups can put political pressure on governments that lack the commitment to solve past human

rights abuse cases. "We need to keep doing this kind of advocacy work so that it will continue to resonate with people," he said.

The IPT 1965 also plans to make its case to the OHCHR in an effort to build an international movement that will force the Indonesian government to resolve the case.

Nursyahbani said the IPT 1965 had been emboldened in their efforts after meeting with members of the Presidential Advisory Board (Wantimpres), who told them bluntly that the President would focus his attention on the economy and infrastructure.

The group was dealt another setback following Jokowi's decision to name former Indonesian Military commander Wiranto as coordinating political, legal and security affairs minister. Wiranto has declined to meet with a group known as YPKP 65, a group of survivors from the 1965 communist purge.

As a last resort, Nursyahbani said the IPT 1965 would take the case to the UN Security Council (UNSC). "It is part of the plan. But it may take a long while to do this because in order to eventually see them, the UNSC must deem that the purge was an extraordinary crime. We need to gather political support from other countries," Nursyahbani said.

She said a country need not be a member of the UNSC to call for an extraordinary court. However, membership of the UNSC, something which Indonesia is currently seeking, would help her cause.

Wiranto vows to settle historic human rights abuses

The Jakarta Post, 15-09-2016

Coordinating Political, Legal and Security Affairs Minister Wiranto has vowed to settle serious historic human rights violation cases as mandated by President Joko "Jokowi" Widodo because of public demand. "I will find the solutions even though people doubt that I will do so," he said on Wednesday. The ministry had continuously conducted efforts to settle the historic abuses in comprehensive and transparent manners, so that the solutions would be fair and nondiscriminatory for all parties, not just benefiting certain groups and resulting in injustice for others, Wiranto said. "We don't want the settlement of historic human rights abuses to create bad implications for the nation in the future," Wiranto said.

The government has vowed to settle at least six major human rights violations, namely the 1965 communist purge, the 1989 Talangsari incident in Central Lampung, the 2001 and 2003 Wamena

Weekly Update Human Rights in Indonesia – 19-09-2016

and Wasior incidents in Papua, various kidnappings and unresolved shootings in the 1980s, the May 1998 riots and the disappearance of activists, then coordinating political, legal and security affairs minister Luhut Pandjaitan said in March.

The team of the National Symposium in April, a government-sponsored event to seek reconciliation for the 1965 mass killings, has submitted the symposium results and now waits for the government to take further action to resolve the country's dark past.

Wiranto asserted the ministry had invited the National Commission of Human Rights and legal experts to the ministry's meetings to get their input.

Rengat, 1949

Dutch paratroopers massacred hundreds, perhaps thousands, in a Sumatran town during the Indonesian Revolution, yet nobody outside Rengat seems to know.

By Anne-Lot Hoek, Inside Indonesia, 01-09-2016

Seventy-one years ago, right after the Second World War, the nationalist Sukarno proclaimed Indonesian independence on 17 August 1945. A bloody guerrilla war erupted soon afterwards with former coloniser, the Netherlands. One hundred and forty thousand Dutch troops arrived between 1945 and 1949 to restore 'law and order.' Almost an equal number of people died, leaving Indonesia in a state of civil war. The Rengat Event was an attack by paratroopers of the Dutch special forces (Korps Speciale Troepen) on Sumatran citizens. It took place on 5 January 1949, at the end of the 'Second Police Action.' According to Indonesian sources, almost 2000 people died, while Dutch documentation estimates around 80. Yet this violent story finds no place in the national memory of either country.

Read the full article: http://www.insideindonesia.org/rengat-1949-part-1?utm_source=All+Subscribers&utm_campaign=b27a1c5d54-13Oct2016+Rengat%2C+1949&utm_medium=email&utm_term=0_32cd77f926-b27a1c5d54-295518369

Freedom of Expression

DEFENDER UNDER INVESTIGATION FOR DEFAMATION

Amnesty International Urgent Action, 15-09-2016

I Wayan Suardana, a prominent human rights defender in Bali, is facing a defamation suit for posting mocking statements on his Twitter account against supporters of a large-scale land reclamation project in Benoa Bay, in southern Bali by a commercial developer.

On 15 August, I Wayan "Gendo" Suardana, a human rights defender from WALHI (Friends of the Earth Indonesia), was reported by activists from a mass organization with political affiliations, Pospera (Posko Perjuangan Rakyat or Peoples' Struggle Post), to the Criminal Investigation Department of the National Police Headquarters and five different Provincial Police Headquarters. The activists claim that Gendo had made defamatory comments against their organization and the Chairperson of its Board of Trustees, who is also a Member of Parliament from the ruling party. Gendo referred on a tweet to Pospera as "Pos Pemas Rakyat" (the Peoples' Extortion Post) and named one of its leaders "Napitufulus" (fulus means money), a play on his surname Napitupulu. The Pospera activists filed a criminal defamation complaint against Gendo under Article 28(2) of Law No. 11/2008 on the Electronic and Information Transaction (ITE) and ethnic hatred under Article 16 of Law No. 40/2008 on the Elimination of Racial and Ethnic Discrimination. The police are currently investigating the criminal defamation suit.

In the last few years, Gendo has been an active member of a coalition called ForBALI (the Bali Forum against Reclamation) and has organised massive peaceful protests against a large-scale land reclamation project in Benoa Bay, in southern Bali, by a commercial developer. ForBALI, which consists of Balinese student activists, environmental activists, NGOs, artists and members of the adat community (who adhere to customary traditions), claim that the project would harm environmental and cultural conservation. The developer is planning to build a luxury resort including villas, apartments, business centers and an amusement park on four new artificial islands. If charged and convicted, Gendo may face up to six years' imprisonment and a fine up to IDR 1 billion (US\$ 82,500).

The 2008 Electronic Information and Transaction Law (ITE), which governs information on the internet, contains vague language which has been used to broadly interpret defamation and blasphemy to criminalize protected expression in Indonesia. Article 28(2) of this law speaks of information "aimed to inflict hatred or hostility [against] individuals," and has been used in practice to prosecute individuals who have been accused of defaming or insulting a religion online. Meanwhile, Article 27 of the ITE Law criminalises defamation. In practice both Articles 27 and 28 of the ITE Law can be used to criminalise expression, which is not permitted under the International Covenant on Civil and Political Rights (ICCPR), to which Indonesia is a state party. For instance, In

Weekly Update Human Rights in Indonesia – 19-09-2016

2014 Abraham Sujoko was sentenced to 2 years by Dompu District Court in West Nusa Tenggara for insulting Islam on a Youtube post under Article 27(3) of the ITE law.

On 2 August 2016, 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 for violations against the ITE Law after he posted an article linking security and law enforcement officials to drug-trafficking related corruption on social media. The defamation investigation has been suspended until an independent investigation set up by President Joko Widodo to investigate the allegations of the corruption has concluded their work (see: <https://www.amnesty.org/en/documents/asa21/4641/2016/en/> and <https://www.amnesty.org/en/documents/asa21/4734/2016/en/>).

In 2012, Alexander An was fined IDR100 million (US\$ 11,000) and sentenced to 6 months' imprisonment by Sijunjung District Court in West Sumatra for Facebook posts deemed 'insulting' to Islam and the Prophet Muhammed. In another case, Sebastian Joe was sentenced to 5 years' imprisonment for a Facebook post considered insulting to Islam. He was originally sentenced to 4 years under Article 156(a) of the Criminal Code by the Ciamis District Court but the Bandung High Court in West Java increased the sentence by a year using Article 28(2) of the ITE Law (see: <https://www.amnesty.org/en/documents/ASA21/018/2014/en/>).

The use of criminal defamation laws with the purpose or effect of inhibiting legitimate criticism violates Indonesia's legal obligation to respect and protect the right to freedom of expression under the ICCPR. The UN Human Rights Committee has encouraged states to consider decriminalizing defamation and has underlined that defamation laws must be: crafted with precision to ensure that they comply with states' international human rights obligations and do not in practice stifle freedom of expression; a public interest in the subject matter of the criticism should be recognised as a defence; and, states should take care to avoid excessively punitive penalties.

To take action: see <https://www.amnesty.org/en/documents/asa21/4833/2016/en/>

Activist arrested after he reported on the Klaten police

Suara Merdeka, 19-06-2016

Sigit Pratomo, a human rights activist has been arrested last Wednesday (14/9) in Klaten. Recently he had reported on the Klaten police at the Headquarters for ill-treatment and arbitrary arrest. He has been arrested for deceit.

An eyewitness, Nata Dwi Nugraha, said that after he had testified at the court, he was handcuffed and driven away in a car. Nata said he had seen the arrest warrant that referred to art. 378 of the Criminal Code. The police officers who arrested him were dressed in plain clothes. On the fraud case he had no information as to the details or even who is the victim.

Another friend of Sigit who accompanied him in the court session, said that that morning Sigit had not said anything about being arrested or an arrest warrant. The arrest was so sudden and questionable, he said.

His lawyer, Riskam Bindarin, said that he knew about the pending arrest, but he had not yet been given authority to intervene on his behalf.

The head of the police unit in Klaten, AKP Fariel Mandalanta Ginting conformed that Sigit had been arrested, but he refused to give further comments.

Social and economic rights

Most domestic worker abuse cases aren't taken seriously, activist says

The Jakarta Post, 16-09-2016

At least 80 percent of domestic worker mistreatment cases reported to law enforcement in Jakarta this year do not enter legal processing as they are discontinued by police, the National Network for Domestic Workers Advocacy (Jala PRT) has said.

In a report submitted to the National Commission on Violence Against Women (Komnas Perempuan), Jala PRT revealed that from 217 cases of mistreatment against housemaids up to mid-September, only seven cases had successfully begun legal processing until reaching court, while the 210 other cases remained unsolved.

The 217 cases included 41 cases of multiple rights violations, namely a combination of physical, mental, economic and sexual abuse; 102 cases of physical abuse such as beating, isolation and trafficking; and also 74 cases of wages being unpaid including bonuses, Jala PRT national coordinator Lita Anggraini said.

Weekly Update Human Rights in Indonesia – 19-09-2016

"We have tried to resolve the issue together and report the cases to the police, however, because they [the police] believe we don't have enough evidence [most of the time], they don't initiate investigations into the cases, where about 80 percent have been dropped," Lita said on Thursday.

Meanwhile, Komnas Perempuan commissioner Magdalena Sitorus said the nation's laws had yet given sufficient protection for domestic workers' rights.

Therefore, Magdalena said, the country should accommodate domestic workers' pleas for protection by taking proactive measures to legislate the domestic worker protection draft bill and ratify ILO Convention No. 189 on decent work for domestic workers.

Police accountability

Drug Lord — Not Freddy Budiman — Gives Rp 2b to Police Officers: Fact-Finding Team

The Jakarta Globe, 15-09-2016

An investigation by an independent police-initiated team has revealed that a drug lord distributed around Rp 2 billion in cash to a number of police officers, proving another drug lord Freddy Budiman's claim that the country's law enforcers have long been involved in drug trafficking ring.

The independent team, dubbed "the fact finding team" and set up to investigate the officers' involvement in drug crimes, has been investigating allegations that members of the National Police, National Narcotics Agency (BNN) and Indonesian Military (TNI) had helped slain drug convict Freddy Budiman run his drug trafficking ring.

Freddy mentioned the names of at least three officers who had helped him run his drug business from inside the prison.

Fact finding team member Effendy Ghazali told reporters the probe into Freddy Budiman's case had led to another drug lord Chandra Halim, better known as Akiong. "The team did find a suspicious flow of cash, but it wasn't from Freddy Budiman," Effendy said in Jakarta on Thursday (15/09).

The investigation found that a middle rank police officer, identified as KPS, received Rp 668 million (\$51,000) from Akiong. The officer had admitted taking the bribes and his case is currently being handled by the police's internal affairs division Propam.

The team also identified five suspicious money transfers to police officers amounting to Rp 25 million, Rp 50 million, Rp 77 million, Rp 700 million and more than Rp 1 billion — a total of more than Rp 2 billion. It did not mention the names of the officers. "The officers claimed they did not receive the money from Freddy Budiman," Effendy said.

He said the team found it difficult to prove Freddy's claim that he had given around Rp 450 billion to BNN officers and Rp 90 billion to National Police officers as kickback, since he was no longer available to give further information.

Freddy had confessed about the officers' involvement in his drug business to human rights activist Haris Azhar when they met on the Nusakambangan prison island two years ago. Haris eventually revealed Freddy's testimony shortly before the convict faced the firing squad.

Effendy said it is not possible to disclose the video of Freddy's testimony to the public as that will violate the Electronic Information and Transactions Law. According to the law, anyone who distributes false information or defamation can be charged at a court of law.

Political developments

Tommy Suharto Urges His Family to Join Tax Amnesty Program

The Jakarta Globe, 15-09-2016

Former President Suharto's youngest son said his family will likely join the government's tax amnesty program. "I haven't talked to [my family about it], but they should make the best use of this program," Hutomo Mandala Putra, better known as Tommy Suharto, told reporters on Thursday (15/09).

Tommy, who owns the Humpuss Group, symbolically handed over his tax report to Ken Dwijugasteadi, director general for taxation at the Ministry of Finance. Usually, tax reports of big taxpayers are submitted to the head of the Directorate General of Taxes.

President Suharto's children are involved in various domestic and international businesses.

"I urge Indonesians to join this program without hesitation. I take this opportunity to make things easier for my future projects," Tommy said.

Weekly Update Human Rights in Indonesia – 19-09-2016

He declined to reveal the value of the assets he reported, or the amount of tax he paid. He said he reported stocks, account receivables and other assets, most of which are located abroad.

Tommy is currently involved in the property sector with his Mangkuluhur City office tower development.

The tax office hopes high-net-worth Indonesians will join the program soon as the deadline for the lowest tax rate is the end of this month.

Indonesian Chambers of Commerce and Industry (Kadin) chairman Rosan P. Roeslani told the Jakarta Globe that many members of the business lobby will join the program next Tuesday.

Update on the tax amnesty

There has been a lot of attention for the law on an tax amnesty, for an update see the new Finance Minister's opinion from the Jakarta Globe, 19-08-2016:

Indonesian Finance Minister Sri Mulyani Indrawati warned tax dodgers that an eight-month tax amnesty program was their last opportunity to have all of their "sins deleted" or face "hell" afterwards.

In her first interview with the foreign media since returning as minister, the former World Bank managing director also told Reuters on Friday her top priorities were restoring credibility in the state budget and improving investors' confidence in the economy.

The 53-year-old Sri Mulyani, named finance minister in last month's cabinet reshuffle, said revenue collected so far from the tax amnesty was less than expected, only a tiny fraction of the billions of dollars the government hopes will go into state coffers to narrow substantial fiscal deficit. To people who owe taxes, she offered a choice: "Basically you have heaven and hell. This is the opportunity for you to go to heaven with only 2 percent [tax penalty] and all of your sins have been deleted."

"If you're not using the opportunity this time, I'm not going to play around," Sri Mulyani added, warning wealthy business owners that she had "a lot" of video of them admitting they do not pay taxes. Sri Mulyani did not disclose any names.

The amnesty lasts until March and has so far collected only Rp 757 billion (\$58 million). That is just 0.5 percent of the Rp 165 trillion the government hopes to collect by the end of December. In

addition, the government hopes that more than \$70 billion of assets overseas will return home under the amnesty.

Indonesians can pay the lowest rate of 2 percent if they enter by Sept. 30. Under current law, the punishment that tax evaders will face after the tax amnesty is a 400 percent penalty on amounts due.

Sri Mulyani, who has a doctorate in economics from the University of Illinois, said she was "cautiously optimistic" collections will improve after September. As finance minister under former President Susilo Bambang Yudhoyono, Sri Mulyani made enemies within Indonesia's elite by naming and shaming tax dodgers.

Local dynasties are damaging for democracy

Kompas, 19-09-2016

The trend of powerful dynasties in local government has a negative impact on the local democratic developments, with regard to transparency and accountability. The presence of relatives of current functionaries in the local elections also threatens a healthy recruitment in party politics in general.

This trend is growing because of the pragmatic approach of the party elites and the limitedness of oversight in the elections, especially outside the bigger cities. People cannot vote for qualified candidates.

The negative effects of the dynastic policies receives wide attention after the Governor of the province of Banten Atut Chosiyah in 2013 turned out to be involved in a corruption scandal that also involved her inner circle. In the district of Banyuasin, Sumatera Selatan, the KPK arrested the district head (bupati) of Banyuasin, Yan Anton Ferdian, in the act of manipulating a project. As bupati, he was the successor of his father, Amiruddin Inoed, who was also under investigation of the KPK in connection with local forestry problems.

The possibility is that even more local functionaries will be relatives of current functionaries will be realized during the local elections of 15 February 2017. There should be a tough monitoring of interests as candidates are being pushed by current functionaries at all levels.

The Director of Lingkar Madani Indonesia, Ray Rangkuti, said this in a public debate last Sunday. He also said that as many as possible qualified candidates should be presented in the local elections.

Weekly Update Human Rights in Indonesia – 19-09-2016

The essence of democracy will be damaged when the political parties tend to present relatives of current functionaries, whose quality can be questioned.

Even worse, said the researcher of Indonesia Corruption Watch, Ade Irawan, the dynastic politics are close to corruption, both in material manipulation as in abuse of power. According to Ade, current functionaries often use their power to do anything for their successor to win the elections for local authority.

After such a candidate has won the election, says Ade, he or she will continue all the efforts that have been started. That makes it difficult to realize a transparent and accountable way of governance, so that in the end the ordinary people are suffering the loss. The researcher of Perkumpulan untuk Pemilu dan Demokrasi (Association for Elections and Democracy), Fadli Ramadhani, added that the presence as candidates of relatives of current functionaries has a negative effect for the recruitment and search for qualified candidates. This may be the result of pragmatic ways of thinking by the political parties. The consider the relatives as the one most apt to win the election based on the power of the predecessor.

The coordinator of the Komite Pemilihan Indonesia, Jerry Sumampouw, agreed with this. Even, he said, the dynastic politics will tend to preserve this pragmatic approach to the local elections and thus guarantee that they stay in power as a dynasty.

Read the full article (in the internet version of this article some of the dynasties are being shown): <http://print.kompas.com/baca/politik/2016/09/19/Kaderisasi-Terancam>

Investigating involvement of the police in drugcrimes

Kompas, 17-09-2016

The Head of the Police Tito Karnavian has confirmed that the results of the Special Investigation Team on the claims by KontraS coordinator Haris Azhar with regard to the possible involvement of police, military and other law-enforcement officials in drugcrimes, will be followed up by the Integrity and Security Division of the Police (Propam) itself¹. The Prosecutor's Office will act likewise. However, said Tito, he will also respect the presumption of innocence. For the juicy details, see: <http://print.kompas.com/baca/politik/2016/09/17/Oknum-Jaksa-dan-Polisi-Ditelusuri>.

¹ Instead of an ordinary criminal investigation [MM]

Man Suspected to be a Santoso Follower Shot Dead in Tinombala

Tempo, 19-09-2016

Another armed clashes broke between the Tinombala Task Force and the Mujahidin Indonesia of East Tinombala (MIT) in Poso, Central Sulawesi. On Monday, September 19, 2016 the gunfight that ensued claimed the life of one man suspected to have been Santoso's follower.

"A gun fight broke at 08.30 Central Indonesia Time in a plantation area in Tombua, Tangkura village, South Coast Poso," Tinombala Task Force member who declined to be named told Tempo on Monday, September 19, 2016.

The officer said a gunfight ensued between personnel of the Charlie 16 Tinombala Task Force led by Chief Brigadier Ristopa and an unknown person. Charlie 16 was patrolling the plantation area of Tombua when an unidentified person appeared. The force told the man to raise both arms but he reached for a grenade in his bag instead, shouting Allahu Akbar. Team Charlie 16 fired at the man.

The man, who was wearing a yellow shirt and a camouflage outerwear, was shot in the head and died instantly at the site.

The Tinombala Task Force found a number of weapons from the victim, including four grenades and two machetes. He was carrying a backpack containing a sleeping bag and a pair of scissors.