

Weekly Update Human Rights in Indonesia – 28-11-2016

Impunity

“Jokowi does not take his responsibility in the Munir case”

Tempo, 27-11-2016

Human rights organisation KontraS stated that President Joko Widodo is not taking his responsibility in the solution of the case of the murder of human rights defender Munir. The President has decided that the Government, via the State Secretariat has appealed to the decision of the Central Information Commission (KIP) in October to publish the Special Fact-finding Commission's (TPF) report on the murder (in September 2004).

Not only did the State Secretariat not accept the KIP decision, but also it submitted objections with the Administrative Court (PTUN) of Jakarta. In the objections the State Secretariat requests that the Administrative Court reverse the decision by the KIP with the argument that the State Secretariat did not file the document.

KontraS coordinator Haris Azhar said that former president Susilo Bambang Yudhoyono had received a copy of the report by the TPF Commission and that current President Joko Widodo's effort to appeal against the decision suggests that he is reluctant because of a suspicion that someone from his entourage might be involved. Haris also urged that the president also give follow-up to the recommendations in the TPF report, and not to waste more time.

Freedom of Expression

Peaceful activist sentenced to a year in prison

Amnesty International Urgent Action, 25-11-2016

Peaceful Papuan political activist, Steven Itlay, has been convicted of 'incitement' and sentenced to one year imprisonment in Timika, Papua province.

Steven Itlay, leader of the Timika branch of the West Papuan National Committee (KNPB) was sentenced on 22 November to one year imprisonment for 'incitement'. The Timika District Court (PN Timika) found him guilty under Article 160 of Indonesia's Criminal Code (KUHP, Kitab Undang-Undang Hukum Pidana), which punishes "any person who orally or in writing incites in public to commit a punishable act, a violent action against the public authority or any other disobedience". The time he has already spent in detention since 5 April will be deducted from his sentence.

15 political activists were arrested on 5 April at a joint peaceful prayer activity and demonstration in the backyard of a church in Utikini village, Kuala Kencana district, Mimika, Papua province. Mimika Resort Police released 13 of the activists after two days. Steven Itlay was prosecuted for delivering a political speech during the prayer activity and distributing flyers for a demonstration in the run-up to the same prayer event. He was cleared of the original charges of 'rebellion' (makar) under Articles 106 and 110 of the Indonesian Criminal Code but convicted and sentenced for the lesser offence of 'incitement' which carries a lighter sentence. Amnesty International considers Steven Itlay a prisoner of conscience for being prosecuted and imprisoned solely for the peaceful exercise of his rights to freedom of expression and peaceful assembly.

The joint prayer activity in Utikini village, Kuala Kencana district, Mimika, Papua province on 5 April was a gathering in support of a peaceful Papuan pro-independence umbrella group, the United Liberation Movement for West Papua (ULMWP) to be accepted as a member of Melanesian Spearhead Group (MSG), a sub-Pacific intergovernmental organization. The police argued they allowed the prayer activity, but that they had to disband the gathering by firing warning shots because someone had delivered a political speech on the stage. The police also destroyed many banners and flags belonging to the KNPB group.

Another man arrested together with Steven Itlay, Jus Wenda, was sentenced to ten months' imprisonment by the PN Timika on 10 August for maltreatment against the Head of Mimika Resort Police Force under Article 351(1) of the Criminal Code.

Indonesia enshrines guarantees to freedom of expression and peaceful assembly in its Constitution and national legislation. But legislation continues to be used to criminalize

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peaceful political activities and to imprison people solely for the peaceful exercise of their rights to freedom of expression and opinion, peaceful assembly conscience and religion.

At least 12 people are currently imprisoned in the Papuan region (provinces of Papua and West Papua), some sentenced to as long as 20 years' imprisonment, for attending, organizing or participating in peaceful political activities or protests, or possessing, raising or waving the prohibited pro-independence 'Morning Star' flag of Papua. Many of those arrested are charged with "rebellion" (makar) under Articles 106 and 110 (crimes against the security of the state) of Indonesia's Criminal Code.

Article 160 of the Indonesian Criminal Code has been used in the past against human rights defenders and political activists in various parts of Indonesia including Aceh, Java, Papua and Maluku to suppress freedom of expression and assembly.

Amnesty International takes no position whatsoever on the political status of any province of Indonesia, including calls for independence. However, the organization believes that the right to freedom of expression includes the right to peacefully advocate referendums, independence or other political solutions.

To take action, the link to the website version is available here: <https://www.amnesty.org/en/documents/asa21/5216/2016/en/>

Gay rights

FPI barges into an apartment, forcing police to arrest several men

The Jakarta Post, 27-11-2016

Dozens of people led by Islam Defenders Front (FPI) members barged into a Kalibata City apartment in South Jakarta on Saturday night, saying they went there to break up a "sex party" following a tip-off about the alleged event. The Jakarta Post's source, who requested anonymity due to the sensitivity of the issue, said the mob came at about 11:30 p.m. to one of the towers in the apartment complex. Members of the mob were shouting "Allahu Akbar!"

The source said the police arrived slightly after midnight.

Escorted by the police and apartment security, the mob barged into an apartment unit and found the men inside, who the police took into custody.

FPI's public relations division said on their Twitter account @HumasFPI Sunday that they along with the police "successfully broke up" the alleged sex party. The tweet said they followed an invitation to the party.

Local newspaper Warta Kota said the police confiscated 17 cell phones, two packs of condoms and antiretroviral drugs for HIV/AIDS. None of the evidence was outlawed material.

The Post's source in the police said the men did not violate any laws. In Indonesia, homosexual sodomy [sic!] is not outlawed except when it is done with an underaged individual.

Pancoran Police refused to comment on the matter.

Political developments

FPI's Rizieq Shihab, Munarman Dodge Questioning in Ahmad Dhani Case

The Jakarta Globe, 24-11-2016

High-profile cleric Rizieq Shihab and spokesman Munarman of the hardliner group Islamic Defenders Front, or FPI, failed to meet a police summons on Thursday (24/11) in an investigation of alleged defamation of a state symbol by rock star Ahmad Dhani.

Dhani, who is also a deputy district head candidate in Bekasi, West Java, was reported to police two weeks ago after allegedly insulting President Joko "Jokowi" Widodo during the Nov. 4 mass rally against Jakarta Governor Basuki "Ahok" Tjahaja Purnama. [It is unclear what Ahmad Dhani has said.]

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Police have scheduled questioning of six other witnesses: Dhani and his wife Mulan Jameela, activist Ratna Sarumpaet, cleric Bachtiar Nasi, lawmaker Amien Rais and lawyer Eggy Sudjana. Only Eggy has attended the summon.

“Munarman cannot make it for today's questioning since he has an event that must be attended. I'm here to tell the police about that,” his lawyer Kapitra Ampera told reporters in Jakarta on Thursday.

He added Rizieq was unable to attend the Jakarta Police meeting due to his busy schedule.

The lawsuit against Dhani was filed by Projo and Laskar Rakyat Jakarta, two volunteer groups which campaigned for Jokowi during the 2014 presidential election.

Dhani has been accused of insulting the head of state in public, which under Criminal Code Procedure could see him jailed for 18 months.

Freeport Indonesia to Pursue IPO: President Director

The Jakarta Globe, 24-11-2016

Freeport Indonesia, the country largest gold miners, is likely to pursue an initial public offering in a move to comply with divestment rules after receiving support from the government on the plan, the president director said on Wednesday (23/11).

Under a 2014 government regulation, the local unit of US gold mining giant Freeport McMoran must divest 30 percent of its shares to any Indonesian parties by 2019. Today, Freeport McMoran controls 90.64 percent shares in Freeport Indonesia while the government owns the remaining shares.

An IPO has been Freeport Indonesia's preferable method to unload the shares, but the government has insisted the company must first offer the shares to government or state-owned enterprises.

Early this year, Freeport Indonesia offered 10.64 percent to government for \$1.7 billion, but the deal failed to materialize with the government deeming the price too expensive.

Chappy Hakim, Freeport Indonesia new president director, said that Energy and Mineral Resources Minister Ignasius Jonan told him in a meeting last week that government had a change of heart. "As of today, the government has the same stance as the company," Chappy said in a meeting with national media chief editors late on Wednesday.

"We now only need to calculate Freeport valuation. If its attractive, I think an IPO is very likely," he said. Indonesian Air Force marshal Chappy was appointed as Freeport president director last week, arriving at a crucial time for the company as it tries to secure extensions for mining operations in the country beyond beyond the 2021, when its contract of works end.

The divestment is one of the government demands for starting contract extension negotiation in 2019.

But, it is also proof of one of the trickiest part of the bargain. Chappy's predecessor, former deputy to the chief of the State Intelligence Agency¹ Maroef Sjamsoeddin, resigned



¹ The accompanying photograph shows the president-director of Freeport Indonesia presenting his speech, under the title "Indonesia, my country, my air", with, in the background, the banner with the logo "Hendropriyono Strategic Consultancy"; another link of Freeport with the State Intelligence Agency BIN ?

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in January after he unveiled an extortion attempt by top politicians and lawmakers in regard to the company's planned share divestment.

Police drop charges of spreading hatred in Ahok case

The Jakarta Post, 25-11-2016

The police have announced that they will only charge Jakarta Governor Basuki "Ahok" Tjahaja Purnama with blasphemy, not spreading hatred.

Ahok was earlier charged under the blasphemy article in the Criminal Code and spreading hatred article in the Electronic Information and Transactions (ITE) Law related to his statement about a verse in the Quran that was videotaped and uploaded onto social media.

"Ahok didn't spread the video on the internet. Investigators from the National Police's Criminal Investigation Department (Bareskrim) didn't find any violation of the ITE law during the investigation," National Police spokesman Sr. Comr. Rikwanto said on Friday.

In light of that, the police removed the ITE law violation charge from Ahok's case dossier, which was submitted to the Attorney General's Office on Friday morning, Rikwanto said.

Ahok was earlier charged under Article 156 of the Criminal Code regarding blasphemy and Article 28 (2) of the ITE law concerning the spreading of information sparking sectarian hatred.

Ahok's fiercest critics face hate speech charges

The Jakarta Post, 25-11-2016

A video of Ahok making the statement went viral after private university lecturer Buni Yani uploaded it onto his Facebook account along with an incorrect transcription and commentary. The video triggered outcry among Muslim conservatives. On Nov. 4, tens of thousands of people, led by conservative Muslim groups, staged a rally in front of the Presidential Palace in Jakarta demanding that the government prosecute Ahok.

Police named Buni a suspect on Wednesday for allegedly spreading hatred according to Article 28 (2) of the ITE law.

As the National Police intensify their probe into blasphemy allegations made against Jakarta Governor Basuki "Ahok" Tjahaja Purnama, a number of people who were at the forefront in demanding that he be prosecuted are now also facing legal charges.

On Wednesday night, the police charged Buni Yani with incitement for posting an incomplete transcription of Ahok's controversial citation of a Quranic verse in Thousand Islands regency in September, the video of which went viral and led to the demand for Ahok's prosecution. In the video, which was uploaded on Buni's Facebook page, Ahok said: "Don't believe those people. It is possible that deep in [your] heart you cannot vote for me. [You are] deceived [by other people] using AlMaidah 51,"

In his caption for the video, Buni quoted Ahok as saying "[you are] deceived by Al-Maidah 51." He has admitted that he inadvertently omitted the missing words. His Facebook post, in which he misquoted Ahok, received a lot of responses and was largely responsible for triggering public outrage against the governor. The police have charged Buni Yani under Article 28 of the notorious 2008 Electronic Information and Transactions (ITE) Law on hate speech, which carries a maximum sentence of six years' imprisonment.

On Thursday, the police said it would not detain Buni, who they said had been cooperative during the investigation, but added that he was barred from traveling abroad. The police made the same decision with Ahok. The police have confiscated Buni's cellphone and taken over the access to his two email accounts and his Facebook account.

Based on the suspect's statements to police, he posted the video and the caption because he wanted to discuss Ahok's remarks with his Facebook friends, Awi said. "The quotation [in the caption] was taken from the video but he edited it with some words [put] in brackets," Awi said. "The problem lies in the caption, not the video. Those [bracketed] words are not found in the video [...] and spread information likely to cause hostility and hatred."

Awi said the police would complete the investigation into Buni's case within 60 days. Buni's lawyer Aldwin Rahadian said his client did not edit Ahok's remarks and he was not the first to upload a video of Ahok's speech in Thousand Islands.

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Also on Thursday, the police began their investigation into a defamation case involving musician Ahmad Dhani, who is accused of insulting President Joko “Jokowi” Widodo when he took part in the massive anti-Ahok rally on Nov. 4. Islam Defenders Front (FPI) leader Rizieq Shihab and artist Ratna Sarumpaet have been summoned by the police as witnesses in the case.

Dhani, Ratna and Rizieq are among the fiercest critics of Ahok. Ratna said the police had also summoned National Mandate Party (PAN) supervisory board head Amien Rais, Muslim cleric Bachtiar Nasir, lawyer Eggi Sudjana, Dhani’s wife Mulan Jameela and the musician himself on Thursday. “We’ve decided not to answer the summons because the summons letter is unclear,” Ratna said by telephone on Thursday, claiming that the letter did not properly identify the addressee.

Meanwhile, Eggi, who arrived at the police office at 10:30 a.m., said he believed Jokowi should have personally reported Dhani for defamation if he felt insulted, as stipulated in Article 207 of the Criminal Code on insulting leaders or institutions. In this case, he said, the police had followed up on a report from a resident identified as Riano Osha.

“In a defamation case, the person who feels insulted is the person who should report it to the police. Just like president SBY, who himself reported Zaenal Maarif to the Jakarta Police,” Eggi said, referring to a police report made by then president Susilo Bambang Yudhoyono in 2007.

Adaptation of the KPK-law postponed

Kompas, 26-11-2016

The Parliamentary Working Group on the Legislation Program (Prolegnas) 2017 in Parliament (DPR) has decided that the adaptation of the law on the Anti-Corruption Committee (UU-KPK) will not be included in the 2017 program.

The initiative to adapt the law 30/2002 has surfaced since mid 2015. It was included in the long-term Prolegnas agenda 2015-2019, and considered to be included in 2015 and 2016. But the idea received lots of public attention as it was perceived as weakening the powers of the Anti-Corruption Committee KPK. The KPK itself also rejected the proposal. So ultimately President Joko Widodo decided to postpone the plan.

“For 2017, the Prolegnas 2017 Working Group decided in agreement with the government not to include it in the 2017 program”, said its chairman, Firman Subagyo. They both (government and parliament) think that it is better to have an adaptation after the Criminal Code (RUU Kitab Undang-undang Hukum Pidana (KUHP)) has passed. “Not only the UU-KPK, but also legislation on police, prosecution and law-enforcement institutions will have to be adapted to the new norms of the new Criminal Code”, he added.

A member of the Prolegnas 2017 Working Group, Arsul Sani, said he would prefer to have a public consultation process first. A lecturer at the Law Faculty of Universitas Indonesia, Akhlar Salmi, added that also the new Criminal Procedure Code (RUU Kitab Undang-undang Hukum Acara Pidana) should be enacted as these give the standards that other laws should abide by.

Constitutional Court Judges to be appointed for life?

Komps, 26-11-2016

The Constitutional Court should be careful in the discussion on the possibly lifetime terms for their judges. The proposal was brought forward by Center for Strategic Studies of University of Indonesia. It may lead to more corrupt judgments of the nine judges, said former Chairman of the Constitutional Court, Mahfud MD. The proposal is contradictory to the spirit of the reformation and constitutional reform. Especially the Court itself should not decide on the Court’s periodic terms. Mahfud said that the idea of the Court deciding on its own terms of power was “bombastic, leading to corruption, and, sorry, shameless”. He said that the Constitutional Court already has a bad smell and it would even worsen.

The Center for Strategic Studies University of Indonesia (CSSUI) analysed the constitutional character of several articles (4/3 and 22) of the law that regulates the Court (UU 8/2011). In those articles the working terms for judges is decided to be 5 years and for the chairman 2,5 years. This is considered discriminatory, in comparison also with the judges of the Supreme Court, who remain judges until their retirement.

Mahfud also considers this possible change as not very urgent. The Court should have more urgent matters to decide. He referred to the principle of “nebum nemo iudex in causa sua”, nobody should judge in his own case. A researcher of the Constitutional Study Center of Universitas Andalas, Padang, Feri Amsari, holds the same opinion.

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In the meantime, a spokesperson of the Constitutional Court, Fajar Laksono, when asked about his opinion of the prolongation of the judges' terms, referred to the planned revision of the law on the Court and said that there might be many options, terms of 5 years, 8 years, 9 years, till retirement or even for life, but we will give our opinion to the Ministry of Law and Human Rights when they ask for it. "But we are not in a position to decide. That is the power of the legislators in parliament who will then consider the needs and developments in the law", he said.

Jokowi supporters present evidence in lawmaker's incitement case

The Jakarta Post, 28-11-2016

Supporters of President Joko "Jokowi" Widodo presented evidence in their first police interrogation on Monday regarding the alleged incitement committed by House of Representatives deputy speaker Fahri Hamzah during a mass rally on Nov. 4.

The Red and White Solidarity Group (Solmet) chairman Silver Matutina said the group would present video footage from Fahri's official website that showed Fahri making controversial remarks about Jokowi during the rally called to demand the prosecution of Jakarta Governor Basuki "Ahok" Tjahaja Purnama for alleged blasphemy.

"We hope that this report can provide a deterrent effect and warn people not to incite others during any protest. No one has impunity from the law, including Fahri as a House deputy speaker," Silver said at the Jakarta Police office, adding that his group would also present eyewitnesses named Trijahja Budi Wibowo and Iwan who heard Fahri's speech during the rally.

On Nov. 11, Silver reported Fahri to the Jakarta Police headquarters for attempting to overthrow the legitimate government through his speech calling for the impeachment of Jokowi. He also told protesters that Jokowi had violated the law on several occasions.

Fahri also accused the president of having insulted Muslim figures and protecting a non-Muslim person who had allegedly committed blasphemy. Such a statement was a blatant lie, Silver asserted. Silver reported Fahri for allegedly violating Article 160 of the Criminal Code (KUHP) on incitement.