

## Impunity

### **Mechanisms to Resolve Past Human Rights Abuses Remain in Place: State Commissioners**

The Jakarta Globe, 02-02-2017

Both judicial and non-judicial mechanisms remain in place to resolve past cases of gross human rights abuses, state commissioners said on Thursday (02/02) in defense of their investigation into such incidents, amid government plans for national reconciliation. Concerns over efforts to settle the decades-old cases have reemerged since Monday, when Chief Security Minister Wiranto reiterated that the incidents will be resolved "by not causing new problems for the nation." His remarks came shortly after a meeting with National Commission on Human Rights (Komnas HAM) representatives, who said there had been no agreement during a meeting on Monday to settle the cases "purely" through national reconciliation. "It's true that we've been encouraging reconciliation, but it's not true that we'll halt the judicial process," Komnas HAM chairman M. Imdadun Rahmat told the press in Jakarta.

Years of Komnas HAM investigations have resulted in reports on past cases of what it declared gross human rights abuses across Indonesia. The reported incidents include the 1989 Talangsari massacre, the disappearance of anti-Suharto activists in 1997-98, the Trisakti University shootings, the Semanggi I and Semanggi II shootings in 1998 and 1999, the mysterious killings of alleged criminals in the 1980s, the anticommunist purges of 1965-66 and abuses in Wasior in 2001 and Wamena in 2003. Komnas HAM previously handed the reports over to the Attorney General's Office for further investigation, but to no avail, due to lasting debate over technical issues. "Coordination between us and state prosecutors remains on course. Meanwhile, the reconciliation process is also on track," Komnas HAM commissioner Roichatul Aswidah said. "The judicial process can't be interfered with or substituted by the non-judicial process," he added. The government repeatedly stated last year that the cases would be resolved through national reconciliation, but human rights activists rejected this by saying that it would fail to bring perpetrators to justice and provide legal certainty for victims.

Kompas (06-02-2017) notes:

The Attorney general H.M. Prasetyo, however is of the opinion that human rights violations of the past are difficult to be solved in court. Moreover, a lot of evidence that the Public Prosecutor has received needs to be completed before it can enter into a judicial procedure. The co-ordinating minister for Politics, Law and Security, Wiranto has stated that he thinks that the six major human rights violations can only be solved with non-judicial measures, i.e. by reconciliation. Komnas HAM chairman Imdadun warned that the acceptance of the victims and their relatives is a condition if the violations are ever to be solved. "Reconciliation has to meet some minimum conditions, such as the truth finding, apologies, acknowledgment of the violence that happened, rehabilitation of the victims and their relatives and the guarantee of non-recurrence. These minimum conditions need to be met. This principle<sup>1</sup> is non-negotiable", he said.

## Urgent Action Papua

### **PRISONERS OF CONSCIENCE COULD FACE LIFE IN PRISON**

Amnesty International Urgent Action, 06-02-2017

Four Papuan political activists have been detained since 19 December 2016 in Manado, North Sulawesi Province for "rebellion" (makar). Detained solely for exercising their rights to freedom of expression and peaceful assembly, the men are considered prisoners of conscience.

Hiskia Meage, Emanuel Ukago, Panus Hesegeg and William Wim are members of a pro-Papuan independence organization, the West Papuan National Committee (KNPB) in Manado, North Sulawesi Province, and were among at least 70 individuals who were arrested by the Manado Resort Police (Polres) on 19 December 2016. The Papuan activists were protesting in support of the acceptance of the peaceful Papuan pro-independence

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<sup>1</sup> Mr Imdadun mentions here the principles on impunity that the United Nations have agreed upon: the right to the truth, the right to justice, the right to reparation and the guarantee of non-recurrence; however he leaves out the principle of the right to justice. (MM)

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umbrella group, United Liberation Movement for West Papua (ULMWP), as a full member of Melanesian Spearhead Group (MSG), a sub-Pacific intergovernmental organization. The protest also coincided with the anniversary of Indonesia's first military operation in Papua (Operasi Trikora) in 1961 when it was a Dutch colony.

The protest was part of simultaneous demonstrations organized by KNPB in cities across Indonesia, including Jayapura, Merauke, Wamena, Nabire in West Papua Province, Manado in North Sulawesi Province, Gorontalo and Yogyakarta. At least 528 people, including children, were arrested nationwide on 19 December 2016. Most were released without charge the following day.

Currently detained in the Manado Resort Police headquarters, North Sulawesi Province, Hiskia Meage, Emanuel Ukago, Panus Hesegem and William Wim have been charged with "rebellion" (makar) under Article 106 of the Indonesian Criminal Code (KUHP) and could face life imprisonment.

To take action: <https://www.amnesty.org/en/documents/asa17/5616/2017/en/>

### Additional Information

Indonesia enshrines guarantees to freedom of expression and peaceful assembly in its Constitution and national legislation. But legislation continues to be used to criminalize peaceful political activities and to imprison people solely for the peaceful exercise of their human rights. Dozens of peaceful political activists 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. Amnesty International has also documented the use of excessive force and firearms as well as torture and other ill-treatment against political activists and others accused of links to pro-independence groups. Accountability for such acts is rare and, at most, security personnel only receive disciplinary, as opposed to criminal, sanctions. See other Amnesty International's document for these issues:

<https://www.amnesty.org/en/documents/asa21/5480/2017/en/> ,  
<https://www.amnesty.org/en/documents/asa21/5409/2016/en/> ,  
<https://www.amnesty.org/en/documents/asa21/3010/2015/en/> ,  
<https://www.amnesty.org/en/documents/asa21/1932/2015/en/> and  
<https://www.amnesty.org/en/documents/asa21/3797/2016/en/> .

The United Liberation Movement for West Papua (ULMWP) is an umbrella organization established in December 2014 and formed of different factions of the Papuan independence movement.

The Melanesian Spearhead Group (MSG) is an intergovernmental organization, founded as a political gathering in 1983, composed of the four Melanesian states of Fiji, Papua New Guinea, Solomon Islands and Vanuatu, and the Kanak and Socialist National Liberation Front (FLNKS) of New Caledonia. Indonesia is an associate member, while ULMWP is an observing member.

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.

## Freedom of Religion

### **Rights Group Calls for Review of Aceh's Sharia Law**

The Jakarta Globe, 05-02-2017

A rights group has called on the central government to review Aceh's provincial Islamic criminal code, or Qanun Jinayat, as more people are set to face caning this year under the law.

The Jakarta-based Institute for Criminal Justice Reform (ICJR) slammed the punishment for contradicting Indonesia's Criminal Code. The group recorded 339 people were caned in 2016, including 37 women. By Feb. 2 this year, 26 people have been caned in the province, mostly for gambling.

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"We've seen an increase in people getting caned since the Qanun Jinayat was legalized in late 2015. Our data showed the Aceh Sharia Court issued 301 verdicts between January and November 2016," ICJR executive Supriyadi W. Eddyono said in a statement on Sunday (05/02). More people are expected to get flogged as well as the shariah court started imposing heavier sentences, he added.



An Acehese woman screams during caning as part of her sentence in the courtyard of the Baiturrahman Mosque in Banda Aceh. (Reuters Photo/Junaidi Hanafiah)

The group also called on the Home Affairs Ministry to evaluate the implementation of the sharia law as soon as possible by considering the International Covenant on Civil and Political Rights and the International Covenant Against Torture, which have been ratified as law in 1998.

In 2014, a special ministry team found several points in Aceh's sharia criminal code contradicts the country's Criminal Code and other laws regulating the Military Court, National Police, Attorney General's Office, Indonesian Military and the Aceh Special Administration.

Despite the discrepancies, Aceh's provincial parliament had given their stamp of approval to the sharia law in September 2014.

### Freedom of Expression

#### **Pros and Cons of Amendment to the ITE Law**

Hukum Online, 04-01-2017

Since its enactment almost a decade ago, Law No. 11 of 2008 on Information and Electronic Transactions (ITE Law) has resulted in convictions against numerous internet users, commonly referred to as "netizens". Most of these convictions have been secured following violations of Article 27 (3) of the ITE Law.

The most prominent example is the well-known case of Prita Mulyasari. In 2009, Mrs. Mulyasari was put on trial under defamation allegations after she wrote an email that made complaints against Omni International Hospital. The email ultimately became public and went viral on the internet. In this case, Mrs. Mulyasari was faced with criminal sanctions of six years imprisonment and/or a maximum fine of IDR 1 billion. Her case attracted the netizens' sympathies and led to a fund-raising activity titled "Coin for Prita" in order to pay for Mrs. Mulyasari's fine.

Ever since, many petitions have been filed to the Constitutional Court (MK) in order to review the obscurities regarding provisions of the ITE Laws, and which tend to incriminate netizens. As a result of MK Decisions on these petitions, it was necessary for a number of changes to be made to the ITE Law. To accommodate these changes, the government proposed for revision of ITE Law, which eventually resulted in the issuance of Law No. 19 of 2016 on the Amendment to the ITE Law (Amendment).

Despite issuance of this Amendment, however, many parties consider that the direction of government policy with respect to law and human rights has deteriorated. Lawmakers from the House of Representatives (House), however, firmly maintain that the Amendment is sympathetic to citizens who are being tried on cyber defamation charges, such as by restricting the circumstances under which they may be placed under police custody during investigation.

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Venturing his opinion, Lawmaker Sukamta from Commission I of the House stated that the policy choices incorporated under the Amendment are aimed towards shaping a proper and civilized nation. To realize this particular objective, the Amendment sets its focus from two main points of view: that of the public, and that of the government.

From the public's perspective, the Amendment aims to ensure the right of freedom of speech, provided that the said right is exercised in a polite and civilized manner, so that netizens may access a healthy internet environment. Indeed, the right to freedom of speech is guaranteed under the 1945 Constitution and prevailing laws and regulations. However, the Amendment makes clear that the enjoyment of this right must not involve unruly behavior, or worse, targeting specific individuals with lies and fabricated truth.

From the Government's perspective, the Amendment strives to ensure that law enforcers may not arbitrarily place any cyber defamation suspects, or any individual who expresses his/her opinion against the government's policy, into prison. Moreover, the Amendment also provides that such suspects or individuals will only be taken into custody if convicted.

As explained by Lawmaker Evita Nursanty at Commission I of the House, the Amendment now lowers the maximum imprisonment sentence for defamation to four years. As such, because Article 21 (4) Point "a" of the Criminal Procedural Code (KUHP) only requires custody for perpetrators of crimes that are subject to a five year imprisonment or more, violators of the ITE Law can only be taken into police custody until a final and binding decision has been secured.

"Should police investigators feel the need to put a suspected perpetrator under custody, it must be supported with an official warrant issued by a court," asserted Mrs. Nursanty.

Read the full article: <http://en.hukumonline.com/pages/lt586cf5810aa7a/pros-and-cons-of-amendment-to-the-ite-law>

### Terrorism and counter-terrorism

#### **Mothers to Bombers: The Evolution of Indonesian Women Extremists.**

IPAC report, 31-01-2017

The arrest of two Indonesian women as would-be suicide bombers shows how their desire for action coincided with the decision of ISIS leaders in Syria that in emergency conditions, women could be tactically deployed in jihad operations.

Mothers to Bombers: The Evolution of Indonesian Women Extremists, the latest report from the Institute for Policy Analysis of Conflict (IPAC), looks at how the role of women in Indonesian extremist organisations has evolved over the last four decades.

"The combination of ISIS and communications technology has dramatically changed how women extremists see themselves," says Nava Nuraniyah, IPAC analyst. "ISIS has given them a more universal mission, while various forms of social media have enabled them to share information and reinforce their own aspirations." These changes have come as ISIS leaders in Syria, including Indonesia's Bahrun Naim, have come to see women as useful for jihad operations (amaliyah) because they are less likely to attract suspicion.

The new report looks at how the role of women in Indonesian Islamist organisations evolved. It was not a straight line toward greater activism. While the 1979 Iranian revolution showed Indonesians how women could play a more active role, the adoption of salafi precepts by (male) leaders of Darul Islam and later, Jemaah Islamiyah focused on absolute obedience to male authority and a stricter dress code, with more women wearing headscarves and in some cases, face veils.

Jl leaders, following the teachings they had learned in Afghanistan, forbade women from engaging directly in jihad except in personal self-defence. Jl women did not swear loyalty oaths or take part in military training. While there was sporadic defiance of this ban at the height of the Christian-Muslim fighting in Ambon and Poso (1999-2001), it was generally upheld until the first three women armed combatants appeared in Poso in 2015, all wives of senior leaders of besieged jihadi forces there. All have since been arrested.

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Women have also emerged as important online chat administrators, fund-raisers and recruiters, with overseas migrant worker women sharing information about how to join ISIS, assisting with logistical support and sometimes marrying ISIS fighters online. It was a matter of time before would-be women suicide bombers appeared. Bahrun Naim, by Telegram, was trying to walk one of them through the operation by phone from Syria.

“While leaders of most violent jihadi organisations continue to see the ideal role of women as ‘lionesses’ staying home and producing ‘cubs’,” says Nuraniyah, “it is clear that some Indonesian women are eager to emulate the lethal practices of their sisters in other parts of the world.”

Read the full report: <http://www.understandingconflict.org/en/conflict/read/58/Mothers-to-Bombers-The-Evolution-of-Indonesian-Women-Extremists>

### Political developments

#### **Security Agencies Deny Intercepting Yudhoyono's Conversations**

The Jakarta Globe, 03-02-2017

The State Intelligence Agency, or BIN, has denied any involvement in the alleged interception of conversations between former President Susilo Bambang Yudhoyono and Ma'ruf Amin, chairman of the Indonesian Ulema Council, or MUI.

The allegation emerged on Tuesday (31/01) during the trial of Jakarta Governor Basuki "Ahok" Tjahaja Purnama, who is accused of blasphemy by various Muslim groups, including the MUI.

Ahok's legal defense team brought up the allegation after reportedly receiving information of conversations between Ma'ruf and Yudhoyono, who is accused of having intervened in the issuance of an MUI edict in October last year against Ahok over comments he made about a Koranic verse. In a statement released on Thursday, the agency insisted that it was not the source of the information and that there was no mention of whether the alleged conversation had taken place in person, or on the telephone.

The agency said whatever wiretapping it does conduct only involves its function to maintain the safety, integrity and sovereignty of the Republic of Indonesia, and that such information is neither made public, nor provided to private groups or individuals. The allegation has drawn complaints from Yudhoyono, who said during a press conference on Wednesday that illegal wiretapping was a serious crime and that someone needs to be prosecuted if that happened. He called on the police to promptly investigate the allegation.

Similar to the BIN's response, the police also said on Thursday that information related to the alleged wiretapping might not be accurate, but that it would proceed with a preliminary investigation into the allegation.

"We'll examine whether it's related to the legal matter or something else," National Police spokesman Insp. Gen. Boy Rafli Amar told reporters in Jakarta.

The wiretapping allegation comes amid growing concern over rising political tensions ahead of this month's Jakarta gubernatorial election, which Yudhoyono's son, Agus Harimurti Yudhoyono, is contesting against Ahok.

Justice Minister Yasonna Laoly also gave his assurances that the government was not involved in such actions against civilians.

#### **Prabowo Campaigns for Anies-Sandiaga, Hints He'll Run in 2019 Presidential Election**

The Jakarta Globe, 06-02-2017

Prabowo Subianto, the chairman of the Great Indonesia Movement Party, or Gerindra, campaigned for Jakarta gubernatorial candidate Anies Baswedan and his running mate Sandiaga Uno in Jakarta on Sunday (05/01). During the event, he has also expressed his intent to run in the 2019 presidential election.

Speaking at the Banteng Field in Central Jakarta, Prabowo reiterated his support for Anies-Sandiaga who are endorsed by Gerindra and the Prosperous Justice Party (PKS).

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Prabowo said that although Anies, former education minister, was neither a member of Gerindra nor PKS, he is capable to lead the capital city. "It is our responsibility to provide the best leader for Jakarta," he said.

The losing presidential candidate in the 2014 poll has also hinted that he plans to run again in the 2019 election. "If you want me to be the president in 2019, today we must focus on the victory of Anies and Sandiaga in the Jakarta poll. We must work hard this February," Prabowo said.

The event was also attended by PKS chairman Sohibul Iman and a number of lawmakers from the parties that back Anies and Sandiaga.

### Corporate Corruption Cases: A Review

Hukum Online, 25-01-2017

Prior to the issuance of Supreme Court Regulation No. 13 of 2016 on Procedures for the Settlement of Criminal Acts Committed by Corporations ("Regulation 13/2016"), corporations were rarely named as alleged perpetrators in corruption cases under the previous framework of Law No. 31 of 1999 on the Eradication of Corruption Crimes ("Anti-Corruption Law") and its amendment, Law No. 20 of 2001. In fact, the Corruption Eradication Commission (KPK) had never previously made any corruption allegations against any corporations.

In this context then, it is important to note that the Banjarmasin District Prosecutor's Office recently managed to bring PT Giri Jaladhi Wana before the court as part of a corruption case. Indeed, PT Giri Jaladhi Wana was ultimately found guilty through the issuance of a final-and-binding court decision, was sentenced to IDR 1.3 billion in fines and was also sanctioned with an additional sentence in the form of a temporary suspension of its business activities.

In spite of this success however, Indonesia's various law-enforcement institutions still seem reluctant to invoke the Anti-Corruption Law against corporations who are the alleged perpetrators in corruption cases, due to the fact that the Anti-Corruption Law does not clearly regulate procedures for the handling of corruption cases involving corporations. This reluctance is being reinforced by the difficulties involved in proving that

given corporations are engaged in corrupt practices, as well as the problems involved in ascertaining whether a given member of a corporate-management structure has acted solely on his/her own behalf or on behalf of his/her employer.

Nevertheless, the KPK and the Public Prosecutor's Office have attempted to incorporate the concept of corporate responsibility into indictments which have been made against individual suspects during recent corruption cases. These attempts have ultimately led to the successful issuance of legal-and-binding court decisions on a number of occasions, although most of the judges involved in these cases ultimately rejected the inclusion of corporate responsibility, claiming that the corporations in question were not originally addressed in the official indictment letters.

Hukumonline has compiled at least six individual corruption cases in which both the KPK and the Public Prosecutor's Office attempted to incorporate the concept of corporate crime into their indictments. This was undertaken in a bid to ensure that the various corporations concerned were forced to pay compensation to the victims involved, as well as to allow for corporate assets which were generated as a result of alleged corruption cases to be seized by the government.

Read the analysis of six cases:

<http://en.hukumonline.com/pages/lt58887a65e38d1/corporate-corruption-cases-a-review>