

## Impunity

### **Government urged to apologize to 1965 victims ahead of Hague tribunal**

The Jakarta Post, 09-11-2015

A human rights lawyer has urged the government to apologize to the families of victims of mass killings in 1965 during the International People's Tribunal in The Hague, the Netherlands, scheduled for Tuesday.

It was reported by tempo.co on Monday that the tribunal will be held from Nov. 10 to 13, to coincide with the 50th anniversary of the massacre that is believed to have killed up to 1 million people accused of being members or supporters of the Indonesian Communist Party (PKI) from 1965 to 1966.

Nursyahbani Katjasungkana, the general coordinator of the International People's Tribunal said that there would be seven judges, six international prosecutors and 16 witnesses taking part in the tribunal. "The [government's] apology would be the first step toward recognition of the crimes the government committed in the past," she told Tempo last week.

Nursyahbani said that the 16 witnesses were Indonesians, some of whom had lived overseas since being exiled around the time of the tragedy. She said the tribunal committee had conducted various research on the tragedy. There was 1,200 pages of research that have been summarized into 250 pages to be presented to the judges.

Nursyahbani said that tribunals of this kind generally resulted in conclusions or recommendations being sent to the relevant government. Therefore, she called for the government to use any recommendations made to help shape better policy around the issue.

Just an apology, however, would not be sufficient she said. The four-day tribunal is expected to also discuss reconciliation efforts, aimed at preventing such a crime from re-occurring.

The tribunal results could also give wider voice to victims – in national and international forums.

"Hopefully one of the recommendations will be that the government follows up on reports from the National Commission on Human Rights (Komnas HAM), which has also conducted research on the tragedy in various regions in Indonesia," she said.

Human rights activists have long urged the government to make a formal apology to the families of the massacre victims, to bring closure to one of Indonesia's darkest moments.

This year marked the 50th anniversary of the mass killings, which several groups' efforts to commemorate got shut down. Lentera, a student magazine from Salatiga, Central Java, was recalled last month by campus authorities after its third edition published a cover story on the massacre in Salatiga. Local authorities also banned a session discussing the 1965 massacre at the international Ubud Writers and Readers Festival in Bali in late October.

### **Embassy tells RI students not to attend 1965 tribunal**

The Jakarta Post, 05-11-2015

The government has allegedly tried to ban Indonesian students from attending a "people's tribunal" on the 1965 Indonesian Communist Party (PKI) purge in The Hague.

The head of the tribunal's organizing committee, human rights lawyer Nursyahbani Katjasungkana, said on Wednesday that the Indonesian Embassy in The Hague had warned the Indonesian Students Association (PPI) in Leiden, The Netherlands, not to attend the tribunal, to be held from Nov. 10 to 13.

"I received a letter that says 'our Indonesian students were called to the Indonesian Embassy in The Hague and told they will lose their scholarships if they join us. The embassy itself has decided it is a form of resurrecting communism'," she told The Jakarta Post.

Nursyahbani said the embassy had no business intimidating Indonesian students and had no right to revoke their scholarships.

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Likewise, Commission for Missing Persons and Victims of Violence (Kontras) chairman Haris Azhar lambasted the reported actions of the embassy.

“I’ve heard about it and I believe it’s such an unnecessary thing to do. For me, it shows an archaic mentality. Why does our government, which is paid for by the people’s money, block its own people’s initiative [to seek justice]?” he told the Post on Wednesday.

The embassy and the PPI were not able to be reached for comments on the allegation.

Fifty years ago, following the events of Oct. 1, 1965, an estimated 500,000 Indonesians accused of being members or supporters of the PKI were killed, and many hundreds of thousands of people were detained without trial or exiled. The mass killings, and the impunity enjoyed by the perpetrators, has long been enveloped in social and political amnesia.

Coordinating Political, Legal and Security Affairs Minister Luhut Binsar Pandjaitan has maintained that the government will not resort to any judicial mechanism to resolve past human rights abuse cases, including the 1965 purge.

Luhut said the government was still exploring what he called “a format that fit the Indonesian way” to deal with past rights abuse cases.

Since there has been no official attempt to find out who was behind the killings, who the victims were exactly, and where they are buried, a number of Indonesian and local researchers, activists and 1965 victims at home and in various countries in Europe have taken the initiative to hold the tribunal called the “International People’s Tribunal [IPT] for the 1965 crimes against humanity”.

“The tribunal’s mission is to examine the evidence for these crimes against humanity, develop an accurate historical and scientific record and apply principles of international law to the collected evidence. Testimonies will be given by a selected number of victims and survivors both from Indonesia and political exiles currently living elsewhere,” a press statement from the organizing committee said.

However, since the IPT is not a criminal court, it has no mandate to provide justice or compensation to the victims.

“It will endeavor to push the state to take its responsibility toward the victims and their families, and toward Indonesian society as a whole,” the organizing committee said.

Foreign Ministry spokesman Armanatha Nasir denied the allegation. “The information [that we receive] from the Indonesian Embassy in The Hague says that the news is not true. There’s never been intimidation or banning,” he told the Post on Wednesday.

### **Govt, student body deny students were warned off people’s tribunal**

The Jakarta Post, 06-11-2015

The government has vehemently denied the allegation that it tried to ban Indonesian students from attending a “people’s tribunal” on the 1965 Indonesian Communist Party (PKI) purge in The Hague, to be held from Nov. 10 to 13.

The Indonesian Embassy in The Hague was reported to have warned the Indonesian Students Association (PPI) in Leiden, the Netherlands, not to attend the tribunal.

The embassy issued a statement on Thursday, denying the report by quoting the conversation between PPI Leiden head Ghamal Satya Mohammad and the embassy’s cultural attaché, Bambang Hari Wibisono regarding the matter. “So here’s the deal Pak Hari, this morning there are reports circulating that the embassy warned the PPI not to attend the tribunal. I deeply apologize for this,” Ghamal said in the statement released by the embassy.

According to Ghamal, the report did not originate from him or the PPI. “Indeed, I am fully aware that I made suggestions to my friends who are participating as volunteers [for the tribunal] to reconsider their participation in the tribunal, but not with the statement that the embassy was threatening us,” he said. “The reports have deviated from the truth.”

Foreign Ministry spokesman Armanatha Nasir said on Thursday that none of the allegations were true. “What happened was that the head of the PPI got a message from the organizer of the tribunal who was asking for Indonesian students to help,” he said.

“The PPI head asked the cultural attaché, to which the latter responded by saying that the Republic of Indonesia was a democracy and thus could not interfere with any public

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participation, so go ahead and weigh the positive and the negative aspects of participating in the event.”

The head of the tribunal’s organizing committee, human rights lawyer Nursyahbani Katjasungkana, previously said that she had received a letter informing her that the embassy had threatened the PPI.

“I received a letter that says ‘our Indonesian students were called to the Indonesian Embassy in The Hague and told they will lose their scholarships if they join us. The embassy itself has decided it is a form of resurrecting communism’,” she said on Wednesday.

Fifty years ago, following the events of Oct. 1, 1965, an estimated 500,000 Indonesians accused of being members or supporters of the PKI were murdered, and many hundreds of thousands of people were detained without trial or exiled. The mass killings have long been enveloped in social and political amnesia.

Coordinating Political, Legal and Security Affairs Minister Luhut Panjaitan has maintained that the government will not resort to any judicial mechanism to resolve past human rights abuse cases, including the purge.

Luhut said the government was still exploring what he called “a format that fit the Indonesian way” to deal with past rights abuse cases.

Since there has been no official attempt to find out who was behind the killings, who the victims were exactly and where they are buried, several Indonesian and local researchers, activists and 1965 victims at home and in various countries in Europe have taken the initiative to hold a people’s tribunal called “the International People’s Tribunal for the 1965 crimes against humanity” (IPT).

“The tribunal’s mission is to examine the evidence for these crimes against humanity, develop an accurate historical and scientific record and apply principles of international law to the collected evidence. Testimonies will be given by a selected number of victims and survivors both from Indonesia and political exiles currently living elsewhere,” a press statement from the organizing committee said.

However, since the IPT is not a criminal court, it does not have the mandate to ensure justice and compensation for the victims.

“But it will endeavor to push the state to accept its responsibility for the victims and their families, and toward Indonesian society as a whole. The proceedings will address several counts of gross human rights violations, e.g. mass murder, enslavement and torture,” the organizing committee said.

### Freedom of Expression

#### **Circular on Hate Speech Prone to Abuses of Power by Police**

Hukum Online, 03-11-2015

By Marcell Sihombing

Following the issuance of controversial Chief of National Police Circular Letter No. SE/6/X/2015 on the Handling of Hate Speech (Circular) on 8 October 2015, all eyes are now focused on the National Police, as the Circular continues to draw criticism from various sectors of society.

The Circular itself comprises of four points, including the kinds of acts that are to be classified as of hate speech and other related crimes. The Circular starts by defining hate speech as a crime that is incorporated both within and beyond the Criminal Code, including insulting acts, defamation, blasphemy (penistaan), objectionable acts (perbuatan tidak menyenangkan), provocative acts, instigation, and the dissemination of false news.

The Circular then outlines the various types of media most commonly used to propagate hate speech, including campaign speeches, banners, social-media networks, demonstrations and religious sermons, as well as electronic-media and mass-media forums.

Furthermore, the Circular also sets out several directives which are to be followed by all members of the National Police force. These directives include preventative measures, intelligence (including the gathering of information or investigations), and sanctions.

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Regarding sanctions, the Circular instructs police officers to resort to the full enforcement of the law, if preventative measures fail to mitigate the impacts of so-called hate speech.

The Circular refers to several laws and regulations which are to be the basis for law enforcement in this area, such as the Criminal Code (Articles 156 to 157, and Articles 310 to 311), Law No. 11 of 2008 on Electronic Information and Transactions [Articles 28 and 45 (2)], as well as Law No. 40 of 2008 on the Eradication of Ethnic and Racial Discrimination (Article 16).

In a press release obtained by hukumonline, LBH Pers, a prominent legal-aid institute, criticized the Circular for applying a narrow interpretation of Article 311 of the Criminal Code as regards hate speech. The LBH Pers press release points out that Article 311 of the Criminal Code is often wrongly used to charge those who choose to exercise their right to freedom of speech.

LBH Pers further asserts that the application of Articles 156 and 157 and Articles 310 and 311 of the Criminal Code to the realms of hate speech is inappropriate, as the legal definition of hate speech is totally different from that of defamation. LBH Pers thus expresses its concern that any implementation of the police Circular will ultimately end up restricting freedom of speech.

“The application of the law here could result in wrongful arrest, as those who will end up being arrested will not be the actual perpetrators, and this will ultimately prove to be a source of tension. It is better to separate defamation from hate speech, so that police officers don’t end up abusing their authority as they attempt to handle such an obscure provision,” states the LBH Pers press release.

LBH Pers warns the National Police that as an institution they have to be prudent when deciding whether an action constitutes hate speech or represents a legal expression of freedom of speech. This is vitally important so that those expressing their opinions or criticizing someone else’s work do not end up being prosecuted as perpetrators of hate speech.

The LBH press release also outlines some specific concerns regarding the potential effects of the Circular on Indonesia’s minority communities. According to LBH records, most hate-speech cases end up victimizing these minorities through prohibitions on the religious

activities practised by minor religions, or the relocation/excommunication of those wishing to express different opinions from those held by the majority of the population.

Commenting on these matters, Inspector General Anton Charliyan, head of the National Police’s Public Relations Division, affirmed that the Circular was not seeking to impair freedom of speech. Rather, the Circular was issued as a response to several recent cases involving hate speech relating to differences in ethnicity, religious beliefs, race and culture (suku, agama, ras, dan antar golongan – commonly abbreviated in Indonesia as “SARA”). Such hate speech, according to Mr. Charliyan, is being disseminated by factions looking to sow the seeds of internal discord within Indonesian society.

“Take two of the most recent cases as examples. In the Tolikara case, they [the local community] disseminated their hatred via online groups, while in the Singkil case, encouragements to burn down churches were also spread via the Internet. We cannot afford to let these new technologies and digital tools to be misused and abused,” stated Mr. Charliyan firmly.

According to Mr. Charliyan, the Circular only seeks to remind all parties that when speaking or expressing their opinions – both in public or online – they should think carefully about the social implications of what they are saying. “A tongue can be like fire. Do not speak rashly. Reflect your culture through a positive use of words and language, and show that we are a well-mannered nation,” concluded Mr. Charliyan.

### **Criticism of govt must not be called hate speech: AJI**

The Jakarta Post, 05-11-2015

The Alliance of Independent Journalists (AJI) has urged the National Police not to include criticism of the government in its definition of hate speech as that would only restrict freedom of expression.

AJI chairman Suwarjono said that the police's circular on hate speech, issued last month, had blurred the universal lines of hate speech. He said that legal action against people who spread hate speech had to be conducted without violating citizens' rights to express themselves, as was stipulated in the Constitution and also in the Universal Declaration on Human Rights and the International Covenant on Civil and Political Rights, both of which have been ratified by Indonesia.

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"We demand the National Police only use the standard definition of hate speech, as stated in the International Covenant on Civil and Political Rights, because unclear guidelines will harm freedom of expression," he said on Thursday in a press statement sent to thejakartapost.com. "Expressing criticism toward the government must not be criminalized as hate speech."

Suwarjono also made reference to hate speech-enforcement theory from a joint statement by the Organization for Security and Co-operation in Europe (OSCE) and the Organization of American States (OAS).

Legal enforcement of hate speech laws must, Suwarjono said, be required to prove that the hate speech had provoked hatred, discrimination and/or violence.

National Police chief Gen. Badrodin Haiti issued the circular on hate speech last month to provide guidelines for police personnel for managing hate speech and preventing cases of it escalating into violent social conflict.

In the circular, Suwarjono urged police to quickly act on any hate speech targeting a person or group's religion, faith, ethnicity, race or sexual orientation, but AJI viewed the circular as being in support of certain political interests. "We feel that it was issued to silent critics of government officials and institutions," he said.

The issue was raised after Badrodin said earlier this week that the police could probe a possible case of defamation against President Joko "Jokowi" Widodo after a false report of his visiting the indigenous Anak Dalam tribe in Jambi went viral.

Human rights activists have previously slammed the circular, fearing that it would hamper democracy and restrict freedom of expression. Badrodin had rejected those claims, suggesting that the circular is meant as guidelines for police personnel in dealing with hate speech cases as he found many officers in the field were not confident in dealing with the offence.

### Social-economic Rights

#### **Reporters Covering Activist's Murder Receive Death Threats**

The Jakarta Globe, 07-11-2015

Police are looking into claims of threats made against three television reporters covering the high-profile murder of an anti-mining activist in East Java.

Wawan Sugiarto of TVOne, Ahmad Arif Ulinuha of JTV and Abdul Rohman of Kompas TV reported getting the text messages at the same time on Thursday night from an unidentified number. The messages warned that they could be killed if they continued to report on the fallout from the murder of Salim Kancil and his partner Tosan, who was injured in the attack in September by a mob in Lumajang district.



"In our country a life is worth less than mining" – "Pray for Salim Kancil"

The reporters said they initially intended to report the messages to the local police, but received follow-up messages threatening that they would be intercepted on the way there. "So we told the East Java provincial police about it, and now they're investigating," Wawan told Metro TV on Saturday. "We've been reporting extensively on the [Salim Kancil] case, but we never expected we would be threatened like this," Abdul told Viva News. "We have asked the [East Java] police to protect us."

Salim and Tosan had been leading a series of protests against a sand mining operation at Lumajang's Watu Pecak Beach before they were attacked.

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Police have arrested 18 people in connection with the attack, including the chief of village where the mining was taking place. Police have also launched an inquiry into three police officers believed to have been complicit in the attack.

The threatening messages are the latest in a series of attacks on the press in Indonesia. Also on Thursday, a reporter for TVOne covering the death of a motorcyclist who was shot dead by an Army sergeant in a road-rage incident in Bogor was himself the target of a gun attack. He escaped unhurt after an unknown assailant fired several shots at him as he sat in his car. Police are investigating the incident.

In Bali, police last month ordered organizers of the world-renowned Ubud Writers and Readers Festival to cancel a series of events centering on the 1965-66 anti-communist purge led by the military and which left up to two million people dead.

The police claimed they were not censoring the events, claiming the organizers had failed to specify the topics under discussion when applying for permits to hold the gatherings.

### **TV One Journalist Covering Military Shooting Fired At**

The Jakarta Globe, 06-11-2015

Police are investigating a shooting on Thursday night by an unidentified perpetrator against a TV journalist covering the killing of a civilian by a military sergeant earlier this week.

The reporter, identified only by the initials H.A., from the news station TV One, was reportedly waiting in his car for his wife in Bogor's Cibirong district after reporting from the home of the late Marsin Sarmani, a motorcyclist who was shot dead by an Army infantryman during a road-rage incident on Tuesday.

As H.A. was waiting, an unidentified individual banged on his car window before firing several shots at the reporter, but only managing to hit his car as the reporter fled from the scene.

"[The Bogor Police] found three holes resulting from the shooting: in a tire, in the right passenger door, and on the front fender," Sr. Comr. Aulia Djabar of the Bogor Police said on Friday. "We also discovered two five-centimeter nails puncturing one of the tires."

Police have questioned the reporter, whose car bore a distinctive red-and-white TV One sticker on the windshield. The motive for the shooting remains unclear, behind the incident remains unclear.

### **Prison conditions**

#### **BNN Chief Envisions Drug Prison-Island Surrounded by Crocodiles**

The Jakarta Globe, 08-1-2015

National Narcotics Agency (BNN) chief Comr. Gen. Budi Waseso will soon travel to North Sumatra in search of crocodiles to help guard a proposed prison-island facility for drug offenders. Waseso has been calling on the Ministry of Justice and Human Rights – which oversees prisons across the country – to build a special penitentiary for drug offenders, saying that it should be in a remote island to stop drug dealers from communicating with the outside world.

The distribution of drugs is rampant inside Indonesian prisons and there are frequent reports about drug dealers continuing to control their operations from behind bars.

The Justice Ministry has not yet given the green light to Waseso's proposal but he has been busy working out outlandish details about his pet project.

"We will keep sending them food supplies everyday. But they have to survive on their own," he said on Sunday, as quoted by Tempo.co news portal. The island, he said, will be surrounded by crocodiles. "We will place as many crocodiles as we can there. I will search for the most ferocious type of crocodile," he said. "You can't bribe crocodiles. You can't convince them to let inmates escape."

"I have informed the Justice Ministry about [the crocodile plan]."

Waseso said he would travel to Medan, North Sumatra, on Monday to visit a crocodile breeding center. "I will also travel to Papua and Sulawesi to see which crocodiles are fiercer," he continued.

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Waseso also reiterated suggestions that drug dealers should be forced to consume all of their confiscated merchandise. “Let them overdose by their own drugs,” he said, adding that the BNN was looking for ways to implement the punishment, possibly by revising the current laws on narcotics, which lists the death penalty – usually carried out by firing squad – as a maximum sentence.

### Political developments

#### **Jokowi told to cleanse AGO, Law and Human Rights Ministry of politics**

The Jakarta Post, 08-11-2015

Indonesian Corruption Watch (ICW) has demanded President Joko “Jokowi” Widodo to remove politics from the Attorney General’s Office (AGO) and the Law and Human Rights Ministry and prevent the two institutions from being filled by representatives of any political parties.

ICW’s coordinator for corruption and politics division, Donal Fariz, said on Saturday that the general public could not accept that law enforcement institutions like the AGO and the ministry, which frequently deal with political parties, were led by politicians.

If the AGO was led by a politician, according to Donal, people would always link any policy it made with the interests of the leader’s political party, or the interests of the ruling coalition.

In the upcoming simultaneous regional elections, he said, the prosecutor’s office may need to arrest certain figures who happen to be opposition leaders.

“In such a situation, people will always see the AGO as a less credible institution, while the President will always be drawn into such a case,” said Donal during a gathering to discuss President Joko “Jokowi” Widodo’s reshuffle plan in Jakarta.

In connection with the Law and Human Rights Ministry, there are many policies that could be considered as political decisions, Donal added.

He criticized Law and Human Rights Minister Yasona Hamonganan Laoly’s policy of revising a previous minister’s policy that loosened the requirements for convicts and detainees to get remissions and probation.

“Because of Yasona’s ministerial decree on remissions and probation, two convicts who served only one-third of their respective sentences, have been allowed to become candidates for regional leader positions,” said Donal, adding that one was a mayoral candidate in Manado, North Sumatra and the other a regent candidate in Boven Digoel, Papua.

Yasona was also criticized for his decisions on the internal conflicts in the United Development Party (PPP) and the Golkar Party that were in favor of politicians who supported the ruling coalition. The Constitutional Court just recently issued a ruling that was in favor of politicians who supported the opposition coalition.