

Weekly Update Human Rights in Indonesia – 27-06-2016

Freedom of Expression

RMS Political Prisoners Reunite With Families After 7-Year Wait

The Jakarta Globe, by Imam Shofwan, Pantau Foundation, 26-06-2016

In early January, I brought my wife and toddler daughter along on a visit to the Nusakambangan prison. We went there to visit Republik Maluku Selatan — South Maluku Republic, or RMS — political prisoners. I wanted to show them that in this country many can still be jailed for holding different political views, some for as long as 15 to 20 years.

In June 2007 in Ambon, these RMS political prisoners danced the Cakalele and raised the RMS flag in front of President Susilo Bambang Yudhoyono during a seemingly innocuous ceremony to celebrate National Family Day. Yudhoyono was incensed. The dancers were arrested, and then tortured. In total, 68 people were arrested after the incident and sentenced for up to 20 years in prison.

Unfortunately, this is not the end of the story. In 2009, the political prisoners were forcibly moved, away from their family in Ambon, to various prisons across Java including Nusakambangan.

I was delighted that my daughter Kembang brought real warmth to our brief gathering at the Nusakambangan prison. The six RMS prisoners loved meeting her, took delight in the rare opportunity to hold a child. Their face lit up as they played with my daughter. Deep down, I think they were remembering their own children back in Ambon.

The prison's staff watched as we turned to more serious conversations. We spoke about the prisoners' health, the legacy they want to leave, food and then, naturally, the topic moved on to families.

One of the RMS men, Ruben Saija, also has a daughter, Vike Saija, who is now ten years old. Ruben last saw her in 2009, and has never seen her since he moved from Ambon to Nusakambangan. "She was as young as your daughter when I was moved to this place," he told me.

Last December, Ruben attempted suicide by drinking insecticide. He was frustrated and depressed at not being able to witness his daughter's baptism in Aboru on the Haruku Island. Luckily, his life was spared.

Jordan Saija also has a son, Fredy Saija, now twelve years old. Since Jordan moved to Nusa Kambangan, no one from his family has ever visited him. They are a family of sago farmers. It simply costs too much to go to Java. "My only visitor, so far, has been a sister of mine who had come from Papua some years ago," he said. The sister had gotten help to visit Jordan from a program organized by NGOs in Jayapura and Jakarta. Filep Karma, the popular and influential Papuan ex-political prisoner, also received assistance from the same organization to visit the RMS political prisoners.

Ruben Saija and Jordan Saija are detained at the Kembang Kuning prison together with four other political prisoners: Johanis Saija, Abner Litamahuputty, Romanus Batseran and John Marcus.

Then there are the others; Johan Teterisa at Batu Prison, also in Nusakambangan. Three in Porong prison: Fredy Akihary, Jonathan Riri and Marlon Pattiwael. Another one in Madiun, Peter Yohannes. They had all been detained since 2007 on Yudhoyono's order.

In May 2015, President Joko "Jokowi" Widodo made a promise to release all political prisoners in Indonesia — including Papuans and Moluccans. So far, Jokowi had released five political prisoners who had asked for clemency, and Filep Karma by remission.

When he visited the RMS political prisoners in Nusakambangan, Filep asked them if they wanted to ask for clemency from Jokowi — and all of them said no. The RMS men were adamant that they did not commit any crime. I agree with them.

They RMS men did not want clemency, but they did desire one thing: for their families to visit them at Nusakambangan. A simple request, but one which would cost a lot of money. Once we were back from Nusakambangan, the Jakarta Legal Aid Foundation, Human Rights Watch and Pantau Foundation worked on making their dream to reunite with their families come true.

The work took five months, but eventually the RMS political prisoners were reunited with their families.

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The Pantau Foundation was able to arrange family visits to the three prisons: Nusa Kambangan, Porong and Madiun. They were to be fully legal visits with official permits issued by the Penitentiary General Director I Wayan Kusmiantha Dusak.

We obtained permission for the visit of two family members per political prisoner. Then it was time for me to make phone calls to the RMS political prisoners' loved ones.

Read the full story: <http://jakartaglobe.beritasatu.com/news/rms-political-prisoners-reunite-families-7-year-wait/>

Social-economic Rights

Samarinda's deadly mining pits

Inside Indonesia, June 2016, by Tessa Toumbourou

On 23 March 2016 two high school students – Noval Slamet Riyadi, aged 16, and Diki Aditya Pratama, aged 15 – were found drowned in an abandoned mining pit in Kutai Kartanegara, East Kalimantan. The teenagers' deaths bring to 22 the number of children that have drowned in unused, water-filled mining holes in East Kalimantan since 2011. Only three months prior, a 13-year-old, Aprilia Wulandari, was found drowned in a soccer field-sized mine pit on the outskirts of Samarinda, the regional capital of East Kalimantan. Aprilia was reportedly playing with friends on her way home from school when she fell into the unmarked pit.

One hundred-and-fifty such pits scar Samarinda's landscape, with an estimated 500 in total across East Kalimantan, according to the regional branch of the Network for Mining Advocacy (JATAM). JATAM recently released a confronting YouTube film with interviews of the families who have lost children to mining pits.

Decentralisation laws, particularly the 2009 Minerals and Coal Mining Law, gave district and municipal administrations the authority to issue mining permits. As a result, mining has exploded across Indonesia. In East Kalimantan alone, nearly 50 per cent of the province is now covered in coal mining permits, threatening agricultural land and conservation areas. New powers for allowing district governments to issue permits did

not, however, correspond with an increase in budget or capacity for local management and monitoring of mining operations or clean-up activities. The results are devastating.

Decentralisation and the global mining boom brought chaos to the industry. In many places multiple permits have been issued for the same land area, permits have been allocated illegally in conservation and protected forests and along water catchment areas, and there has been a huge loss of state revenue – official estimates suggest that up to half of Indonesia's mining companies pay no royalties and are not registered to pay tax. A recent investigation by Indonesia's Corruption Eradication Commission identified losses of almost US\$1.24 billion in public revenue across Indonesia's mining sector. Of a total of 10,827 mining permits issued across the country, 4563 were found to not meet 'clean and clear' standards, which include having a detailed environmental impact assessment and a post-mining reclamation and rehabilitation plan.

The proliferation of mining permits has had a damaging impact on people and the environment, particularly in Samarinda, where mining consumes 70 per cent of the municipality's land area. Some mines are located within metres of homes and schools. While the industry brought employment and investment, it has also been the source of much angst –landslides and flooding worsened as a result of mining expansion in Samarinda according to JATAM's research, with the World Wildlife Fund estimating the cost of the resulting damage at around \$9 million.

Acids and sulphates from mining have leached into rivers, contaminating local water catchment areas, fish ponds and wet rice fields according to local farmers in and around Samarinda who have experienced dramatic reductions in yields as a result.

With the boom in coal exports now over, many small and medium-sized mines have closed or remain inactive. But they continue to pose a serious threat to residents. The blue-green colour of the water-filled mine pits lures young people to them, who then misjudge the depth of the pits and the steep sides that make them difficult to escape. Furthermore, Greenpeace researcher Cut Hilda Meutia found that the pits contained high levels of chemicals, including magnesium, iron, aluminium, cadmium and arsenic. As the impact of ingesting or absorbing these chemicals is not immediate, the negative effects accumulate over time.

THE COMMUNITY'S RIGHT TO A CLEAN ENVIRONMENT

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Civil society organisations (CSOs) have worked hard to push local administrations to clean up abandoned sites. For years, CSOs have advocated for improved management of mining in East Kalimantan, home to 28 per cent of Indonesia's coal reserves. In 2013, after 11 people had drowned in disused mining pits in East Kalimantan, CSOs decided to pursue legal avenues. A case was submitted to the Samarinda High Court on 25 June 2013, beginning a year-long trial known as the Gerakan Samarinda Menggugat (Samarinda Citizen Lawsuit, GSM). Nineteen plaintiffs impacted by coal mining presented at the trial, including rice farmers and fishermen who claimed that their diminishing water supplies were increasingly acidic due to dust particles released by mining operations.

On 16 July 2014, judges ruled in favour of the plaintiffs, finding that the government had been negligent in fulfilling their obligations under the 2009 Environmental Law, which states, 'Everyone shall be entitled to a proper and healthy environment as part of their human rights'. By not fulfilling this requirement, the court decided, the local government had denied the people of Samarinda their right to enjoy a clean and safe environment. The court also ordered the government to evaluate all coal mining permits in Samarinda, monitor reclamation and other post-mining efforts, and take action to protect community farming and fishing areas from contamination by coal mining activities. Yet, since then little has improved, and children continue to drown in exposed coal mining pits in Samarinda and in the neighbouring district of Kutai Kartenegara.

SHIFTING AUTHORITY AND SHIFTING BLAME

NGOs believe one of the reasons for the sluggish response could be the recent reforms that have shifted authority over mining permits. The Regional Governance Law (Law No. 23/2014) introduced in October 2014 moves authority for coal and mineral mining (as well as forestry and fisheries) from district governments to provincial governments and the central government. Following a transition period, which should be completed by 2 October 2016, provincial governments will be responsible for issuing permits, and also for evaluating the status of problematic mining permits in their jurisdictions. Governors must report the results to the central government, which will decide whether to maintain or cancel the permits.

Muhammad Muhdar, lawyer and researcher at Samarinda-based NGO Prakarsa Borneo, explains that post-mining clean-up and pit closure is the responsibility of companies. District governments – until the introduction of the new law – were tasked with enforcing and overseeing this process. Yet despite the real dangers of leaving mine sites exposed,

companies often evade their reclamation responsibilities. Laws require that companies set aside funds for reclamation activities before conducting extraction work, but in practice these obligations are often not met. 'There are many companies that do not put aside reclamation funds, so the government doesn't have the resources it needs to close mine sites,' says Muhdar.

Frustrated with government inaction and excuses, CSOs have tried to find creative responses to the problem. 'The government always gives the excuse that there is not enough funding for closing mines', says Merah Johansyah of East Kalimantan JATAM. NGO activists have held actions following children's deaths in local mining pits, asking fellow Indonesians to donate Rp.1000 to crowd-fund mine closures. 'When the funds are collected, we'll give the money to the government. So they won't have any further excuses for inaction.'

Read the full article: http://www.insideindonesia.org/samarinda-s-deadly-mining-pits?utm_source=All+Subscribers&utm_campaign=2e33ebf0c7-21Jun16_Samarinda%E2%80%99s+deadly+mining+pits&utm_medium=email&utm_term=0_32cd77f926-2e33ebf0c7-245881565

Environmental consequences of mining in Jambi

Kompas, 27-06-2016

From the 196 operational mining permits that are currently operating in the province of Jambi, only two fulfil the conditions of sound environmental operations. The integrity of the mining sector is regarded as very weak. The Head of the provincial mining service, Abdul Salam Lubis, last week said in Kota Jambi that up till 2015 there had been 408 mining permits in Jambi. After an evaluation with regard to their environmental care policies and corruption, a number of permits had been retracted, so that only 196 remained. Of these only two had sufficient policies in place to implement minimum Good Mining Practices (GMP). "That means that nearly all permit holders are not complying with the existing conditions," said Lubis.

The permit holders need to comply with 34 requirements with regard to their exploration activities and 40 requirements as refers to their exploitation. The GMP includes all legal conditions as to operational security, in different phases of the mining process.

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The Director of Wahana Lingkungan Hidup Indonesia (Walhi) in Jambi, Musri Nauli, is of the opinion that the state income as generated by the mining sector, is not balanced against the environmental loss and destruction. The royalties amount to only 10 billion Rp (2015), whereas the damage to roads and the like is thought to amount to 300 billion. The State even experienced a loss of 50 billion Rp as disappeared taxes in the period 2010-2013 because the mining company did not have a tax payers identity number (nomor pokok wajib pajak, NPWP).

Musri mentioned 14 mining companies that have their operations in protected forests amounting to 63,000 hectares, and in conservation forests (6,300 hectares). These areas include the upstream of the river basin area (daerah aliran sungai, DAS) where the causes for landslides and flooding are increasingly dangerous. There should be no mining activity in these areas at all.

According to Rivan Prahasya, program coordinator of Transparency International Indonesia, the level of the environmental damage and the corruption lead to a weak integrity in the mining sector..

Police accountability

New head of police appointed: Tito Karnavian

The Jakarta Globe, 27-06-2016

Lawmakers on Monday morning (27/06) unanimously approved the nomination of Comr. Gen. Tito Karnavian as the next National Police chief in a plenary meeting at the House of Representatives. Less than half of the 560 lawmakers attended the 25 minute plenary meeting to approve the nomination.

Bambang Soesatyo, chairman of the House's Commission III overseeing legal affairs, read the summary of the fit and proper test and added: "all the party factions have agreed to approve Comr. Gen. Tito Karnavian as the National Police chief."

Following the House's approval, President Joko "Jokowi" Widodo will inaugurate Tito, replacing Gen. Badrodin Haiti as he enters the retirement period next month.

Tito, 52, graduated top of his class from the Police Academy in 1987. He has served in a number of high-profile appointments, including as head of the elite anti-terror unit Densus 88 from 2010 to 2011.

Tito first rose to prominence in Nov. 2010 after leading Jakarta Police's "Cobra Team" in an operation locating and arresting the youngest son of former president Suharto, Hutomo Mandala Putra or Tommy Suharto, who was accused of involvement in a graft case and masterminding the murder of Supreme Court judge Syafiuddin Kartasasmita.

Tito assisted Densus 88 in an operation to track down big-name terrorists Noordin M Top in Solo, 2009, and Azahari Husin — the alleged ringleader behind the 2002 Bali bombings which killed over 200 people — in Malang, 2005.

He also led the police crackdown of bloody sectarian conflicts in the Central Sulawesi district of Poso in the early 2000s.

Tito assumed the post of Jakarta Police chief in June 2015 and served for almost a year, during which he won praise for improving public security following attacks by Islamic State sympathizers in Central Jakarta.

Tito, the son of a journalist and born in Palembang, South Sumatra, became the youngest officer ever to rise to the rank of commissioner general in March this year after his appointment as chief at the National Counterterrorism Agency (BNPT).

Due to his relative young age, Tito could keep his top job for seven years before reaching retirement. In this case he would break the record of Da'i Bachtiar, who stayed in the role for three years and eight months — the longest period in the Reformation era.

National Police Chief Candidate Rejects House Proposal for New Antiterrorism Oversight Unit

The Jakarta Globe, 24-06-2016

Sole top cop candidate Comr. Gen. Tito Karnavian has opposed legal plans for a new external unit overseeing the police's antiterrorism squad, saying current supervision is sufficient and only needs to be tightened.

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Growing calls for such an oversight body has been made by activists, who have alleged that operations by the National Police's antiterrorism squad Densus 88 have been rife with human rights abuses.

Provisions on the formation of such an independent unit have been taken into account by House of Representatives lawmakers, who have been deliberating revisions to the 2003 antiterrorism law.

"Most of the political party factions want stricter supervision of Densus 88 operations," Great Indonesia Movement (Gerindra) party politician Muhammad Syafi'i, who chairs the House special committee for the antiterrorism bill revision, told Tito during a fit-and-proper test for his nomination on Thursday (23/06).

Responding to the plans, the current National Counterterrorism Agency chief said: "The current mechanism now in place and enough. It now depends on how we intensify the supervision."

Densus 88 is currently overseen internally by the National Police's general supervision division and the internal affairs division, as well as externally by the National Police Commission and the National Commission on Human Rights. The national police also has guidance written for each members, including the antiterrorism squad in a so-called-human-rights handbook.

"I will instruct the internal affairs division straight away to investigate once there is an allegation of abuse," Tito told House lawmakers, who later approved his nomination to replace retiring Gen. Badrodin Haiti.

The former Densus 88 chief also said he will team up with the National Commission on Human Rights to run programs aimed at upgrading the understanding his subordinates on the principles of human rights.

Death penalty

Why the death penalty is still necessary

Kompas, 25-06-2016

Although there is a lot of pressure to delete the death penalty, the Indonesian government and parliament will continue to keep it as a punishment in the new draft Criminal Code. The government and parliament see it as necessary to prevent people from carrying out exceptional crimes and serious human rights violations. To keep the death penalty in the new draft has been agreed upon by the special working group of the IIIrd Commission of the DPR. This was stated by one of its members, Sarifudin Sudding, member of the political Party Hati Nurani Rakyat, last Friday. He explained that crimes such as corruption, terrorism, drugs trafficking and sexual violence need to be prevented.

The strict attitude of the government can also be seen from the Government Decision 1/2016 to replace Law 23/2002 by which the punishment of sexual violence against children will facilitate a verdict of the death sentence.

However, said Sudding, the working group and the government are also considering the possibility of adaptation of the verdict in the sense that clemency will be possible on the basis certain conditions, such as of good conduct. This possibility is included in article 91 of the new draft Criminal Code, that rules that the execution of the death penalty can be postponed (sub 1), conversed into a life sentence or 20 years on the basis of good conduct (sub 2).

Law expert of Universitas Indonesia, Akhbar Salmi, said that this moderation of the death penalty can be considered a compromise between those against the death penalty and those in favour. He called this an effort to realise "restorative justice". One aspect might be that the victims' relatives can forgive the perpetrator's act.