

**Human Rights First Submission to the Office of the High Commissioner for Human Rights
Universal Periodic Review: Indonesia**

Below please find information on Indonesia for consideration in the Office of the High Commissioner for Human Rights' summary of stakeholder submissions in preparation for the April 7-18 session. This submission is consistent with Human Rights Council Resolution 5/1 of 18 June 2007 which states that the Universal Periodic Review process shall "*ensure the participation of all relevant stakeholders, including non-governmental organizations and national human rights institutions.*"

The submission focuses primarily on human rights defenders and broader issues of accountability, which are of particular relevance to sections I(b) and (c) of the General Guidelines, and to sections 7(iv) and (vi) of the Civil Society Unit's Suggested Guidelines.

Suggested Guidelines 7(iv): Cooperation of the country under review with human rights mechanisms, and with NHRIs, NGOs, rights holders, human rights defenders, and other relevant national human rights stakeholders .

The situation of human rights defenders

Indonesia is to be congratulated for extending an invitation to the Special Representative of the Secretary General on Human Rights Defenders, who visited in June 2007. Hina Jilani was able to meet with defenders in Jakarta and Aceh and, after some negotiation, Papua as well.

However, the situation of defenders in Indonesia remains precarious. At least fifteen human rights defenders have been killed since 2000, most of them in circumstances that implicate military or intelligence officers. Many of these activists worked in Aceh, where conflict has subsided following the 2004 tsunami and subsequent peace agreement. However, defenders continue to be subject to frequent threats and intimidation, particularly in conflict areas such as Papua and Poso, and where activists confront local corruption or defend vulnerable religious and social groups. While many such threats are anonymous, some intimidation can be traced directly to the statements and actions of police, military, and intelligence officers, and occasionally prosecutors.

The Murder of Munir

One of the most prominent advocates for accountability and reform, Munir, was fatally poisoned on September 7, 2004 while traveling abroad. As of November 2007, no one has been successfully prosecuted for his murder, although several trials are underway or under review. Two recent developments are particularly noteworthy:

- The Attorney General has submitted a request for a review of the Supreme Court's 2006 decision to overturn the conviction of an off-duty co-pilot named Pollycarpus Budihari Priyanto, the only defendant ever convicted. After hearings in August and September 2007, the evidence dossier was sent to the Supreme Court, and a decision is pending.
- Two Garuda Airlines officials, former Executive Director Indra Setiawan and Secretary to the Chief Pilot Rohainil Aini were arrested in April 2007 on charges of conspiracy to commit premeditated murder. Aini was also charged of falsification of documents relating to Pollycarpus' flight assignment. Their trials began in October 2007 and are now underway.

These are welcome developments, but even if these legal proceedings identify and punish some of those involved in the plot, they will not hold those who ordered and planned Munir's murder accountable. The Supreme Court's case review hearings and the trials underway raised new evidence of the involvement of senior intelligence officials. In addition to the known 41 phone calls between Pollycarpus' phone and phones associated with former intelligence official Muchdi Purwopranjono, a former intelligence agent has said that he was tasked with planning scenarios for Munir's assassination. The Garuda director has also testified that he received a letter signed by the deputy intelligence chief instructing him to assign Pollycarpus to aviation security, thus facilitating his presence on Munir's flight. In the original Pollycarpus trial, the panel of judges noted in their verdict that the pilot could not have acted alone, and urged authorities to investigate who else had played a role in Munir's death.¹

Despite evidence official involvement, there is no indication that senior intelligence officials have been adequately questioned or otherwise investigated. The report of a fact-finding team created by President Yudhoyono, which first uncovered the links to intelligence officials, has never been released to the public. The failure to investigate and prosecute those who may have planned and ordered Munir's death leaves other human rights defenders vulnerable to further attacks and intimidation.

Threats and intimidation towards Papuan defenders

Papuan defenders have always faced particular risks due to the heavy military presence and official limits on access by foreign press and human rights organizations. Activists are routinely subjected to anonymous death threats, accused of being separatists, or charged with defamation for their human rights reporting. In the last few months, there appears to be an increase in threats and intimidation above even historical levels.

In June 2007 Hina Jilani, the Special Representative of the U.N. Secretary General on Human Rights Defenders, briefly visited Papua as part of her mission to Indonesia. Immediately following her visit, a number of defenders she met with began receiving anonymous phone threats and night-time visits from mysterious people and unmarked

¹ Decision No. 1361/Pid.B/2005/PN.Jkt.Pst, Central Jakarta District Court, December 20, 2005.

vehicles. One of the targets of the threats, Albert Rumbekwan, is in fact the local representative of the National Commission on Human Rights, an official government body. Early on the morning of September 23, a number of men surrounded Rumbekwan's house during a black-out, in what he later described as an attempt to intimidate or even kidnap him.

In July 2007 Pastor John Djonga spoke to the governor about his concerns that local communities were being labeled as separatists and terrorized by the military posts placed throughout their villages and towns. Soon after, members of his congregation were questioned by members of the army's Special Forces about the pastor's activities. On August 22 the local Kopassus commander, a first lieutenant, told journalists that a religious leader from outside the area was spreading lies through his network of local and international NGOs, that he was a traitor and a provocateur, and should be buried 700 meters in the earth. (Pastor Djonga, originally from the island of Flores, is the only one who fits that description in the area). The lieutenant reportedly repeated the same allegations to a delegation from the local legislative assembly a few days later. Soldiers also accused him of being involved in illegal business activities.

Intimidation through the courts

In an increasingly common pattern throughout the region, defenders are facing legal action for the non-violent expression of their beliefs in the course of their work. This tactic takes the form of civil and criminal complaints brought by individuals and arrest under overly broad provisions in the criminal code.

After human rights lawyer Hendardi said that the intelligence agency was harassing activists instead of chasing terrorists, the intelligence chief, Hendropriyono, filed a civil libel suit for \$1 million and sought a lien on Hendardi's house. Hendropriyono, who left his position in 2004, also filed a criminal defamation complaint against two human rights defenders serving on the Munir fact-finding team in 2005, who police then called in for questioning.

On July 17, 2007 the Constitutional Court struck down articles 154 and 155 of the Criminal Code, which criminalized "hate-sowing" against the state. However, several similarly broad articles, such as Article 160 on incitement, remain on the books and have been used recently against defenders:

- In July 2007 four staff members of the Langsa branch of the Banda Aceh Legal Aid Foundation (Lembaga Bantuan Hukum, or LBH) were detained under suspicion of incitement for distributing information about a local land conflict.
- Iwangin Sabar Olif, a prominent lawyer from Indonesia's eastern-most province of Papua, was arrested on October 18, 2007 by Detachment 88, the police anti-terror unit. He was taken to national police headquarters and held on suspicion of incitement after he allegedly forwarded a text message accusing the president of involvement in rumored poisonings in Papua. Such text messages are increasingly common in Papua, and have been widely received and forwarded.

Broader problems of impunity

Indonesia has also failed to meet its international obligations with regard to prosecution of those implicated in commission of crimes against humanity in East Timor. The crimes in East Timor should be of particular concern to the international community because they took place in the context of an electoral process negotiated and supervised by the United Nations. Among those killed were Timorese employees of the U.N. The Indonesian government has been given the opportunity to address these crimes and has failed, especially in the case of the ad hoc tribunals held in Jakarta. Seventeen of eighteen defendants, including all military officials charged, were acquitted either in the court of first instance or on appeal. Domestic and international observers concluded that the indictments and prosecutions were so flawed as to be “intended to fail.”²

In its 2005 report, a U.N. Commission of Experts appointed by the Secretary General recommended that if Indonesia did not promptly fulfill its recommendations to prosecute those responsible for the violence, the international community should take action by creating an international tribunal. Indonesia has not met any of the Commission’s recommendations. Indonesia’s latest effort, largely an effort to forestall international attention, is the bilateral Commission on Truth and Friendship (“CTF”). Able to recommend amnesty, but not prosecution, for even the most egregious of crimes, the CTF appears to be a mechanism for impunity and a means to rewrite history. The testimony of military officials in front of the CTF has perpetuated transparently false myths that the Indonesian military had no control over the militias, that the U.N. manipulated the vote, and that hundreds of thousands of disappointed Timorese burned their own houses before voluntarily moving to refugee camps in West Timor.

Indonesia’s accountability problems are by no means limited to East Timor. Not a single major human rights case from the Soeharto years has been effectively prosecuted, and perpetrators of those crimes continue to be promoted and to hold positions of influence. Furthermore, implementation of ad hoc tribunals - the primary mechanism for dealing with human rights violations predating the passage of a 2000 human rights law - has been largely blocked due to disagreement over the law’s interpretation by the Attorney General’s office, parliament, and the National Human Rights Commission, combined with the refusal of military officials to appear for hearings. This problem has been especially pronounced in the failure to prosecute those responsible for the sniper shootings of student activists in 1998-9, in the cases known as Trisakti, Semanggi, and Semanggi II, and in the disappearances of student activists in 1997-8, in which the army’s special forces branch Kopassus was directly implicated. Ending the impasse over the 2000 human rights law would be an important step towards accountability for human rights violations. However, it is important to note that due to weak indictments and ineffective prosecution, even those trials that have gone forward, such as the East Timor ad hoc tribunals but also the Tanjung

² International Center for Transitional Justice, *Intended to Fail: The Trials Before the Ad Hoc Human Rights Court in Jakarta* (New York, August 2003).

Priok shootings, have neither convicted the perpetrators nor promoted a true accounting of facts.

Suggested Guidelines, 7(vi): Key national priorities as identified by NGOs, initiatives and commitments that the State concerned should undertake

In close consultation with Indonesian NGOs, Human Rights First has distilled the following recommendations which the Indonesian government should implement in order to protect human rights defenders:

1. Promptly and impartially investigate all of those suspected of planning and ordering the killing of Munir, based on evidence from phone records and court-room testimony;
2. By effectively investigating and prosecuting all acts of threat and intimidation, ensure that defenders in Papua and elsewhere are not harassed or intimidated by police, military, or intelligence officers;
3. As part of the process of revising the Criminal Code, remove overly broad provisions, such as article 160 on incitement, which continue to be used to arrest, harass and impede the legitimate, non-violent actions of human rights defenders;
4. Fully fund and implement Law No. 13 of 2006 on Protection of Witnesses and Victims³ and ensure that pending legislation on intelligence and state secrets does not restrict the rights of defenders to carry out their work.

³ Undang-Undang Republik Indonesia Nomor 13 Tahun 2006 Tentang Perlindungan Saksi dan Korban