

**Human Rights First Submission to the Office of the High Commissioner for Human Rights
Universal Periodic Review: Indonesia 2011**

Introduction

1. This report is a submission by Human Rights First to the Office of the High Commissioner for Human Rights (OHCHR) for consideration in its summary of stakeholder submissions for Indonesia's appearance before the thirteenth Universal Periodic Review session, scheduled from May 21 – June 1, 2012.
2. As a member of the Human Rights Council, thereby bound by the Universal Declaration of Human Rights, and having ratified the International Covenant on Civil and Political Rights, Indonesia has taken on commitments to uphold the highest standards in the promotion and protection of human rights.
3. Human Rights First would like with this submission to draw attention to three principal human rights concerns in Indonesia: (A) the lack of justice and accountability at the highest levels in the assassination of Munir Said Thaib; (B) continued intimidation and attacks against human rights defenders by state actors; (C) violence and human rights violations stemming from blasphemy laws.

A. Failure to Provide Justice for Munir Said Thaib's Assassination

4. Despite credible evidence of their involvement in the 2004 assassination of leading human rights defender, Munir Said Thalib, no one at the highest levels of Indonesian Intelligence has been brought to justice for this crime. Munir was poisoned en route to Holland. Although President Yudhoyono quickly convened an independent investigation into the murder, support and resources for the investigation became scarce. The President has yet to release the report or its findings.
5. Two low-level players have been convicted for their involvement in the crime. Pollycarpus Budihari Priyanto was convicted in 2005 and sentenced to 20 years. A sentence that the Indonesian government recently reduced by three months through a 2011 Independence Day "remission," a move that has sparked concerns among the human rights community that there may be renewed pressure on the judicial system to release the only person serving any real time for Munir's murder. The other convict, a former president of Garuda airline, has already served his one-year prison sentence. In 2008, charges were brought against a former deputy of the state intelligence agency, Muchdi Purwoprandjono, for ordering Munir's murder. His trial was widely criticized because the court failed to compel witnesses to attend and those who did appear recanted their sworn statements or forget them all together. Muchdi was acquitted and released.
6. A coalition of human rights organizations continue to pressure the Attorney General's office to provide judicial review in Muchdi's trial, though the government has not answered that request. Additionally, in 2011 they submitted an information request to the intelligence office to compel the release of evidence, including phone records, that points to Muchdi's guilt.

Recommendation:

- **With the goal of achieving justice and accountability in Munir's murder, we recommend a renewed independent investigation that would lead to recommendations for prosecution of those who planned and ordered his assassination and a case review of past criminal proceedings.**

B. Threats against Human Rights Defenders

7. While outright violence against human rights defenders in Indonesia has declined over the past twelve years, attacks and other forms of intimidation and harassment continue. According to a 2009 study by the Indonesian human rights group Imparsial, there were 135 incidences of attacks and threats against human rights defenders between 2005 and 2009—the majority of which were perpetrated by state actors.
8. The Indonesian government has yet to adopt and implement protection mechanisms for human rights defenders as recommended in 2007 by Hina Jilani, then the Special Representative for the Secretary-General on the Situation of Human Rights Defenders. The Representative stressed that protection of human rights defenders should be a “priority,” although in reality “no concrete initiatives have yet been taken to enact laws, to create institutions, and to institute procedures that deal directly with the protection of human rights defenders or with accountability for any harm or arbitrary action against them.” Since her visit, civil society has submitted a draft law for the protection of human rights defenders that has been included in the 2010-2014 parliamentary agenda. There is a second proposal in the works to amend the Human Rights Law to include the recognition and protection of human rights defenders.
9. Human rights defenders in conflict areas, particularly in Papua and West Papua, are subject to strategic harassment and intimidation by security services. Tactics used include surveillance and threats of violence and arrest that increase around the release of reports, trainings and before and after visits by international human rights groups. Human rights defenders are also stigmatized as separatists, in part to justify the increase of military presence in Papua and West Papua. International human rights groups have limited access to these regions, further isolating local human rights defenders.
10. Human rights defenders in conflict areas are also subject to excessive use of force by police when exercising their freedoms of assembly and expression. Most recently, in October 2011 police backed by a military detachment fired assault rifles over a demonstration in Jayapura, Papua, killing at least three. Over 300 protesters were arrested and witnesses report the use of torture. Hina Jilani called for increased “credible oversight and accountability” of government actors and “special complaint cells” for addressing threats to defenders working in conflict areas. To date, none of these recommendations have been implemented.
11. The work of human rights defenders, particularly those working on exposing corruption and past human rights abuses, has been impeded by criminal and civil defamation cases brought against them. For instance, in 2004 after human rights lawyer Hendaridi said that the intelligence agency was harassing activists instead of chasing terrorists, the intelligence chief, Hendropriyono, filed a civil libel suit for one million dollars. Hendropriyono also filed a defamation complaint against two members of the Munir fact-finding team. Criminal defamation laws carry a maximum penalty of six years imprisonment or a six billion Indonesian Rupiah fine.

Recommendations:

- **Protect human rights defenders who continue to be subject to threats and intimidation by promptly investigating all of previous attacks on activists, and by effectively prosecuting all threats and intimidation against defenders in the country.**
- **Adopt comprehensive legislation to ensure protection of human rights defenders and create institutional mechanisms to ensure the enforcement of such legislation, including**

increased oversight and accountability of state actors such as the police, military, and security forces in their interactions with defenders.

- **Repeal or amend legislation that criminalizes the work of human rights defenders, including journalists.**

C. Violence and Human Rights Violations Stemming from Blasphemy Laws

12. Human rights abuses and violent attacks on religious minorities can be linked to the abuse of Indonesia's blasphemy and related laws, including Articles 156 and 156 (a) of Indonesia's Criminal Code, the 2008 joint ministerial decree which targets the Ahmadiyya, and various fatwas which also reinforce discrimination. Additional discriminatory measures were taken in 2011 when decrees were signed banning Ahmadis from spreading their beliefs in West Java and Bekasi.
13. The blasphemy laws are inconsistent with universal human rights standards that protect individuals rather than abstract ideas and religions and serve to promote an atmosphere of intolerance by providing a context in which the government can restrict freedom of expression, thought and religion. They result in devastating consequences for those holding religious views that differ from the majority religions recognized in Indonesia, as well as adherents to minority faiths that are deemed heretical or blasphemous by the majority or state-backed religious establishments.
14. In many instances, officials have failed to condemn abuses or follow through with holding the perpetrators of violence accountable. The police have failed to prevent and stop violence against religious minorities and to protect and secure all those whose lives have been threatened and endangered on account of such laws. The judiciary has failed to sufficiently punish the perpetrators of violence. The lack of meaningful response has fostered a climate of hostility and fear in which discrimination and violent incidents occur. Further, mob violence has become a growing concern and reflects the serious challenges confronting the rule of law. Sometimes mobs target government officials for not being strict enough in their application of the blasphemy law but the violence is most frequently directed toward religious minority communities where the practice of their religion has been deemed blasphemous.
15. On February 8, 2011, more than one thousand protestors stormed the District Court in Temanggung after a Christian convicted of blasphemy received the maximum sentence—a sentence which extremists believed to be too lenient. The mob attacked prosecutors, judges and the defendant, injuring nine people and then destroyed three churches and torched vehicles. Prosecutors are seeking a one-year sentence for the leader of the mob although the maximum sentence for incitement is six years; 17 of the 25 men tried for participating in the riot received jail sentences of four to five months for vandalism.
16. Violence does not end at the courthouse doors. Mobs have descended on towns, burning places of worship, looting homes and killing or injuring residents. The government has largely failed in its obligations to protect people from extrajudicial mob violence. In fact, there are instances when the authorities have been complicit.
17. On February 6, 2011, while twenty-one members of the Ahmadiyya sect assembled at the home of their leader, a mob composed of more than one thousand villagers armed with machetes and sticks, stormed the house of worship, killing four and wounding six others. Graphic video footage of the brutal and allegedly unprovoked attack shows the attackers stoning their victims to death and then beating the corpses as police officers and villagers watched and did nothing. The

police were allegedly warned of the attack days before the event. Despite the police presence, only 12 villagers were charged and received sentences ranging from three to six months imprisonment for their role in the attack. None was charged with murder. The same court found an Ahmadi victim whose hand was severed during the attack guilty of disobeying police orders and sentenced him to six months in prison. On October 14, 2011, in response to the court's sentencing, hundreds of members of Islamic Defender's Front (FPI), armed with machetes and bamboo sticks, stormed an Ahmadiyya house of worship in Makassar, South Sulawesi. One victim suffered serious head injuries and three human rights workers who tried to stop the attack were beaten. Again, according to reports, the police did nothing to stop the violent attack.

18. On April 26, 2011, the United Nations High Commissioner for Human Rights expressed concern for violations of religious freedom, including the issuance of a fatwa banning the Jammah Ahmadiyya. The Commissioner called for a review of all laws, particularly those restricting religious expression and practice, "to ensure they comply" with standards set out in the Constitution and in the International Covenant on Civil and Political Rights and recommended that the UN Special Rapporteur for freedom of religion or belief be invited to visit Indonesia. Indonesia should be urged to accept this recommendation and extend an invitation to the Special Rapporteur.
19. The United Nations Special Rapporteur on freedom of religion or belief also raised concern about attacks and threats against Ahmadi families following a fatwa banning the Jammah Ahmadiyyah. The government responded that measures were taken to keep the peace and guard the assets and activities of the Ahmadiyya. The government should be pressed to confirm what actions have been taken to do so in light of these recommendations and the increase in violence against the Ahmadiyya since the last reporting period.
20. The Committee on the Elimination of Racial Discrimination expressed concern at the "distinction made between Islam, Protestantism, Catholicism, Hinduism, Buddhism and Confucianism, which are often referred to in legislation, and other religions and beliefs." The Committee recommended that the State treat all religions and beliefs equally and "ensure the enjoyment of freedom of thought, conscience and religion for ethnic minorities and indigenous peoples."
21. During the first Universal Periodic Review cycle, Indonesia described itself as a "multi-ethnic democracy" and recognized that in order to preserve its unique democracy it would need to protect and nurture its values of "unity, harmony and tolerance." The government also acknowledged its commitments and obligations under Article 18 of the ICCPR on freedom of thought, conscience and religion and the countries constitutional guarantees for the promotion and protection of this "important right."
22. In light of the serious human rights abuses that have occurred during this reporting period, the Government of Indonesia should reaffirm its commitment to ensure the promotion and protection of its people by fulfilling its obligations under international law. Indonesia also agreed to "provide additional training for law enforcement officials, including prosecutors, police and judges, as well as for security forces" and should be pressed to describe what actions have been taken to provide such training and limit abuses.

Recommendations:

- **Repeal the blasphemy law or at a minimum, amend the existing law to limit abuses by strengthening the requirements for proof of intent and evidence.**

- **Revoke the 2008 Joint Ministerial Decree and all laws which discriminate against or restrict the Ahmadiyya and take measures to address threats made against them.**
- **Protect and secure all those whose lives have been threatened and endangered on account of blasphemy and related laws, including defenders of those accused of blasphemy as well as government officials, lawyers and judges who speak out against the blasphemy law.**
- **Urge government officials to speak out against human rights abuses whenever such acts occur and, particularly in cases of violence, ensure that there is rapid and appropriate response from both law enforcement and criminal justice authorities.**
- **Reach out to work with and support Indonesian civil society and human rights organizations who are actively promoting democracy, tolerance, and the peaceful co-existence of different ethnic and religious communities.**
- **Ensure that police receive adequate training on conflict resolution and community policing, including how to prevent and respond to mob violence.**
- **Guarantee that the rule of law is upheld by fully investigating violations of religious freedom, including violent acts against members of religious minorities.**
- **Extend an invitation to the U.N. Special Rapporteur for freedom of religion or belief to visit the country and to conduct an independent investigation into violations of religious freedom.**

Attachment:

Human Rights First's Report "Blasphemy Laws: the Consequences of Criminalizing 'Defamation of Religions.'"