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**HUMAN RIGHTS SITUATIONS THAT REQUIRE
THE COUNCIL'S ATTENTION**

Written statement* submitted by the International NGO Forum on Indonesian Development (INFID), a non-governmental organization in special consultative status.

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[18 February 2009]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

Situation of Human Rights Defenders in Indonesia 2008¹

Special Representative of UN Secretary General on the Situation of Human Rights Defenders Ms. Hina Jilani, in her report on her visit to Indonesia in 2007 before the seventh session of the Human Rights Council in March 2008 explained that *“despite visible progress in the country’s democratic development, human rights defenders continue to experience serious constraints in conducting their activities for the protection of human rights. Such constraints are imputable to the continuing activities of the police, the military and other security and intelligence agencies as well as religious fundamentalist groups that are aimed at harassing and intimidating defenders or restricting their access to victims and to sites of human rights violations”*.²

The Government of Indonesia welcomed her report and promised to further cooperate with the Special Representative. However, the Government’s promised seems do not meet the facts in 2008, because violations against Human Rights Defenders (HRD) still occurs, such as attack against human rights activists, journalists and defenders who work in conflict area of Papua³ and post conflict area of Aceh⁴. The Government still protects the perpetrators of violation against HRD with impunity⁵, including the perpetrators of the cases which have been reported by Imparsial and INFID last year before the Council⁶.

In Papua, freedom of opinion as well as freedom of expression still limited. The Government using separatist label to justify violence against HRD in Papua. On the 20th of June 2008, the Attorney General Office banned the circulation of the book written by **Rev. Socrates Sofyan Yoman** entitled “Pemusnahan Etnis Melanesia: Memecah Kebisuan Sejarah Kekerasan di Papua Barat” (Cleansing Melanesia ethnic: Breaking the Silence of the History of Violence in West Papua”).⁷

¹ Written Statement on the Situation of Human Rights Defenders in Indonesia 2008 is prepared and delivered by IMPARSIAL the Indonesian Human Rights Monitor and INFID (International NGO Forum on Indonesian Development).

² See A/HRC/7/28/Add.2, 28 January 2008.

³ More than 5 countries pay serious attention to HRD situation in Papua. See report of UPR Working Group UN Human Rights Commission A/HRC/WG.6/1/IDN/4, 15 April 2008.

⁴ Ms. Jilani concludes that a climate of fear undeniably prevails in West Papua, especially for defenders engaged with the rights of the Papuan communities to participation in governance, control over natural resources and demilitarization of the province. The situation of these defenders does not seem to have eased and, despite the adoption of the Special Autonomy Law in 2001, their legitimate activities for the protection of human rights continue to be targeted. The series of concerns of the Special Representative regarding the situation of human rights defenders in West Papua, articulated in this report, persist despite the assurances given to her by the police and military authorities in Papua that there was no institutional policy to target defenders. While in Aceh, Human Rights Defenders still become the target of operation by military, police and intelligence. Almost in every seminar, workshops etc, intelligence officers always come to identify HRDs and substance of the seminars/workshops. As for Aceh province, the Special Representative welcomes the improvement of the situation, although concerns remain with regard to surveillance activities by law enforcement authorities, stigmatization of defenders, restrictions that affect the work of women human rights defenders, and the score of unresolved cases”.

⁵ Some of the perpetrators get a chance to establish new political parties in Indonesia and will run for the members of the house of representative and presidential election in 2009. Ironically, several human rights defenders become target of the perpetrators to join their parties to seek votes from human rights defenders’ communities.

⁶ See A/HRC/7/NGO/17, 21 February 2008.

⁷ The Government explained that this book can disturb public order and contained an attempt to break the unity. This is following November 2007’s policy that the Attorney General issued the Decree of the Attorney General No. Kep-123/A/JA/11/2007 to ban the circulation of a book written by **Sendius Wonda, S.H., M.Si** entitled

Instead of respecting consistent implementation of Law Number 21 Year 2001 on Autonomy in Papua, the Government passed the Government Regulation Number 77 Year 2007 on Symbols of the Regions, which forbids people in Indonesia to show local and cultural symbols, including the Free Aceh Movement's flag of Bulan Bintang (the Crescent Star), the South Maluku Republic's flag of Benang Raja, and the Free Papua Movement's flag of Bintang Kejora (the Morning Star). During 2008 the police applied treason article (article 104-110) of the Indonesia Penal Code to arrest students and people's demonstrations in Papua which bring the Morning Star flag as symbol⁸. The police also used agitation article 160 of the Indonesia Penal Code to oppress the demonstrators although they staged peaceful demonstrations.

Opinus Tabuni of Papua Customary Council was killed allegedly by the military when he participated in the International Day of Indigenous People that marked by Papua Customary Council in Wamena – Papua on the 9 of August 2008. In the same event Tabuni was killed, unknown people brought 4 flags: Red and White Indonesia's flag, Morning star's Papua Free Organization, UN Flag and white flag written "SOS, Papuan people are in dangerous". Instead of processing Tabuni case, the police more focus on the flag case and interrogated 5 leaders of Papua Customary Council: **Foskorus Yaboisembut, Sayid Fadhal Al Hamid, Lemok Mabel, Yulianus Hisage, Dominikus Sorabut, and Adolf Hisage** as witnesses of treason (article 106 of Indonesia Penal Code). The police also accused Papua Customary Council for organizing illegal event in Wamena on the 9th of August 2008.

Violence against **Hana Hikoyabi** vice person of **Papua People Assembly** also occurred in July 2008 after Papua People Assembly demanded 11 seats in local parliament for indigenous Papua. Ms. Hikoyabi said that Papua People Assembly will boycott the general election if their demand will not be fulfilled. After local newspapers published her statement, unidentified persons always follow her. Several days later, Hikoyabi's car suddenly crashed by unidentified car which always follow her when she had a field trip out of Jayapura, the capital of Papua.

Intelligence operations increased this year to disturb peaceful condition in Papua. Beside splitting the region, intelligence apparatuses also monitoring churches and mosques, and try to blow up false issues that create instability in Papua, for example shariah versus christianity, separatist versus pro-Indonesia, indigenous versus immigrant. Papua religious leaders still become target of violence.

Journalists in Papua live in dangerous condition. Some of them become the target of surveillance, intimidation and attack. **Odeodata Julia**, journalist of **Sinar Harapan newspaper**, intimidated by Second Brigadier Police Amos Totouw of Mamberamo Police Office when she did her journalism duty to cover Mamberamo budget on the 28 of October 2008. However the Papua Regional Police's Public Relation Senior Commisioner Drs. Agus Rianto was very angry with Ms. Julia when she reported her case.

"Tenggelamnya Rumpun Melanesia; Pertarungan Politik NKRI di Papua Barat" (The Shrinking of Melanesia ethnic: Indonesia's Political Struggle in West Papua).

⁸ Based on the data of SKP Jayapura (Office of Peace and Justice of the Catholic Diocese of Jayapura) more than 10 incidents of flag raising occurred in Papua during 2008. The police arrested the people and applied treason article (article 104, 106 and 110) of Indonesia Penal Code. The victims including 3 street vendor women who sell Papua handicraft. On 12 Januariy 2009, West Papua Court of Appeal punished 3 years imprisonment for 12 students who raised Morning Star flag.

Militia groups supported by the military such as Barisan Merah Putih (Red and White group) as well as thugs who supported by Bupati (District Head) also play significant role in attack against human rights defenders in Papua.

Human Rights activist **Sabar Olif Iwanggin** of **ELSHAM Papua**⁹ finally acquitted by the Panel of Judges of Abepura – Jayapura District Court on the 29th of January 2009 after waiting for 12 months trial. The prosecutors could not prove that Iwanggin is guilty. The acquittal of Iwanggin gave a little hope that the struggle for human rights protection in Papua can win a fair trial.

In post conflict area of Aceh, tension increasing following the preparation of General Election in Indonesia. On August 14, 2008, eight lawyers of **Banda Aceh Legal Aid Institute: Kamaruddin, Muksalmina, Yulisafitri, Sugiono, Mustiqal, Juli Fuadi, Mardiaty and Juanda** convicted by Langsa Civil Court (East Aceh). The verdict of Langsa Civil Court said that the lawyers found guilty of “agitation”, attacking PT. Bumi Flora by using leaflet and distribute it to the people, which against article 160 of the Indonesia Penal Code. They were punished 3 months imprisonment with 6 months probation¹⁰.

Hendra Budian, Director of **Aceh Judicial Monitoring Institute (AJMI)** Banda Aceh alleged by the Office of Province Attorney Nanggroe Aceh Darussalam as criminal by ruining glass window of the Office of the Province Attorney. Hendra is charged against article 406 Indonesia Penal Code. His case is in Banda Aceh District Court now.¹¹

In Jakarta, the Depok Civil Court of West Java’s verdict punished journalist **Bersihar Lubis** 1 month imprisonment with 3 months probation. The judges found him guilty of insulting the Attorney General as stipulated by article 207 of the Indonesia Penal Code.

PT. Asian Agri sued **TEMPO magazine** in **Central Jakarta Civil Court**. The judges punished Tempo to pay US\$ 5,000 to PT. Asian Agri because Tempo’s journalist wrote corruption case of PT. Asian Agri.

Based on the data of WALHI (Friend of the Earth), in 2008 around 86 human rights defenders from environment and peasants: 6 persons from Runtu; 42 persons from North Sumatera, 17

⁹ Sabar Olif Iwanggin was arrested on 17 October 2007 by the joint apparatus of Reserse Polda Papua and Special Detachment 88 Anti-Terror in front of GOR Cendrawasih in Jayapura. The arrest was carried out relating to the suspicion of victims’ involvement in the terror message case that often happened in the area of Papua. In the press release, the legal representative and family said that the victims merely received a message from unknown number then he sent it to several close friends and family with the intention that they would not be provoked. Sabar was accused of committing an offence against the President, Mr Presiden Susilo Bambang Yudhoyono and was charged with article 160 KUHP (Indonesian Penal Code) and at the moment the case is being brought into court in PN Jayapura. The message received by Sabar Olif from Marto Yowey was “*New information, be on alert, SBY has already ordered to eliminate the people of Papua and take control over the natural resources of their land. The methods used to eliminate the people of Papua are food poisoning, pay doctors, pay food stalls, pay motorbike taxis, pay drivers and ABRI Forward this (information, red.) quickly to the whole community of Papua before it will be too late..... Maya IPDN (Institute Pemerintahan Dalam Negeri, red.) BANDUNG.*”

¹⁰Article 160 has been used for years by the authorities (from Dutch colonialization to date) to criminalize activists.

¹¹The Prosecutor then pending the US\$ 211,700 corruption case of the Bupati (Regent) of Bener Meriah and Central Aceh, that reported by Hendra, victims of corruption and civil society groups.

persons from Bima - West Nusa Tenggara; 1 person from South East Sulawesi; 17 persons from Cilacap – Central Java; 3 persons from West Java) were arrested and tortured by the police.

Threat against human rights defenders in 2008 also done by fundamentalist group, for example **Front Pembela Islam (Islam Defend Front)** which attack pluralist groups **Aliansi Kebangsaan untuk Kebebasan Beragama dan Berkeyakinan (AKKBB)** on the 1st of June 2008. **Siti Musdah Mulia of ICRP** who support pluralism and received 2008 Yap Thiam Hien Human Rights Award always become the target of anti pluralist groups as they said that Musdah is halal to be killed.

On the 31st of December 2008 the verdict of the South Jakarta District Court acquitted Major General Muchdi Purwopranjono, former Deputy V of State Intelligence Body, one of the accused of conspiracy who killed human rights activist Munir Said Thalib. The acquittal of Muchdi is the turning point against the efforts of President Susilo Bambang Yudhoyono to open conspiracy on Munir murder.

In 2008, the Government deliberated draft law that categorized as threat against HRD, including revision of the law of Mass Organization¹², draft law on State Secrecy¹³ and draft law on Reserve Component¹⁴. The Government passed Law No. 18 Year 2008 on Information and Electronic Transaction, which can be used to criminalize journalist and ignored many local bylaws that contradict to UN Human Rights Laws.

Constitutional Court rejected Independence Journalist Alliance's judicial review on freedom of expression after it said that articles 207, 310, 311, and 316 Indonesia Penal Code were not against Indonesia Constitution.

Recommendation:

Based on the facts mentioned above, we urge the UN Human Rights Council to consider the following things:

1. To urge the Government of Indonesia to harmonize the Declaration of Human Rights Defender Protection into the national law of Indonesia and to revoke all the laws and regulations that are contradictory to the Declaration;
2. To urge the Government of Indonesia to pass law on Human Rights Defender protection;
3. To urge the Government of Indonesia to end the impunity toward the actors of violence against HRD by legal processing all crimes committed and punishing the actors without any exceptions;
4. To urge the Government of Indonesia to seriously take follow-up actions on the investigation of Munir case and other Indonesia HRDs cases mentioned in this report.

¹²This draft law will monitor NGO fund and will establish a Commission to monitor activities of NGOs. The Commission can advise the Government to freeze NGO's license and fund.

¹³ State Secrecy Draft Law applies death penalty and will be passed on March 2009.

¹⁴ Reserve Component Draft Law will give a chance to militia members to join reserve component. It will open conflict between HRDs and militia. Reserve Component will take over individual property in the name of State Defense.