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## Human Rights Council

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Agenda item 3

**Promotion and protection of all human rights,  
civil, political, economic, social and cultural rights,  
including the right to development**

### **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.

[15 February 2010]

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\* 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 2009<sup>1</sup>**

The situation of Human Rights Defenders in 2009 is worse compared to 2008, because in 2009 many defenders were criminalized by the government.

The journalist of Radar Bali, Anak Agung Prabangsa, in February 2009 killed by the candidate of the local parliament in Bali after he wrote about corruption that allegedly done by the perpetrator<sup>2</sup>.

Hendra Budian, Director of Aceh Judicial Monitoring Institute (AJMI) Banda Aceh alleged by the Office of Province Attorney Nanggroe Aceh Darrusalam 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.<sup>3</sup>

On 5 May 2009, Constitutional Court rejected the review of the Independence Journalist Alliance on article 27 (3) Law on the Information and Electronic Transaction Nr. 11 year 2008.<sup>4</sup>

On 13 May 2009, SCTV's reporter Carlos Pardede attacked by security staff of the Bank of Indonesia. Carlos will interview Boediono, the Governor of the Bank of Indonesia, following his candidacy of the vice president of Indonesia from Democrat Party.

Chief of the Regional Police of South Sulawesi Inspector Gen. Sisno Adiwinoto sued Jupriadi Asmaradhana, a journalist in Makassar, for defamation with compensation of Rp 10,025 trillion.<sup>5</sup>

The North Sulawesi Manado District Court's verdict on 11 May 2009 said that Berry Nahdian Forqan and Erwin Usman of WALHI (Friends of the Earth) were guilty of not obeying state officials and must pay fine, after they staged peace demonstration supporting traditional fishermen.

Following the verdict of the South Jakarta District Court which on 31 December 2009 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 Supreme Court rejected the appeal of the Prosecutor in July 2009. In relation with the acquittal of Muchdi PR, he then summoned Usman Hamid – Director of the Commission on the Disappearance and Victims of Violence (KONTRAS) to the Jakarta Regional Police

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<sup>1</sup> Written Statement on the Situation of Human Rights Defenders in Indonesia 2009 is prepared and delivered by IMPARSIAL the Indonesian Human Rights Monitor and INFID (International NGO Forum on Indonesian Development).

<sup>2</sup> On the case of Anak Agung Prabangsa, chief of Radar Bali Newspaper who was killed allegedly by Nyoman Susrama, member of local parliament and brother of Bangli regent. The process was handled by the district court of Denpasar.

<sup>3</sup> Corruption cases of Bener Meriah Regent and Central Aceh Regent, which assumed US\$ 211,700 then pending by the prosecutor. The case was reported by Hendra, victims of corruption and civil society groups.

<sup>4</sup> The panel of the judges argued that person's rights on good reputation is protected by the law. The judges further decided that punishment of the person who suspected guilty of spreading hatred on the internet under defamation article is not a limitation of the freedom of expression. In 2008, Constitutional Court also rejected Independence Journalist Alliance's judicial review on freedom of expression after it said that articles 207, 310, 311, and 316 of the Indonesia Penal Code were not against Indonesia Constitution.

<sup>5</sup> Gen. Sisno also summoned Jupriadi with defamation article under the Indonesian Penal Code; however the panel of judges in Makassar acquitted Jupriadi on the 14th of September 2009.

(Polda Metro Jaya) for defamation (article 310 and 314 Indonesia Penal Code). Muchdi also intimidated 3 HRDs related with Munir case: Suciwati (the widow of Munir), Hendardi (Director of Setara Institute) and Poengky Indarti (Managing Director of Imparsial).

In 14 October 2009, Attorney General summoned Emerson Juntho and Illian Deta Arta Sari of the Indonesian Corruption Watch (ICW) to the Indonesian Police Headquarter for defamation (article 311 and 316 of the Indonesian Penal Code). Emerson and Illian summoned after Rakyat Merdeka Newspaper published their information concerning the official audit result of the Financial Auditor Body on the Attorney General Office.

Bibit Samad Riyanto and Chandra M. Hamzah, two leaders of the Commission on Corruption Eradication (KPK) were accused of receiving bribery. The two leaders were detained on Thursday 29 October 2009 for six days, and then released on Wednesday the 3rd of November 2009 due to national wide public support. The Commission on Corruption Eradication has a good reputation, but it seems that the Indonesian Police and Attorney General uncomfortable with its action. Therefore, public saw that accusation against 2 leaders of the Corruption Eradication is a big scenario to ruin the institution.<sup>6</sup>

Bambang Widodo Umar, expert on police reform also summoned by Chief of Criminal Department of the Indonesian Police Susno Duaji with article 310 of defamation after journalist published Bambang's opinion that candidate of the Chief of Indonesian Police must have high integrity.<sup>7</sup>

## Papua

Three years after the visit of Ms. Hina Jilani, situation in Papua is not improved.<sup>8</sup> Security apparatuses such as police, military and intelligence officers still attack Human Rights Defenders in Papua.<sup>9</sup> The Government, however, still protects the perpetrators of violation against HRD and "granted" blanket impunity<sup>10</sup>. As part of Indonesia's criminal justice system, the police, however, did not pay serious attention on violation against Human

<sup>6</sup> For criminalization case of Bibit Samad Riyanto and Chandra M. Hamzah of the Commission on Corruption Eradication, due to people's demand, President Yudhoyono then set up a fact finding team known as the Eight Team which consisted of 8 experts. However, National Police's Chief of Detective Comr. Gen. Susno Duaji and Deputy Attorney General Ritonga still in charge, despite public criticism that the two officers allegedly receiving bribery.

<sup>7</sup> Metro TV News, 5 January 2010.

<sup>8</sup> See A/HRC/7/28/Add.2, 28 January 2008. 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, concerning situation of Human Rights Defenders in Papua, concluded 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.

<sup>9</sup> 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.

<sup>10</sup> It's rare for Indonesian Government to process violation that done by Indonesian security forces. Especially in Papua, that labeled as separatist area. Therefore, violation against human rights defenders as well as ordinary people is common in Papua. The label separatist is justified by the state apparatus to launch attack in order to combat separatism.

Rights Defenders. For example the murder of Opinus Tabuni of Papua Customary Council, who is killed by unknown person, allegedly military personnel, remain stagnant.<sup>11</sup>

In 2009, the charge of makar (treason)<sup>12</sup> still applied by the police Papua to oppress student movement.<sup>13</sup> The Government uses separatist label to justify violence against HRD in Papua<sup>14</sup>. It is obvious that Freedom of expression limited in Papua.

Target of violence are individual and organizations that criticizing the government's policies, range from Cultural Council activists to religious leaders.<sup>15</sup>

Markus Haluk, Secretary General of the Central Highland Students Association of Papua (AMPTPI), leader of the Papua National Consensus committee and deputy secretary of the Papua Indigenous Peoples' Council accused as perpetrator of the series of violence during election.<sup>16</sup>

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<sup>11</sup> 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: Fokorus Yaboisebut, 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.

<sup>12</sup> The Dutch Colonial used articles 104-110 of the Penal Code to oppress independence movement. After Indonesian Independence in 1945, the new government took over the law to become Indonesian Penal Code and used it to oppress people movements which criticize government policies. The articles of treason usually applied in Aceh, Maluku and Papua as the three regions are famous with their rebellion.

<sup>13</sup> Since Cendrawasih University incident in 2006 that killed 5 police and 1 air force's intelligence officer, the police, military and intelligence officers have been persecuting student activists and labeling all of them as OPM supporters.

<sup>14</sup> 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). The police using old method as if the accused bring the Morning Star flag or keep it as possession. The Government also criminalized several student activists who staged peaceful rally, e.g Buchtar Tabuni and Seby Sambom arrested and brought to justice under treason charge this year. The Panel of Judges in Jayapura has sentenced Buchtar Tabuni with 3 years imprisonment of incitement; however it said that Buchtar was not proven guilty of treason. Bukhtar colleague, Seby Sambom was sentenced 2 years imprisonment for incitement and not proven guilty of treason.

<sup>15</sup> Papuan Police ransacked to the office of Papuan Cultural Council and arrested 17 students. Finally it only brought 3 students to justice. Religious leaders such as Priest and Islamic Ulema always become the target of surveillance, especially if they bring preach or dakwah (Islamic preach).

<sup>16</sup> Momentum of election was used by perpetrators to increase violence in Papua. In April 2009, violence occur including sudden attack of the Police office in Abepura by unknown group, the burning of University Cenderawasih in the following hours, and bomb explosions in several place in Abepura. After presidential election in July 2009, a group of sniper attacked civil society in area of Freeport mining. He receives terror attack since December 2008, including threat with pistol, death threats, defamation in the mass media, and police detention. He was detained on 7 April for 24 hours after the police accused him involved on the series of violence in Jayapura during general election in Indonesia, but released soon after the police cannot find any evidences.

Human Rights activist Sabar Olif Iwanggin of ELSHAM Papua<sup>17</sup> finally acquitted by the Panel of Judges of Abepura – Jayapura District Court on the 29<sup>th</sup> of January 2009 after waiting for 12 months. 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.

Journalists in Papua still live in dangerous condition. Some of them become the target of surveillance, intimidation and attack. Odeodata Julia, journalist of Sinar Harapan newspaper, attacked by supporter of Democrat party in the public campaign of the candidate vice president of the Democratic Party in June 2009.

Catholic Priest Father Yohanes Jonga of the Diocese of Jayapura – Papua still suspected as separatist supporter by the military and become target of surveillance. In July 2009, he requested by the OPM leader in the district of Keerom - Papua to become a mediator between the OPM and the police. However, the military said that Fr. Jonga's role to become mediator between the police and OPM is against Indonesian law.<sup>18</sup>

On the 15<sup>th</sup> of January 2010, the Government announced that the book "Suara Gereja bagi Umat Tertindas (the Voice of the Church for the Oppressed People)" written by Rev. Socrates Sofyan Yoman is among 5 books that banned by the government.<sup>19</sup>

Shooting incidents in Freeport Mine area that started in July 2009 seems to be continued this year, although the police already killed Kelly Kwalik on the 16<sup>th</sup> of December 2009. Since then, the military intelligence officers and the police intelligence officers as well as Kelly Kwalik's men are looking for Yosefa Alomang<sup>20</sup>. She became target of the two

<sup>17</sup> 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."

<sup>18</sup> Since the perpetrators of HRD usually state apparatuses, e.g. the police or the military, then it is very difficult to seek protection from the state, for example on the case of Father John Jonga in Papua. When he received death threat from the military (special force), he reported his case to the Chief of Regional Police of Papua. However, the Chief explained that the police cannot protect the person who receives death threat from the military. The Chief of Police then suggested Father Jonga to seek protection from the Commander of the Papua Military Command and request him to investigate his subordinate.

<sup>19</sup> Antara, 15 January 2010, "Pendeta Sofyan Yoman belum tahu bukunya dilarang" (Rev. Sofyan Yoman does not know that his book already banned". The Attorney General banned his book because he suspicious that the book was spreading hatred against the Government of Indonesia. The other four books are Dalih Pembunuhan Massal Gerakan 30 September Dan Kudeta Suharto by John Roosa, Lekra Tak Membakar Buku Suara Senyap Lembar Kebudayaan Harian Rakyat 1950-1965 by Rhoma Dwi Aria Yuliantri, Muhidin M. Dahlan, Enam Jalan Menuju Tuhan by Darmawan, MM, and Mengungkap Misteri Keberadaan Agama by Drs. H Syahrudin Ahmad .

<sup>20</sup> Yosefa Alomang is prominent Woman Human Rights Defender who is living in Timika – Papua. Since '80s Yosefa fight against Freeport McMoran, a giant US mining company that ruining

groups because in one side, the Indonesian security apparatuses suspicious that Yosefa is OPM supporter, but on the other side Kelly Kwalik's men also suspicious that she is Indonesian agent.

### **Laws and bills that endangering HRD**

The Government still pushed the Parliament to deliberate bills that endangering HRD, e.g. the State Secrecy Bill<sup>21</sup>, the Bill on Strategic Reserve Component<sup>22</sup>, and the bill on Mass Organization<sup>23</sup>.

In 2008, The Government passed Law No. 18 Year 2008 on Information and Electronic Transaction, which already used to criminalize journalist, e.g. Jupriadi Asmaradana case.<sup>24</sup>

On the other hand, the Government ignored many local bylaws that contradict to UN Human Rights Laws, e.g. the punishment of whipping and stoning to death under the Qanun of Syariah in Aceh is against Indonesian Constitution and the Convention on Anti Torture<sup>25</sup>.

Although the Government provided protection for victims and witness by passing the Law on the Victim and Witness Protection and set up an institution for victim and witness protection, however, due to lack of financial support from the Government, the agency for the victim and witness protection cannot working well. Therefore, Indonesian HRD who face serious attack or death threat has to be relocate/evacuate by private institutions (national/international NGO, donor agency) or religious institutions (e.g. churches).

### **A hope of protection**

In November 2009, Imparsial submit academic draft and bill on the amendment of the Law on Human Rights number 39 year 1999 and bill on the protection of Human Rights Defender to the Legislative Council of the House of Representatives. Fortunately, the

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environment surrounding mining areas and violating human rights of Indigenous Papuans. She received death threats since then.

<sup>21</sup> The bill on State Secrecy will create difficulties for the victims and human rights groups to open human rights abuses. The bill on the State Secrecy applies death penalty as maximum penalty. During the last period of the first term of Susilo Bambang Yudhoyono presidency, he requested his ministers to withdraw the bill. However, now he orders his minister to open the bill's deliberation with the Parliament.

<sup>22</sup> Instead of reforming the law on Mass Organization that recommended by the Special Representative of the UN Secretary General on the situation of HRD, the Government drafted a bill that even worse comparing to the Law on Mass Organization. This 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.

<sup>23</sup> The bill on Strategic Reserve Component is mandatory for man and woman. It will give a chance to militia members to join reserve component. It will open conflict between HRDs and militia. Reserve Component will also take over individual property in the name of State Defense.

<sup>24</sup> Jupriadi Asmaradana of the Independence Journalist Alliance in Makassar was criminalized by the Chief of the Regional Police of the South Sulawesi Insp. Gen. Sisno Adiwinoto.

<sup>25</sup> Qanun that imposing stoning to death was signed by local parliament of Aceh in September 2009. However, Governor of Aceh already refused to sign it. According to Indonesian law, therefore, the Qanun cannot be implemented. Moreover about qanun in Aceh that contradict with Human Rights Law, see the report of the Special Rapporteur on Torture Manfred Nowak on his visit to Indonesia (A/HRC/7/3/Add.7) and recommendation of the Committee Against Torture (CAT/C/IDN/CO/2)

Parliament took over our initiative as Parliament initiative and listed it on the National Legislation Program 2010-2014.

### **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, bills, bylaws and other regulations that are contradictory to the Declaration;
  2. To urge the Government of Indonesia to deliberate bill 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.
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