

Written statement submitted by the International NGO Forum on Indonesia Development (INFID), a non-Governmental organization on special consultative status

Item: 17 b
Human Rights Defenders

The condition of Human Rights Defenders (HRD) in Indonesia throughout 2005 actually indicated that the state has not yet fulfilled its obligation to fully implement the Declaration of Human Rights Defenders. The most concrete example of this is the handling of the case of Munir. President SBY who said last year that the Government will really investigate the case of Munir, because the case of Munir is a benchmark of his government, is not really serious in totally investigating the perpetrators of the conspiracy to murder Munir.

It is true that the President has formed a Fact-finding Team to help the investigation of the police, however, the result of the investigation of this Fact-finding Team (TPF) that recommended further investigation on some of the officials of the State Intelligence Body (BIN) who are suspected of being involved in the conspiracy to murder Munir was not actually followed-up by the President. The result of the investigation of TPF was not also announced to the public, this is in spite of the fact that the President has the obligation to announce the final report of the TPF according to Presidential Decree No. 111/2004 concerning the Formation of the Munir Fact-finding Team.

Although the case of Munir proceeded to the Central Jakarta State Court and the Council of Judges issued a verdict that Pollycarpus Budihari Priyanto, co-pilot of Garuda Indonesia, is involved in the murder of Munir, the opportunity that was opened by the Council of Judges to catch the other conspirators was not immediately and seriously seized by the police. It seems that the police are waiting for an order from the President to reopen the investigation on some of the names that were recommended by the TPF. The reluctance of the President to seriously take an action on the case of Munir indicates that the Government is using the issue of protecting Human Rights Defenders as a lip service to enhance its reputation to the international community, and on the other hand, it is using this case as a bargaining position against its political opponents.

This condition is also affirmed by the absence of a response from Indonesian government on the Urgent Appeal of the UN Special Representative on Human Rights Defenders (E/CN.4/2005/101/Add.1, 16 March 2005).

In 2005, based on the database of Imparsial (the Indonesian Human Rights Monitor) on the violent actions against Human Rights Defenders in Indonesia, from January until December 2005, at least 164 HRDs were victims of violence. The assault against these HRDs is increasing in conflict areas, particularly in Aceh, Papua, and Poso. These assaults are also happening in the areas that are holding Pilkada (Direct Election of District Head).

The forms of assaults against HRDs in 2005 are the following:

- a. Intimidation: The perpetrators are conducting intimidations and terrors through telephones, letters, and e-mails and they are not doing direct actions against HRDs. Actions such as watching, spying, bugging, etc. are include in this category.
- b. Physical, psychological, and assault on property: These assaults are directly conducted by the perpetrators to HRDs. Majority of the perpetrators are OTK or they use the strength of the thugs. The pattern of the assault also includes the use of low explosive materials. Majority of the perpetrators came from the institution of the Police, municipal (Satpol PP/Tramtib), TNI, and organized mass groups (Islam Defenders Front, etc.)
- c. Using the Law as a tool of repression: reported as a Suspect and tried in a State Court.

The motive of the assaults against HRDs is that the activities of HRDs are focus on the following issues:

1. Conflict areas like, Aceh, Papua, Central Sulawesi (Palu and Poso);
2. Efforts to expose cases of fraud during Pilkada;
3. Efforts to expose crimes perpetrated by the government apparatus;
4. Efforts to expose corruption cases;
5. Efforts to expose crimes against the environment;
6. Issues of religious intolerance and pluralism of religion;
7. Issues of recognition of rights as citizens of the state, etc. and
8. Efforts to demand the right over lands.

Perpetrators of violence against HRDs are still dominated by the state apparatus (police, particularly the Anti-Riot Mobile Police Unit (satuan Brimob), civilian bureaucracy, such as, District Head or Candidate District Head, apparatus of the Pamong Praja Police Unit (tramtib), military apparatus, and the SGI apparatus), but the violence committed by non-state apparatus (groups that use the name of Islam, hoodlum groups, TNCs, etc.) also increased in 2005.

Assaults against women HRDs also needs serious attention considering that in almost all of the regions, women HRDs are victims of violence because the level of gender awareness is not yet even, both at the government and community level. Women HR Defenders experience violence and ironically, they are not only perpetrated by the state apparatus or non-state apparatus, rather, they are committed by their close circles (families, environment, etc).

Comparison of violence against HRDs in 2004 and 2005

The quality of cases of violence against HRDs in 2005 is more diverse than the cases of violence against HRDs in 2004 according to the movement of political issues. In 2004, the political focus is the presidential election so the HRDs also experienced many assaults when they articulated issues related to the presidential candidate, rejecting presidential candidate from the military. In 2005, the issue shifted from the presidential candidate to the direct election of District Heads (Pilkada). However, in 2005, there were also many victims, especially the students who stage demonstrations to criticize the policies of President Susilo Bambang Yudhoyono and Vice-President Jusuf Kalla, and the journalists who conducted many media coverage on HR and political cases (Pilkada, suspected corruption practices of officials).

In 2004, the Terrorist Law was used to criminalized HRD'S criminals. In 2005, the issue on Terrorists was again used by the police apparatus to make HRDs criminals by arresting the activists of LPSHAM Poso who are accused of bombing the market in Tentena Poso. Aside from this, the police are still using the hatesoming articles (*haatzai artikelen*) in the Indonesian Criminal Code to limit the movement of HRDs.

In 2005, the group that is using the name of Islam has conducted many assaults, especially after MUI issued forbidden religious decrees (fatwa haram) on several activists, among others, prohibition of pluralism of religion. The victims of this Religious Decree are Jaringan Islam Liberal and Kantor Berita 68H that were attacked and occupied by the masses.

In 2005, the murder of several farmer activists was also recorded, namely; Ahadi Bin Bakarun from Bengkulu who died because he was allegedly tortured by the Bengkulu Anti-Riot Mobile Police (Brimob), and Tolino Iban Gire, senior member of Majelis Gereja GIDI in Mulia – Puncak Jaya – Papua who died because he was allegedly shot by a member of the Anti-Riot Mobile Police.

In 2005, huge Transnational Corporations (TNCs) also played a role in disturbing the work of HRDs, an example of this is PT. Newmont Minahasa Raya that filed a lawsuit against Dr. Rignolda Djamaludin, Director of Yayasan Kelola Manado, in the Manado State Court. The Council of Judges in the Manado State Court issued a verdict in favour of Newmont and sentenced Rignolda to pay compensation to PT. Newmont amounting to US\$ 650,000 or about Rp. 6.5 billion.

Compared with 2004, the actors who conducted violence against HRDs increased in 2005. If the perpetrators in 2004 were dominated by Polri (Indonesia Police Force) by conducting arbitrary arrests in Aceh and brutally handling mass demonstrations (Manggarai and UMI cases), in 2005, the perpetrators are still dominated by the police apparatus and followed by thugs and municipal Police Unit.

State Action in 2005

According to the Declaration of HR Defenders, the state should protect HR Defenders from all forms of threats that can interrupt their work. However, the reality in the field indicated that the state apparatus, particularly the police apparatus, military, intelligence body, and the civilian bureaucracy that are supposed to protect HRDs are recorded as perpetrators of violence against HRDs.

The State still maintains the policies that actually hamper and threaten HRDs, example, the articles in the Criminal Code that are used during the colonial period to catch activists, among others; the articles concerning assaults and humiliations against the Head of the State, investigation, etc. Ironically, although Indonesia is considered as undergoing a state of transition leading to democracy after the downfall of the Soeharto regime, the facts indicate that the state actually produced new regulations that are characterized as repressive because these regulations are very effective tools of the state to suppress HRDs, among others: Law No. 2/2002 concerning State Police, Law No. 9/1998 concerning the Freedom to Express an Opinion in Public, and

Law No. 15/2003 concerning the Enforcement of Government Regulation No. 1/2002 concerning Elimination of Criminal Acts of Terrorism.

In Aceh, although the State of Civilian Emergency (Darurat Sipil) expired in 18 May 2005 and replaced by the Civilian Order (Tertib Sipil) Status, the movements of the activists in Aceh are still constrained, especially when Territorial Military Commander Iskandar Muda Supiadin AS and NAD Chief of Police Bachrumsyah issued a strong warning against the activists in Aceh to be cautious because they will watch all the actions of these activists, particularly the activists who were included in the Wanted List of TNI and Polri. The Territorial Military Commander and Chief of Police are also accusing these activists as the intellectual wing of the Free Aceh Movement (GAM) and they are also accused of infiltrating various humanitarian organizations that are helping the tsunami victims in Aceh. In some of the areas in Aceh, the militia is also involved in arresting and intimidating these activists. The shooting of 2 foreign activists who are volunteers of a humanitarian organization in Aceh also produced a policy that prohibits foreign activists from going to the region without being escorted by the authorities and setting a curfew for foreign activists in the region.

The signing of the peace agreement between the Government of the Republic of Indonesia and Free Aceh Movement (GAM) on 15 August 2005 did not make the HRDs in Aceh more secured. Many of the spoilers that threaten the continuation of peace in Aceh can ruin the peace agreement anytime. If the peace agreement in Aceh fails, then the HRDs will surely be the primary target of violence.

In 2005, the Government also draft several Proposed Laws that will certainly hamper the work of HRDs, among others:

- The draft Law on State Secret because the definition of State Secret is very broad so it restrains the freedom of the people to obtain information;
- The draft Law on Intelligence because it gives the military and intelligence apparatus the right to arrest people who are accused of committing crimes. This Proposed Law is contrary to the Criminal Code and it provides an opportunity to commit HR violations.

Based on the facts and data presented above, we request the UN Commission on Human Rights to conduct the following actions:

1. Urge the Government of Indonesia to obey the stipulations of the Declaration of HR Defenders;
2. Urge the Government of Indonesia to invite the Special Representative of the UN Secretary General on Human Rights Defenders to go to Indonesia and directly monitor the condition of HAM Defenders in Indonesia, especially in conflict areas like, Aceh, Papua, and Poso, and to conduct special monitoring on the investigation of the murder of HR activist Munir;
3. Urge the Government of Indonesia to adopt the Declaration of HR Defenders in the legal system of Indonesia, this includes the elimination of legal stipulations that are contrary to the Declaration and the making of new regulations that will protect HR Defenders and;

4. Urge the Government of Indonesia to end the impunity of the perpetrators of crime against HRDs by legally processing all the crimes that were committed and punishing the perpetrators without exceptions.

Written by: Imparsial & HRWG