

INTERNATIONAL HUMAN RIGHTS TREND

KontraS and International Advocacy: Our Struggle to Uphold the Values and Principles of Human Rights Worldwide

An interview with Sri Suparyati (Staff at the Research Bureau for International Advocacy, the Commission for the Disappeared and Victims of Violence)



Doc.Personal

1. What does International advocacy mean to KontraS?

International advocacy is one of KontraS' efforts to encourage the implementation of certain policies on human rights with the help of international organizations and regional organizations' support as our respond to human rights violations happening within a country. KontraS is also able to conduct international advocacy individually or through civil society networks outside Indonesia.

Advocacy efforts can also use the opportunity of mechanisms / instruments available at the UN. Sometimes this effort is carried out not only to situations outside of Indonesia, but it could also participate in the initiatives of the international community to the problems in Indonesia. KontraS' role in international advocacy is also used upon the government of Indonesia, for instance, by building solidarity on the issue in foreign countries such as the case of Syria or North Korea to thrust into the mechanisms of the government and politics in Indonesia. The aim is to encourage the Indonesian government to take response to the poor situation outside Indonesia, for it is the constitutional mandate of Indonesia

to "[...] contribute and maintain world peace". As part of its international work, KontraS has also actively participated and initiated several international meetings involving many stakeholders in the international community for media sharing, expanding networks and solidarity between countries in the arena of discussion of the CSOs, including intellectuals / academics.

2. As an Indonesian NGO focusing on human rights issues, how significant is conducting international advocacy to KontraS?

KontraS, as a human rights NGO has been an international advocate not long after KontraS was established. At that time, the international advocacy efforts undertaken are related to the kidnappings of activists advocating 1997/1998. Together with the AFAD (Asian Federation against Involuntary Disappearance) conducted lobbying at the UN including the use of complaint mechanisms at the level UNWGEID. KontraS view that international advocacy also has significant opportunities to support advocacy efforts at the national level of KontraS, since Indonesia is also a part of the international subject which has ratified several international important human rights instruments, thus we believe that Indonesia must, of course stay within the corridor. In addition, in response to world conditions and human rights situation, it is important for KontraS to also contribute in responding to issues, given that it has become an integral part of the concrete work of KontraS that is not separated from our criticisms and effort in building Indonesia's commitment to uphold human rights.

3. How does KontraS usually conduct its international advocacy? Through what means?

KontraS conducts international advocacy by utilizing a number of ways such as using the opportunity to report cases using the UN mechanism, engaging solidarity with other international organizations by inviteng them to make a joint statement, urgent appeal and other appeal letters. KontraS is also involved in international human rights solidarity campaign by creating programs and events, as a repond to urgent human rights situations (it may manifest in a form of exhibition, seminar, discussion, or demonstration, or even meetings with diplomats in embassies) This effort can at least provide intervention and influence the situation of the victims of human rights violations.

4. Which international human rights organizations or coalitions has KontraS endorsed so far?

Several international organizations or coalitions which have been endorsed by KontraS includes organizations where KontraS acts as a member, such as FIDH (the International Federation for Human Rights), ADPAN (Anti-

Death Penalty Asia Network), AFAD (Asian Federation against Involuntary Disappearance), The Solidarity for Asian People's Advocacy Task Force on ASEAN and Human Rights (SAPA TFAHR), Open North Korea, HRBA2J (Human Rights Based Access to Justice), and FORUM-ASIA; on the other hand KontraS advocacy partners include Amnesty International, Tapol, Human Rights Watch, Asia Human Rights Commission, Perkumpulan HAK (Timor Leste), JSMP (Timor Leste) and Indonesian Solidarity (Australia).

5. Can you mention international human rights issues that have been advocated by KontraS?

There are many issues that try to be advocated by KontraS at the international level.

First, the issue of past human rights violations, KontraS has built solidarity with several other organizations at the international level such as the FIDH, Amnesty International, Human Rights Watch, AFAD, AHRC to provide pressure to the relevant institutions at national level Indonesia.

Secondly, the issue of threats to civil and political rights, KontraS has maintained contacts with similar organizations to issue urgent appeals, or joint statements to ask other organizations to contribute to pressure on the related cases. In many instances, KontraS also has used some of the mechanisms available in the UN such as the Individuals compliant as well as several other interventions that are available at the special rapporteur, or in certain trial schedules.

Third, KontraS also has a high concern on some of the emerging human rights issues in other countries such as political and human rights situation in Burma / Myanmar, North Korea, Syria, etc. For that reason, KontraS is also active in the support to develop the human rights agenda of a certain state to respect human rights. Moreover, KontraS also provides support in every appeal letter (endorsement) that is submitted by any organization to KontraS as a CSO representative in Indonesia.

Fourth, on the case of AICHR, KontraS as part of a coalition of civil society in ASEAN, has an important role in performing critical monitoring to the performance of this regional institution. Factor of transparency, accountability and cooperation with the civil society is still a red mark within the report card of AICHR. Another thing related to AICHR is the disparity between the relation with local CSOs in each country, practically no more than 3 countries that are conducting good relations with CSOs, and even that we perceive as far from optimal. Also related to the preparation of the ASEAN Declaration of Human Rights, AICHR has failed to become a bridge between the CSOs and the government. Many inputs and requests have been submitted by the CSOs, but none were responded. Preparation of AHRD is very secretive and there is still no guarantee of the application of international human rights standards.

6. Does KontraS' support to international human rights issues affect the protection of human rights in Indonesia?

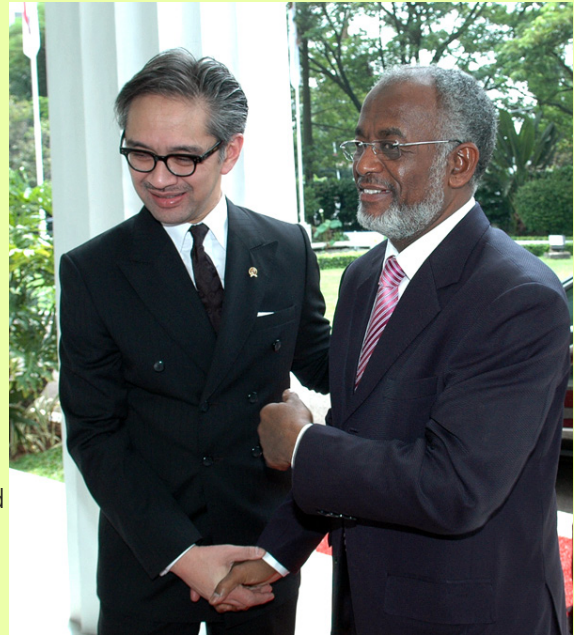
It is very difficult to answer straight forward questions like this, given the fact that the success of interational advocacy cannot be measured instantly, and cannot affect the protection of human rights in Indonesia directly. However, many of the enforcement of human rights executed by the Indonesian government were a part of a repond towards KontraS' advocacy efforts; our urgent appeals, open letters, demonstrations, and as well as international solidarity coalitions against the sate and human rights abuses in the country. It is hoped that our participation and our voice in international solidarity campaigns can foster greater international support to help urge the Indonesian government to resolve the human rights violations happening within the country.

9 March 2012

To Question the Cooperation Between the Indonesian Government and the Sudanese Government

Background

It is widely known that the Sudanese Government is infamous for its lack of credibility in upholding human rights values. For the status quo, the Sudanese government does not admit the existence of the International Criminal Court (ICC) and is still conducting death penalty as an instrument of its criminal punishment. Moreover, in regards to the ICC, a number of Sudanese high officials are included in the list of ICC prosecution for a series of alleged crimes against humanity, one of them, the Sudanese Minister of Defense Abdelrahim Mohamed Hussein. He is claimed responsible for crimes against humanity and war crimes including murder, rape, torture, and is also accused for coordinating the attacks on civilians on the west region of Darfur.



Doc.kemlu.go.id

President al-Basyir is also considered as the mastermind of mass murder. Other criminals such as the leader of Janjaweed (pro-government militia), Ali Kushayb and leaders of insurgent groups Abdallah Banda, Saleh Jerbo and Abud Garda were freed from prosecution for no court to convict the criminals of humanity and stop the violence was held.

The issue

The position of the Sudanese government therefore is clearly not in line with the aspiration of Indonesia in upholding and respecting human rights as mandated in the National Constitution. Moreover, in the international sphere, Indonesia is regarded as a country that is very open to human rights issues, proved by the many human rights conventions Indonesia has signed and ratified to be utilized as important human rights instruments within the country.

However, in spite of the poor track record Sudan possesses, Indonesia agreed to improve its cooperation with the Sudanese government in many aspects. Both Ministers of Foreign Affairs officially stated this, Mr. Marty Natalegawa from Indonesia and Ali Ahmed Karti from Sudan last February in Jakarta, during a press conference. Meanwhile on the 17th of November 2011, representatives from both countries, represented by both Supreme Courts has signed a MoU related to the improvement of the cooperation and development of judicial knowledge and legislation within both countries. One of the four points of the agreements even encompasses the cooperation in supporting the conduct of Syariah-based laws and other legislations.

Our say upon the issue

For that reason, we particularly regret the decision of the Indonesian government and therefore would strongly urge the Government of Indonesia to further consider any future cooperation with the Government of Sudan, bearing in mind the disobedience and lack of cooperation in respecting and upholding human rights, conducted by the Government of Sudan. We firmly believe that it would be best for Indonesia to show its integrity in protecting the values human rights not only in the national level, but also the international level.

21 February 2012

The Indonesian Civil Society's Concern on the Case of Myanmar

Background

40 years ago we might not be able to foresee that one day Myanmar will have the chance to chair ASEAN. However, the condition of the quasi-civilian government of Myanmar today has surprised its critics over the past year and altered progressively. Under the governance of Thein Sein, it is fortunate to see how Burma has done little yet significant democratic breakthrough especially since Burma was chosen to chair ASEAN in 2014.

Myanmar's little steps encompass its attempt to release approximately 300 political prisoners, the alteration in its election law allowing the opposition, the National League for Democracy (NLD) party to participate into mainstream politics, as well as allowing Aung San Suu Kyi to participate in this year's election.

Nowadays, public access in Myanmar is more extensive and open. One of the facts is how the people of Myanmar are able to wear a t-shirt with an image of Aung San Suu Kyi on it around the area of Rangoon and Nay Pi Daw. Moreover, acts of protests towards the government's policies are also growing in the country. This acts as an evidence of the birth of democracy within the country.

The current phenomenon in Myanmar is therefore seen as a sweeping change for the government of Myanmar after decades of outright military rule that ended last year.

The issue

Nonetheless, for a democratic transition, the steps taken are still insufficient, especially knowing that human rights violations are still taking place in the country. There are still many political prisoners that have not been released, arbitrary arrests still happen, and the progress of the cease fire as a form of conflict resolution between the military force and the civil society in the ethnic areas of Karen, Kachin, and Shan is still in question. In fact, the sluggish progress has given way to international mining companies, one of them from China, to exploit the land and conduct new human rights violations within the ethnic area.

Myanmar's way forward must embrace the past human rights violations that are still unresolved. The settlement must comprise a transparent and accountable process of disclosure of truth as one of the main modalities to a successful reconciliation process.

Civil and political rights must be granted to the people of Myanmar in the near future, as well as the right of expression and the right to speak one's mind. The re-imprisonment of a Buddhist activist on the 10th of February 2012 for example, still reflects the democratic vacuum Myanmar is experiencing.

Our say upon the issue

In this regard, in February 2012, KontraS and other human rights organizations under the umbrella of SIAP (Indonesian Solidarity for ASEAN People) urged the Secretary General of ASEAN to use the momentum of his last visit to Myanmar on the 21st of February 2012 to monitor and ensure the government of Myanmar's commitment in attaining peace in a transitional democracy, upholding human rights and organizing a peaceful process for the upcoming election.

Within the letter, we also strongly urged the government of Myanmar to release the remaining 700 political prisoners who are still in custody, and put an end to all forms of violence, intimidation and arrest of pro-democracy activists. Along with our hopes that the cease-fire will attain a successful outcome in the near future, we also pointed out the responsibility of the government to stop the practice of impunity to the military force, and develop the establishment of the Commission of Inquiry (CoI).

We are certain that not only SIAP, other human rights organizations outside the alliance, and ASEAN member states, but all democratic countries in the international world strongly demand a democratic Myanmar that protects the fundamental rights of its people.

17 February 2012

The Independent Permanent Commission on Human Rights of the OIC: The Dawn of Human Rights Revolution in the Middle East?

"Its work must represent a confluence of universal rights and freedoms and Islamic values. It must catalyze coherent and strong intra OIC system aimed at facilitating the full enjoyment of all Human Rights in the Member States,"

- The Secretary General of OIC



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Background

In June 2011, 57 foreign ministers of the OIC member states met in Kazakhstan to establish the world's first Muslim human rights commission, namely the Independent Permanent Human Rights Commission (IPHRC). IPHRC is an OIC human rights commission formed as a result of the initiative and orientation meeting of the members of the OIC in Jeddah, Saudi Arabia on 7-8 December 2011. According to the Secretary General of OIC, the establishment of the Commission is a major focus of international attention. It also reflects the Member States' priority interest in and commitment to Human Rights.

KontraS highly appreciates the establishment of the Human Rights Committee in the OIC. We hope that this will be a good starting point for a remarkable progress of human rights in the Islamic countries. The commitment shows how Islamic countries around the world have now opened their doors to the inclusion of values and principles of human rights in their daily discourse. As clearly expressed under the Statute of IPHRC article 8 explaining that the Commission seeks to advance human rights and serve the interests of Muslims, Islamic culture, consolidate respect for Islamic cultures and noble values and promote inter-civilization dialogue as well.

The issue

However, a crucial question that arises is how effective will the PHRC contribute in upholding human rights on a concrete level, especially in Middle Eastern countries? It is widely known that human rights issues remain a difficult challenge in Middle East. Basic rights such as the rights to freedom of speech, religion and ethnic minorities,

women, and homosexuals are very restricted in the countries, members of the OIC. Furthermore, the mandate of IPHRC is explained as only limited to advance human rights as an advisory organ through consolidation, counseling, and providing legal advice without an investigation mandate.

Our say upon the issue

For that reason, before the first meeting of the IPHRC was held in Jakarta on 20-24 February, 2012, KontraS as a part of the civil society focusing on the promotion of human rights, urged the IPHRC to discuss and take concrete actions in resolving human rights issues taking place in Islamic countries.

We are aware that unlike the Human Rights Council, the IPHRC will uphold and respect the values and principles of human rights under the context of Islamic values. However, we are in high hopes that the establishment of IPHRC can aptly reflect the ongoing process of moderation and modernization at the Organization, and minimize the violations happening in Islamic countries through the formation of a comprehensive Rules of Procedure at the next session. The establishment of IPHRC must not merely become an instrument to boost OIC's image, yet it must touch the core of the critical human rights violations that are occurring in member countries of the OIC

15 February 2012

The Urgency of Deploying a Special Mission to Syria

Background

Assad's deadly crackdown on opponent has left more than 9,000 people dead since the uprising in Syria began in March last year. – United Nations

On Thursday 9, 2012, a series of violence was reported, causing at the very least 137 people killed by the government forces. At the time being, President Bashar al-Assad has increased the brutal attacks towards the opposition party that is strongly demanding to end his regime. Sporadic violent events had already been happening in Syria since January 26, 2011, but after March 15, 2011, mass protests demanding the resignation of Assad's government manifested in a series of violence that has been continuing up to day against the opposition parties, including the activists.

The Issue

Even though we are fully aware that a request to deploy a special mission to Syria has been raised, the mission that should have been conducted by the Arab League on January 28, 2012 failed to be implemented. Hence, the critical condition of violence in Syria is escalating, exacerbated by the failure of passing a resolution issued by the United Nations to suppress the violence in Syria.

Meanwhile, the Indonesian government has previously urged the Syrian government to immediately stop the various forms of violence conducted in Syria. Foreign Minister Marty Natalegawa has asked the Syrian government to immediately resolve the problems that are occurring in the country through political process and diplomacy, to avoid more civilian casualties. The Indonesian government also proposed the importance of holding an international conference to raise awareness of the international community as well as to intensify the awareness of the international world to pressure the government of Syria.

Our say upon the matter

Considering the number of casualties particularly the civilians, KontraS, as a part of civil society groups in Indonesia firmly condemns the series of violence that are befalling the civilians in Syria. Thus, through a press conference and press release, we urged the United Nations and the Arab League to immediately form a joint special mission to Syria. No more violence shall be tolerated. Concrete actions must be taken.

20 March 2012

Letter to Ban Ki-moon on the Subject of Key Human Rights Issues in Indonesia

Background

As one of the fundamental pillars of the United Nations, the issue of human rights can never be undermined under any circumstances. KontraS along with FIDH fully acknowledge this conception, therefore we perceive Ban Ki-moon's recent visit to Indonesia on 20-21 March 2012 as a momentum to further strengthen Indonesia's commitment as a democratic country in upholding and respecting human rights by gaining international support from the United Nations. Thus, a closed letter on the key issues of human rights in Indonesia was sent to Ban Ki-moon.

Although Indonesia is known as a democratic country that has made notable progress in transitioning from an authoritarian rule to a new democracy, a number of institutional challenges and shortcomings are still seriously undermining the rule of law and democracy and threatening to negate the gains Indonesia has made.



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The issue

There are three critical problems regarding human rights violations that are occurring in Indonesia up until today. The problems encompass the issue of persistent impunity, militarization in Papua and West Papua and state-sanctioned religious intolerance.

In Indonesia, perpetrators for serious human rights violations that committed both during the rule of Suharto and since his fall from power, have rarely been brought to justice, instead, they are hiding under the comfort of impunity. Since 1998, a number of important legislative and legal measures were introduced, including the laws that mandate the creation of ad hoc and permanent human rights courts in Papua and Aceh. However, these courts have yet to be established by the government of Indonesia.

A prime example is how Maj. Gen. (ret.) Muchdi Purwoprandjono, the individual who ordered the assassination

of prominent human rights defender Mr Munir Said Thalib in 2004, has not been brought to justice. The case is a strong indication how entrenched impunity is in Indonesia, especially in cases involving military personnel.

Even though in February 2012, President Yudhoyono informed foreign diplomats his acknowledgment that both police and military personnel were responsible for human rights violations and promised that these cases would be brought to court and perpetrators brought to justice, little has been done in reality by the police, the military and the government to guarantee the right to truth, justice, reparation and non-repetition. In fact, recent reports prove that human rights violations' by the police and the military continue to be documented, particularly in Papua.

One of our major concerns explicated in the letter also comprised of the status quo of the militarization in Papua and West Papua. The heavily militarized approach to the administration of Papua must be put to end and a rights-based and political dialogue approach must be adopted to address the grievances of the Papuan population.

Currently, there are at least 90 individuals imprisoned in Papua and Maluku for their peaceful pro-independence action or views, including Papuan activist Mr. Filep Karma, whose imprisonment has been determined to be in violation of international law by the UN Working Group on Arbitrary Detention (Opinion No. 48/2011).

In October 2011, state security forces violently dispersed a Papuan Peace Congress, resulting in at least 3 deaths while dozens were injured and more than 300 Papuans arrested, six of whom have been charged for treason. An investigation by Komnas HAM pointed to serious violations by security forces. In November, the President's Office rejected the Commission's findings on the ground that the police was still handling the case.

It is believed that more than 14,000 military personnel have been deployed in Papua. We are also particularly concerned with how the military continues to receive significant financial benefits from the security it provides to business enterprises, including the company PT Freeport. It is therefore discreditable to know that the military still continues to generate income through its own business holdings, despite the requirement of Law No. 34/2004 on the Indonesian Armed Forces (the TNI Act) that all military business be shut down or taken over by the government by October 2009.

Moreover, intolerance towards religious minorities is also rising alarmingly in Indonesia. The escalating violence and intimidation against the Ahmadiyya and other religious minorities are made worse by a culture of impunity and discriminatory laws and practices that strengthen the chance of radical groups to conduct violence and intimidation, knowing there will be no strict consequence to their unlawful actions.

Several discriminatory laws still applied in Indonesia include the 1965 Blasphemy Law that criminalizes expression of religious beliefs that deviate from the central tenets of the 6 official religions, the government's decree on the construction of places of worship in 2006 that has arbitrarily denied the requests to build houses of worship particularly of minority religions. One of them is the case of the repeated refusal by the mayor of Bogor to allow the construction of a church by the Yasmin Church (GKI), despite having already obtained a permit by the Supreme Court order that authorized the construction.

In 2008, the Minister of Religious Affairs, the Attorney General, and the Minister of the Internal Affairs also issued a joint decree to prohibit the minority Muslim sect Ahmadiyya from promoting their belief in Indonesia. Meanwhile, later in September 2010, the Minister of Religion then publicly called for an outright ban of the Ahmadiyya faith. A serious violation of the International Covenant on Civil and Political Rights (ICCPR), this decree is. As a consequence, violent incidents targeting the Ahmadiyya have risen over the years, resulting in injuries and deaths. Regrettably in many of these events, the police did not take adequate action to protect the victims.

Our say upon the matter

For all the abovementioned reasons, in the open letter to Ban Ki-moon, KontraS together with FIDH expressed our grave concerns over the ongoing pressing human rights issues and thus strongly urged Secretary General to raise this matter with the Indonesian authorities during his visit and urge them to implement the long-standing recommendations made by civil society, Komnas HAM, and UN human rights mechanisms. We also strongly recommended him to spare the time to meet with independent civil society organizations in Indonesia to discuss upon these serious concerns.

7 March 2012

Against Threats to Prosecute Human Rights Defender: Gustav Kawer

Background

It was on 21 February 2012 at the Jayapura State Court in Papua province, when the sixth session of the trial of Forkorus Yaboisembut, Edison Waromi, Dominikus Surabut, Selpius Bobii and Agustus Kraar took place. During the defense team's examination of the witnesses for the prosecution, it was reported that the public prosecutor Mr. Julius Teuf continually interrupted Mr. Kawer. Eventually Mr. Kawer asked him "Prosecutor, where is your brain? I am still proceeding with my questioning, so would you kindly stop disturbing me?" Mr. Teuf reportedly then fell silent.

During a later session of the trial on 24 February, the public prosecutor formally requested the court records of the 21 February session, with the stated intention of reporting a suspected crime to the provincial police headquarters. At the end of the session, the legal team discovered from the court that Mr. Kawer was the subject of this report, as the public prosecutor had felt harassed by his sentence "Prosecutor, where is your brain?"

The issue

At the moment, the case has been reported to the Indonesian Advocates Association, Peradi, who have publicly stated that according to their view, Mr. Kawer made the remarks in question in the course of defending his clients, and he cannot therefore be threatened with prosecution in connection with these remarks. While apparently the threat to report Mr. Kawer's actions to the police has been widely reported, both publicly and to Mr. Kawer himself, no formal action or explanations on the part of the prosecutors have yet been forthcoming.

It is worth noting that the national and international protection of lawyers as human rights defenders Indonesian Law No 18/2003, known as the Advocates Law, clearly states that a legal advocate has the right to freedom of expression and the right not to be subject to criminal or civil action in relation to the performance in good faith of his or her professional duties in defending a client in court.

Moreover, the UN Declaration on Human Rights Defenders includes the right to provide professionally qualified legal advice and assistance in defending human rights (Article 3(c)) and imposes an obligation on the state to "take all necessary measures to ensure the protection of everyone against any violence, threats, retaliation, adverse discrimination, pressure or any other arbitrary action as a consequence of his or her legitimate exercise of the rights referred to in the Declaration" (Article 12 (2)). Thus we are certain that human rights defenders have a right to protection, and states are responsible for ensuring this protection.

In particular, guarantees for the functioning of lawyers are further elaborated by the UN Basic Principles on the Role of Lawyers stating that governments shall ensure that lawyers (i) "are able to perform all of their professional functions without intimidation, hindrance, harassment or improper interference"; and (ii) "shall not suffer, or be threatened with, prosecution or administrative, economic or other sanctions for any action taken in accordance with recognized professional duties, standards and ethics" (Article 16).

Our say upon the matter

In this regard, we share a high concern on the safety of Mr. Kawer and the wider impacts of threats made against him on the legal team for the defense. Thus, KontraS together with Australian West Papua Association, East Timor and, Indonesia Action Network, Faith-based Network on West Papua, Franciscans International, Indonesia Human Rights Committee and the West Papua Advocacy Team would therefore request

We therefore, through a letter of urgent appeal, requested Mrs. Margaret Sekaggya, Special Rapporteur on the situation of human rights defenders of the Office of the High Commissioner for Human Rights to raise this matter with the Indonesian government promptly as a matter of urgency.

20 February 2012

Our Deep Concern Regarding the Criminalization of Judge Baltasar Garzon

Background

On 9 February 2012, the Second Chamber of the Supreme Court of Spain condemned Judge Baltasar Garzón Real, in a sole instance - this obviously being contrary to the European Convention for Human Rights, and had caused him suspended from working as a judge for 11 years. Proceedings were instigated against Judge Garzón due to the investigation he led into the political corruption case known as "Gurtel" which involved members of the Partido Popular.



Garzón was also charged with illegally wiretapping phone conversations of detainees who apparently were caught on infringing the law while in prison, with the help of their lawyers.

Although as human rights organizations we highly respect the confidentiality of lawyer-client relations as fundamental in a society governed by the rule of law, we note, however, that in similar cases, other judges were never subject to judicial or criminal proceedings, and are usually treated with internal procedures.

Judge Garzón has also recently been tried for another cause that is due to his investigation into the crimes of the Franco dictatorship. These proceedings were initiated through a judicial complaint filed by an extreme right group, and right now are awaiting sentencing. We are particularly concerned with Judge Garzón, for he was ironically tried for his action that is in accordance with the obligations of Spain under international human rights law and his duty to protect the victims of crimes against humanity. In fact in this case, Judge Garzón was charged with the crime of forfeit, for having accepted and assumed it was his legal duty to investigate the truth about the crimes against humanity committed during the Franco dictatorship, in particular in ordering to exhume mass graves where the remains of 114,266 unidentified victims of enforced disappearances, torture and extrajudicial killings are buried.

The issue

For that reason, human rights organizations worldwide considered that the temporal coincidence of these trials, as well as the origin of the complaints, is evidence of judicial harassment aimed against Judge Garzón. Therefore, on the last week of February, more than 80 human rights NGOs from Europe, America, Oceania, Africa and Asia contacted the Spanish embassies in their respective countries in order to denounce the undue sentence of the judge Baltasar Garzón and the serious violation of the independence of the judiciary brought about by the criminal proceedings implemented against him. We also handed over a letter urging the Spanish government and the judiciary to guarantee the independence and impartiality of justice.

Our say upon the matter

KontraS, as one of the human rights NGOs in support of Garzon, therefore also urged the Spanish government to warranty judicial independence and impartiality, and through this letter, we also announced and reiterated our support to Baltasar Garzón Real in the proceedings that will help him restore his good name and his status as a Judge.

9 March 2012

A Call Upon the Indonesian Government to Act More Concretely in Tolerating and Respecting Religious and Faith Differences

Background

Based on KontraS' report, there are at least two major cases in regards to religious intolerance and attacks to religious freedom:

1. The attacks on the Ahmadiyya community.

We perceive the attacks on the Ahmadiyya community as a systemic attack, particularly with the issuance of several local regulations by the local governments banning the presence of Ahmadiyya that may be utilized as the legal basis of the attacks.

Several local governments have banned the Ahmadiyya sect as a doctrine contrary to the religion of Islam. Nonetheless, we are of a firm belief that attacks on the Ahmadiyya community can not be deemed as acceptable under any means. Form of attacks range from burning down the houses of the Ahmadis, expulsion to relocate to another region/place, the closure of Ahmadiyya mosques and schools even to the spread of hate, torture and ill-treatment to the Ahmadis have happened over the recent years in Indonesia. The most recent tragedy is the Cikeusik tragedy, causing 3 Ahmadis dead and many others, injured.

2. The ban on building GKI Yasmin Church

The case of GKI Yasmin Church as reached its pinnacle. Although a review of the decision issued by the State Administrative Tribunal has been legally binding, Islamic hard-liners continue to seal the church. The permit to freeze the construction of the church, issued by the Head of City Planning and Landscape of Bogor, of course legitimized the sealing action. Regardless of the fact that building permits has been issued by the Mayor of Bogor, earlier before.

The issue

Despite of the uprising of religious intolerance in Indonesia, Indonesia became the host for the sixth Asia-Pacific Interfaith Meeting in Semarang, Central Java, on 11-13 March 2012. The meeting was initiated by New Zealand, Australia, Indonesia and the Philippines with the aim of promoting cooperation through effective communication between people from different religious backgrounds. It is also believed that the meeting also aimed to produce a comprehensive understanding of religious tolerance and respect.

Our say upon the matter

As the host country for the event, we believe Indonesia must reveal its track record on issues regarding religious intolerance that are still ongoing for the past few years in the country. Both cases are critical and important in its sense, for that very reason, 2 days before the meeting was held, KontraS issued a press release to urge the government to give priority on the urgent cases above and take concrete actions in tackling and responding the religious intolerance that are increasingly prevalent in Indonesia.

20 February 2012

Open Letter to All Members of the Security Council Regarding Justice, Truth, and Reparation in Timor-Leste

Background

In a recent case, the Dili District Court found Valentim Lavio, a former militia member, guilty of murder as a crime against humanity. However, he successfully escaped to Indonesia in October 2011. Lavio, a former Besi Merah Putih ("Red and White Iron" or BMP) militia member, was later sentenced to nine years' imprisonment on 8 July 2011 for the murder of Patricio Sarmento Viegas in Liquiçá District on 6 September 1999.

It was apparent that Lavio was not detained during the pre-trial, trial or appeal stages, despite local non-governmental organizations and the victim's family having expressed concern that he might flee. The Court of Appeal rejected his appeal on 26 September 2011 and a warrant for his arrest was issued by the Dili District Court on 17 October 2011 and transmitted to the Liquiçá District Police on 20 October 2011. However, the Timorese authorities have confirmed that police were unable to detain him because he had fled to Indonesia.

Lavio's case is the only one submitted by the UNMIT Serious Crimes Investigation Team (SCIT) to the Timor-Leste Office of the Prosecutor-General, which has been tried and prosecuted so far. Concerns have been raised about the relationship between SCIT and the Office of the Prosecutor-General, most recently in a December 2011 report by the UN Working Group on Enforced or Involuntary Disappearances (WGEID) which observed *"a lack of communication and cooperation between the Serious Crimes Investigation Team and the Timor-Leste Office of the Prosecutor-General on cases that are being investigated and those handed over for prosecution"*.

"KontraS (the Commission for the Disappeared and Victims of Violence), and Amnesty International wrote an open letter to urge the Security Council to take immediate and effective steps to address the continuing impunity for crimes against humanity and gross human rights violations which occurred in Timor-Leste (then East Timor) under Indonesian occupation (1975-1999)."

The issue

Therefore, the Judicial System Monitoring Programme (JSMP), KontraS (the Commission for the Disappeared and Victims of Violence), and Amnesty International wrote an open letter to urge the Security Council to take immediate and effective steps to address the continuing impunity for crimes against humanity and gross human rights violations which occurred in Timor-Leste (then East Timor) under Indonesian occupation (1975-1999).

We believe that it was a crucial time for such action, as the Security Council considers the renewal of the mandate of the United Nations Integrated Mission in Timor-Leste (UNMIT), due to expire on 26 February 2012, and begins to plan for a post-UNMIT UN engagement in Timor-Leste after 2012.

Through the letter, our organizations – based in Timor-Leste, Indonesia and the United Kingdom respectively – expressed our grave concerns about the ongoing failure to bring to justice over 300 individuals accused or convicted of crimes against humanity and gross human rights violations in Timor-Leste during 1999. They are believed to be living in Indonesia, yet the authorities there have refused to co-operate with the UN-sponsored justice system in Timor-Leste and extradite their nationals suspected of crimes under international law.

The ongoing failure to ensure justice for past crimes raises serious concerns and thus confirms the need for the international community to step in and establish an international criminal tribunal to prosecute these crimes.

JSMP, KontraS and Amnesty International also explicated our concerns about the continued failure of the Indonesian and Timorese governments to provide full and effective reparation to victims and their families. The Government of Indonesia must take full responsibility for crimes against humanity and gross human rights violations committed by its agents during its occupation of Timor-Leste and in 1999.

Our say upon the issue

For those reasons, in the open letter, JSMP, KontraS and Amnesty International urged the Security Council to state clearly at the upcoming Security Council session renewing UNMIT's mandate, that there will be no impunity for crimes against humanity and gross human rights violations committed in 1999 and during the time of Indonesian occupation (1975-1999), that the broadest consultation possible is conducted involving all relevant stakeholders in order to plan the post-UNMIT UN presence in Timor-Leste, that UNMIT's Serious Crimes Investigation Team will complete all investigations with a view to proceeding with judicial prosecutions in the future, that the UN will support the development of a strategy for arresting and prosecuting those charged with crimes committed between 1975 and 1999, that the Timorese government should implement the recommendations of the report of the Commission for Reception, Truth and Reconciliation (CAVR) and the report of the Commission of Truth and Friendship (CTF), That the Indonesian government should fully co-operate with an international criminal tribunal, the national courts of Timor-Leste or national courts in other countries in their efforts to investigate and prosecute persons suspected of crimes in Timor-Leste between 1975 and 1999, including by entering into extradition and mutual legal assistance agreements with Timor-Leste and other governments.

KontraS - JSMP Timor Leste - Amnesty International

26 March 2012

KontraS' Endorsement to the Statement of Feminist and Women's Organizations on the Very Limited and Concerning Results of the 56th Session of the UN Commission on the Status of Women

Background

It is important to recall that all Member States of the United Nations (UN) have accepted that "the human rights of women and of the girl-child are an inalienable, integral and indivisible part of universal human rights" as adopted by the 1993 World Conference on Human Rights in Vienna. However, feminist and women's organizations around the world are particularly concerned to learn that governments failed to reach a consensus on the basis of safeguarding "traditional values" at the expense of human rights and fundamental freedoms of women on the 56th Session of the UN Commission on the Status of Women.

Thus, feminist and women organizations remind governments that Governments must not condone any tradition, cultural or religious arguments which deny human rights and fundamental freedoms of any person. After more than 60 years since the Universal Declaration of Human Rights (UDHR) was embraced and adopted by the UN, it appears that the relationship between traditional values and human rights remains highly contested. Although the UDHR can be regarded as 'a common standard of achievement for all peoples and all nations', it has also manifested as a common standard of assessment for all traditional values. The UDHR is an embodiment of positive traditional values that are universally held by this community of nations and are consistent with the inherent dignity of all human beings.

Governments must understand that under the Charter of the United Nations, gender equality has been proclaimed as a fundamental human right. States therefore, cannot contravene the UN Charter by enacting or enforcing discriminatory laws directly or through religious courts nor can allow any other private actors or groups imposing their religious fundamentalist agenda in violation of the UN Charter.

The issue

For that reason, the undersigned organizations and individuals across the globe, including KontraS, are alarmed and disappointed that the United Nations Commission on the Status of Women (CSW) failed to adopt agreed conclusions at its 56th session. We perceive that this failure has diminished the considerable work, energy, time and costs that women all over the world invested on the 56th session of the CSW. Therefore, through a statement letter, we express our rejection to any re-opening of negotiations on the already established international agreements on women's human rights and called on all governments to demonstrate their commitments to promote, protect and fulfill human rights and fundamental freedoms of women.

Our say upon the issue: We strongly demand all governments and the international community to reject any attempt to invoke traditional values or morals to infringe upon human rights guaranteed by international law, nor to limit their scope. Customs, tradition or religious considerations must not be tolerated to justify discrimination and violence against women and girls whether committed by State authorities or by non-state actors.

In particular, we urged governments to ensure that the health and human rights of girls and women are secured and reaffirmed at the coming Commission on Population and Development and the International Conference on Sustainable Development (Rio+20).

We call upon the member states of the UN and the various UN human rights and development entities to recognize and support the important role of women's groups and organizations working at the forefront of challenging traditional values and practices that are intolerant to fundamental human rights norms, standards and principles.

The undersigned organizations are Asia Pacific Forum on Women, Law And Development (APWLD), Association for Women's Rights in Development (AWID), International Women's Health Coalition (IWHC), International Women's Rights Action Watch Asia Pacific (IWRRAW ASIA Pasific), Women Living under Muslim Laws (WLUML)/ Violence is Not Our Culture Campaign, including KontraS, in solidarity for upholding human rights, as an endorser for this statement.

21 March 2012

Open Letter to ROK President on Construction of Naval Base in Jeju Island and Arrests of Demonstrators

Background:

On 7 March 2012, Samsung C&T and Daerim, two construction companies began blasting a rock bed, Gureombi, ROK, the site of a new naval base. On the same day, around 20 activists and nearby residents were arrested by the police for demonstrating against the blasting on the seashore.

It was reported that around 1,000 police forces were present while only 200 protesters were holding a peaceful demonstration. On 11 March 2012, a Catholic priest, Mr. Jung-wook Kim and a pastor, Mr. Jung-hoon Lee, were arrested for causing damage to the fence around the construction site of the naval base. On 14 March 2012, the police filed arrest warrants on Ms. Angie Zelter, a peace activist and Nobel Peace Prize nominee from the UK, and Mr. Benjamin Monnet, a French activist, who have been actively protesting against the naval base construction.

From 2010 to the end of February 2012, 329 people were arrested for their participation in peaceful demonstration against the naval base project. We believe that it is alarming and worrisome that the people's exercise of their fundamental right to peaceful assembly is suppressed by the government through violence and arbitrary arrests.

As organizations focusing on human rights issues, we urged the government of ROK through an open letter stating that the right to freedom of expression and assembly is guaranteed under article 21 of the Constitution of the Republic of Korea. We expressed our strong disapproval against the arrests made, and strongly urged the government to refrain from further arrests and harassment of residents and activists who oppose the naval base construction. We also urged the government of Korea to release all detainees immediately and unconditionally.

The issue

Besides the abovementioned reasons, we believe that it is also worthwhile to note that the coast of Gangjeong village, where the naval base is to be constructed, is classified as a Biosphere Reserve by UNESCO. Therefore, the construction of a naval base will destroy the seashore, inhabited by a number of endangered marine species, bringing long-lasting adverse impact to the environment and ecology. Given its potential environmental damage, through the open letter sent to the government of Korea, we urged to stop the construction of the naval base for it is a rightful and valid demand.

Particularly, our concern was also emphasized on the people living in the vicinity of the planned naval base that have not been adequately consulted on the planning of the naval base. Proven by the fact that in August 2007, a referendum held in the Gangjeong village resulted in 94% of villagers opposed to the naval base construction. Despite this, the government has continued with the project.

Our say upon the issue

As a state party of three international instruments that protect all citizens to pursue their economic, social, cultural, civil, and political rights, through an open letter, we, thus strongly urged the government of the Republic of Korea to immediately release all detainees for their participation in peaceful demonstrations against the naval base construction, halt the construction of the naval base until proper consultations are held with all relevant stakeholders, give full recognition to the important work carried out by residents and activists working on defending environmental rights, human rights and peace, and fully respect the right of activists and residents to hold peaceful demonstrations without being subjected to arrests and harassment.

KontraS, as an Indonesian-based human rights NGO strongly deplores the construction of the naval base, therefore fully endorsed the open letter sent to the government of Korea written by Asia Forum for Human Rights and Development (FORUM-ASIA), International Federation for Human Rights (FIDH) and Organisation Against Torture (OMCT).

27 March 2012

Objection Against the Government of Indonesia's Rejection of the Resolution on Sri Lanka in the Human Rights Council

Background

KontraS (The Commission of the Disappeared and Victims of Violence) wishes to point out that Indonesia is experiencing a regression in regards to human rights issues on the international level, particularly with the position that Indonesia took to decline the Human Rights Council Resolution on the Promotion of Peace and Accountability in Sri Lanka.

The resolution issued by the Human Rights Council (A/HRC/19/L.2/Rev1) declared a strong of attitude of concern towards the report produced by the Lessons Learnt and Reconciliation Commission on Sri Lanka that is regarded as insufficient in describing the alleged serious violations of international law. The resolution also urged the Sri Lankan government to implement a more constructive recommendation that is listed within the report.

In addition, the Sri Lankan government is also highly recommended to take the needed steps that are more strategic to fulfill the relevant legal responsibility and commitment to initiate credible and independent actions to secure the presence of justice, equity, accountability, and peace for the people of Sri Lanka. It is also strongly encouraged within the Resolution for the government of Sri Lanka to promptly present a comprehensive action plan deriving the measures to be taken by the government and implement the recommendation incorporated in the report. A strong emphasis on the allegation of violations of international law as well as encouragement for the High Commissioner on Human Rights and the relevant special procedures mandate holders to provide inputs and technical assistance in implementing the above-mentioned steps, were also incorporated in the resolution.

Issue

Unfortunately, during the voting process, Indonesia was one of the 15 countries that rejected the resolution, although the resolution was eventually adopted by 24 supporting votes, 15 against, and 8 abstains on the 22nd of March, 2012. We believe that Indonesia's stance to vote against the resolution will aggravate Indonesia's position in maintaining its commitment to promote, advance, and uphold the values and principles of human rights. Furthermore, Indonesia was represented by Mr. Marzuki Darusman, who ironically decided to go out of line in the decision making process from his position as a member of the related commission.

Our say upon the issue

We perceive that the position Indonesia took in the Human Rights Council has far exceeded the mandated goals stated within the Indonesian Constitution. The values and principles of human rights should adhere to every step and action taken by the Indonesian government, be it on the national or international level. It is beyond worth noting that Indonesia is bound to a dedicated commitment that puts forward the significance of the values and principles of human rights.

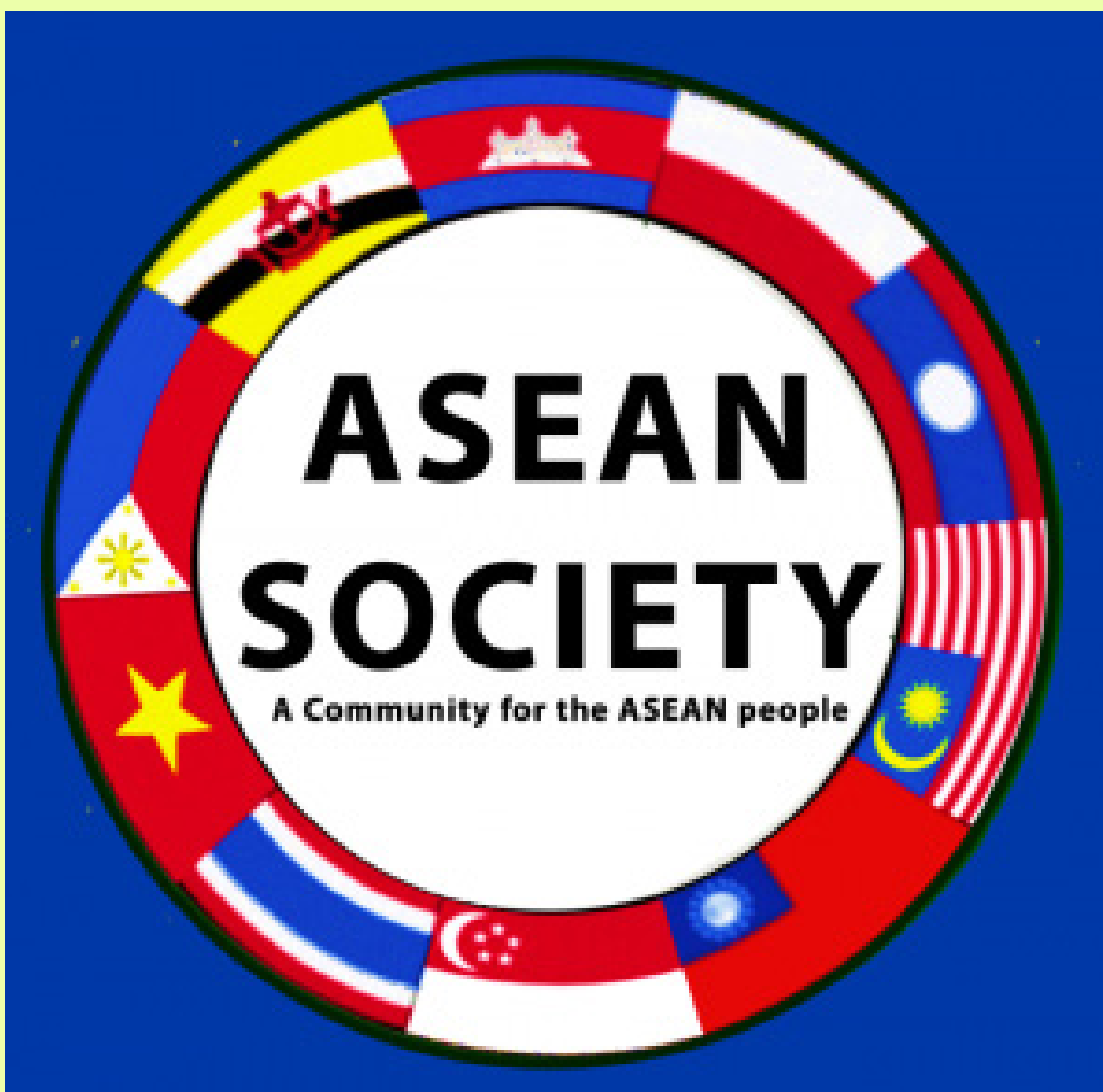
The resolution issued by the Human Rights Council was an important point for Sri Lanka to move forward in achieving peace and accountability. Thus, Indonesia's position to go against the resolution was not only a major disappointment to Indonesia as an acclaimed democratic country, but also a reflection of Indonesia's performance in tackling the social upheavals and human rights cases on the national level.

8 April 2012

Urge the ASEAN Intergovernmental Commission on Human Rights (AICHR) to release the ASEAN Human Rights Declaration to Public

Background:

It is widely known that the ASEAN Intergovernmental Commission on Human Rights (AICHR) is mandated under Article 4.2 of its Terms of Reference to develop an ASEAN Human Right Declaration with a view to establishing a framework for human rights cooperation through various ASEAN conventions and other instruments dealing with human rights. At the 6th meeting of the AICHR in Vientiane on 28 June – 2 July 2011, a Drafting Group was officially established by the AICHR to prepare a draft of the ASEAN Human Rights Declaration. In January 2012, the Drafting Group submitted to the ASEAN Inter-governmental Commission on Human Rights (AICHR) a draft AHRD for deliberation and debate.



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The Issue

However, to this date, the draft AHRD remains confidential while the public has been excluded from any meaningful participation in the drafting process. There has not been any substantive and broad-based regional consultation with the peoples in the region on the draft AHRD.

While we commend the representatives of the AICHR from Thailand, Indonesia, Malaysia and the Philippines for holding consultation with their civil society at national level, we are disturbed that no such initiative has taken place in the rest of the ASEAN countries.

For ASEAN to succeed in reaching its aspiration to be “People-Oriented, we firmly believe that the AICHR, tasked to defend the fundamental freedoms of the peoples in the region, must set a good example in ensuring meaningful and substantive consultation and people’s participation in the drafting of the historic AHRD.

Our say upon the issue

For that very reason, KontraS together with 10 other Indonesian organizations that give special concern on human rights issues in Indonesia, along with more than 100 civil society organizations and networks from South-east Asia, express our grave concern and disappointment over the continuing secrecy in the drafting process of the ASEAN Human Rights Declaration (AHRD).

We, through a joint statement, strongly urged the AICHR to heed the recommendation of the United Nations High Commissioner for Human Rights, Navi Pillay, that “no discussion of human rights can be complete or credible without significant input from civil society and national human rights institutions” and immediately begin dialogues and consultations with civil society organizations on the AHRD.

We further called upon AICHR to immediately publicize the draft AHRD so that the public can meaningfully participate in the drafting process, ensure that consultation meetings of the AICHR will be inclusive of all stakeholders, especially civil society organizations and national human rights institutions, To translate the draft AHRD into national languages and other local languages of the ASEAN countries in order to encourage broader public participation in the region and AICHR representatives who are already conducting national consultations in their respective countries to continue to do so and further encourage other AICHR representatives that have not taken such initiatives to do the same.

Until and unless the AICHR consults and engages with all stakeholders in a transparent, meaningful and substantive manner, we are of the opinion that the AICHR should postpone its submission of the final draft of AHRD to the AESAN Ministerial Meeting (AMM), scheduled to take place in July 2012.

It is worthwhile to note that this call was made to public as wide as possible in the ten countries of ASEAN and is endorsed by different sectors of civil society organizations such as youth organizations, women’s organizations, child rights organizations, LGBT organizations, migrant workers network organizations, labour unions, farmers organizations, environmental organizations, human rights organizations, development organizations and some academic institutions.

The joint statement has also been translated into ASEAN major languages, Burmese, Bahasa-Indonesian, Bahasa-Malay, Khmer, Lao, Thai and Vietnamese to indicate our commitment to promote the basic human rights of the people that they are entitled to receive information and awareness about ASEAN and its works.