

**SUBMISSION OF PAHAM INDONESIA FOUNDATION TO UN HRC
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**ISSUE: UNLAWFUL KILLING OF SIX HRS GUARDS ON DECEMBER 7, 2020
AND STRUCTURAL IMPUNITY OF ITS OFFENDERS**

INTRODUCTION

1. PAHAM Indonesia is a legal aid and human rights NGO founded in Jakarta, Indonesia, on May 15, 1999. PAHAM is devoted to being human rights defender and fighting for justice the betterment of democracy in Indonesia. Currently, PAHAM has 25 branches all over Indonesia with around 130 human rights attorneys.
2. PAHAM has concerned with the unlawful killing of six HRS Guards on December 7, 2020, by state apparatus around Karawang Regency, West Java – Indonesia.
3. There is an apparent unlawful killing and structural impunity of its offenders. South Jakarta District Court had released two of its indicted police officers from all charges.
4. Until March 2022, no more investigations and trials have been made in this case. Instead, the state apparatus has claimed it as justified killing, which is wrong and has no legal basis. Furthermore, this structural impunity is an apparent infringement of victimization and violation of the six victims and their families.

BACKGROUND

1. Muhammad Rizieq Shihab (HRS), the prominent cleric with millions of followers and worshipers, returned to his home in Jakarta after about 3 (three) years of living in exile in Mecca, Saudi Arabia. Upon his return, he invited close relatives and friends for a small gathering to celebrate the birth of Prophet Muhammad PBUH and, at the same time, held a wedding reception for his daughter Syarifah Najwa Shihab. She married Habib Muhammad Irvan Alaydrus on November 14, 2020. However, beyond expectation, the attendees had far exceeded the guest list.
2. After the gathering and the reception were concluded, the DKI Jakarta Provincial Government ruled that it was a violation of the health protocol regulation of Covid-19 as issued by the Province of DKI Jakarta. HRS was then punished for paying a fine amounting to IDR 50,000,000 (fifty million rupiahs), to which he had fully settled in full without contest.
3. In the meantime, regardless of whether the Provincial Government of Jakarta had punished HRS for the gathering and reception, the Jakarta Metropolitan Police of Jakarta, named POLDA Metro, still pursued more punishment and conducted an investigation to prosecute HRS. HRS was then summoned to appear at the Police Station of POLDA Metro On December 1, 2020. At that time, HRS was summoned as a witness to which HRS, via his lawyer, requested a postponement to December 7, December 7, 2020. The request was granted.
4. Within the first week of December 2020, HRS stayed in his home at Sentul, Bogor (40 kilometers South of Jakarta). During his stay, FPI Guards (the Laskars) noticed that there had been surveillance on HRS in his home at Nature Mutiara Housing in Bogor. Three vehicles have been on the lookout and parked

suspiciously within the vicinity of HRS's home, and inside the cars, the Laskars spotted unidentified people wearing masks. Only later that we believe these people were the Police from POLDA Metro (Jakarta Metropolitan Police).

5. On Sunday, December 6, 2020, at approximately 10.45 pm, HRS and his family departed in a motorcade from his home at Nature Mutiara Housing, Sentul Bogor destination, a Resort Area in Karawang, 60 KM East of Jakarta.

HRS Motorcade consists of 8 Cars:

4 Cars – HRS and his family

4 Cars – the team of FPI unarmed Laskar's acting as personal guards for HRS.

The family group consists of:

- (1.) Male: HRS and Son-in-law, Ustadz (religious teacher) and his family, and three drivers.
 - (2.) Women and Children: 12 Women, 3 Infants, and 6 Toddlers.
 - (3.) FPI Guards: 24 people in 4 cars, each car occupied by 6 Laskar, including the drivers.
6. The HRS motorcade was then entered into the Jagorawi highway heading North towards Jakarta, and an exit at the Cikunir Outer Ring road to merge with the Cikampek Highway, heading East toward their destination Kerawang.
 7. Since their departure from HRS home in Sentul, Bogor, the Motorcade was followed by a Black Avanza car with Licence Plate B 1739 PWQ & Silver Avanza Licence Plate B KJD, as well as several other cars which remain to be unknown (Unmarked Cars).
 8. On the highway, on their journey to Krawang, there were attempts from the Unmarked Cars to intercede into the HRS motorcade. However, their attempt to do so was always prevented by FPI-Laskar's cars. This is because the FPI Laskar team has to protect the HRS family and his guest. Therefore they only react toward aggression and intrusion of any uninvited vehicle intruding and /or approaching the car of HRS and his family.
 9. Throughout the journey to Karawang, there were many attempts of hostile maneuvers by the Unmarked Cars to the Motorcade. The reaction from the FPI-Laskar was only to prevent and avoid any of those cars from breaking into the line of the convoy. The Laskars observed that those aggressors never identified themselves as the Police or officers of the law. Their behavior on the highway does not represent the behavior of police officers but is more like a thug. They were highly dangerous and threatened the safety and the lives of the entourage, which besides HRS, there were also women, infants, and toddlers.

One specific thug-like incident, among others, was when the Motorcade made its way to the Cikunir toll road. The car driven by Habib Hanif was approached sideways by an unverified black SUV (maybe Fortuner or Pajero) with a license plate B 1771 KJL. The car driver opened the window and emerged from the car showing off his tattooed arm addressed to Habib Hanif's car while holding up his middle finger.

10. On Monday, December 7, 2020, at approximately 0.10 am (ten minutes past midnight), after the Motorcade exited East Karawang, the Laskars spotted three Unmarked cars, namely Black Avanza B 1739 PWQ, Silver Avanza B ---- KJD & White Avanza K ---- EL. These cars were always trying to break their way into the convoy of HRS entourage. Therefore, the situation inside the vehicles of HRS and family were terrified, on full alert, and were praying for safety.
11. Fortunately, two of the FPI Laskar cars were able to push away the three Unmarked Cars from approaching the vehicles of the HRS family and guest. These two Laskar cars' position was at the end of the Motorcade. One of the two Laskar cars was a green metallic Chevrolet with license plate B 2152 TBN occupied by six FPI Laskars from DKI Jakarta, who died after being ambushed slaughtered by the Police. The two Laskar's cars, which were at the end of the Motorcade, allowed the HRS family and group to break away from the terror coming from the three Unmarked vehicles.
12. Two of Laskar's Cars succeeded in halting the Unmarked Cars from inflicting harm to the HRS motorcade. However, as the 2 Laskar cars were making their exit at the East Karawang Toll Gate, one of the Laskar's cars, the Avanza, was forced to pull over by one of the Unmarked cars. Luckily, the Lasker in the Avanza managed to escape and drove towards the West Karawang Toll Gate, then entered the Cikampek highway and decided to rest at KM 57 Resting Area.
13. In the meantime, the other Laskar's Car (Chevrolet B 2152 TBN) was separated from the other Laskar's car, the Avanza. Based on their latest communication with the Avanza, the Laskar in the Avanza learned that Chevrolet B 2152 TBN was left behind at the West Karawang toll gate, and they were being ambushed and captured by the people in the Unmarked cars, which later we discovered they were tortured and brutally killed.
14. At the time, one of the Laskar who was in the Avanza car, the one who was resting at km.57, was still able to communicate with Sufyan alias Bang Ambon, the Laskar who was in a Chevrolet B 2152 TBN. Through the cell phone, the Laskar in the Avanza was informed by Sufyan alias Bang Ambon that he was surrounded. Still, he insisted for the Laskar in the Avanza to keep ongoing. Still, the Laskar in the Avanza heard his friend Bang Ambon shout, "*shoot here, shoot,*" indicating that Bang Ambon was at gunpoint, followed by a human sound in a low voice suffering from excruciating pain, which can only be described that Bang Ambon was executed.
15. Another Laskar in the group was also able to contact Faiz (the other Laskar in Chevrolet B 2152 TBN). Unfortunately, this Laskar also heard a similar sound of someone in deep pain as if he had been shot, but before he could confirm, the phone was disconnected.
16. For a while, the FPI laskars in the Motorcade lost contact with the six Laskar in the Chevrolet. Until Monday afternoon of January 7, there were about was unknown. Later in the day, the chief of Police of POLDA Metro Jaya held a press conference and announced that the six FPI Laskars were shot dead by the Police in "self-defense" and called this killing decisive and measurable action.

ASSESSMENT AND POSITION

1. The commission by the Police is a systematic attack directed against six Laskars who are civilian citizens, with knowledge of the attack to murder, torture, enforced disappearance, inhumane acts of a similar character intentionally causing great suffering or serious injury to body or mental or physical health.
2. The main issue is just a minor violation of health protocols by HRS. However, the pursuit, the energy, and the law enforcement practiced by POLDA Metro and the State were highly excessive, as if HRS had committed terrorism or other serious crimes. It also demonstrates discrimination in the enforcement of the law against HRS; this is true because, at the same time, the State and the Police ignore similar violations to Covid-19 Protocol by others throughout the Country.
3. It is sadly ironic when at the same time and exact date of the unlawful killing of six Laskars was committed on December 7, 2020, instead of pursuing the killer of those Laskar, POLDA Metro prioritized their enforcement on declaring HRS as the suspect of health protocols violation and issue an ultimatum to HRS to surrender.
4. To date, the State Republic of Indonesia has yet to recognize its responsibility for publicly killing the six Laskars publicly. Moreover, it has failed to offer an apology or condolences to their family for their death and how they were killed.
5. The killing of the six Laskars violates the provisions of the Vienna Convention 1993 and Rome Statute 1998. Accordingly, the circumstances of the execution shall be considered an act of torture under the Convention against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment 1984.
6. Based on all of the above, we conclude that the commission by the POLDA Metro Police constitutes an unlawful killing and Crime Against Humanity.
7. National Human Rights Commission (KOMNAS HAM), in its monitoring report in January 2021, had also mentioned that the killing on December 7, 2020, was an unlawful killing (applied to four victims) and a self-defense action (applied to two victims).

UNFAIR, INJUSTICE, AND COMEDY TRIAL

1. The results of the National Human Rights Commission's (Komnas HAM) investigation concluded that there were human rights violations in the incident because the four members of the FPI Laskar died when they were under the control of the Police.
2. The Police who shot the FPI Laskar were acquitted in a trial at the South Jakarta District Court Friday (18/3/2022). The South Jakarta District Court Judges acquitted the two police officers who shot the FPI (Islamic Defenders Front) Laskar, Yusmin Ohorella, and Fikri Ramadhan, in Cikampek toll road KM 50. This is also awkward. Because the police investigators only stipulated two (previously three) low-rank officers suspects. Meanwhile, high and middle-rank state apparatus are also responsible but remain untouchable and impunity.

3. According to the prosecutor's indictment, the panel of judges said that the two were proven to have shot at the KM50 Jakarta-Cikampek toll road. However, the board of judges also stated that the shooting was an attempt to defend themselves so that the two defendants could not be sentenced to criminal charges.
4. The trial is a comedy. Because all of the victims have died, they cannot be asked for a statement from the shooting incident at the trial. Witnesses from the FPI Laskar were never asked to testify. The information heard in court is from the police and state officials alone. Not from the victims or FPI soldiers. Therefore, this is not a court of justice but a court of comedy.

RECOMMENDATION

1. The state must conduct an objective and just investigation into the killing of the Six Guards to build substantial files on each of the alleged perpetrators and identify mechanisms for formal accountability, such as Indonesian Human Rights Courts, an ad hoc or hybrid tribunal.
2. The state must recognize the rights of victims and their families, including conveying an apology, securing the rehabilitation of the murdered victims, and providing restitution for the family of victims.
3. The state must conduct a just and fair trial through an independent and accountable court and prevent the impunity of the offenders.