

## **A. PREPARATION OF THE REPORT**

1. This report has been prepared and endorsed by the following Indonesian civil society organizations: Arus Pelangi, KontraS (Commission Disappearances and Victim of Violence), National Legal Aid Reform Consortium (KRHN), Legal Aid Foundation for the Press (LBH Pers), Protection Desk Indonesia (Yayasan Perlindungan Insani Indonesia), Human Rights Working Group (HRWG), Indonesian Forum for the Environment (Walhi), Mining Advocacy Network (Jatam), Association for Community and Ecological Based Law Reform (HuMA), Imparsial, Greater Bogor Legal Aid Foundation (LBH KBR), Linkar Borneo, Indonesian Legal Aid Foundation (YLBHI), Indonesia Legal Aid and Human Rights Association (PBHI), Semarang Legal Aid Foundation (LBH Semarang), Yogyakarta Legal Aid Foundation (LBH Yogyakarta), National Network for Domestic Workers Advocacy (JALA PRT), the Association of Journalists for Diversity (Sejuk), and the Setara Institute.

## **B. INTRODUCTION**

2. In May 2017, Indonesia will be examined for the third time under the United Nations' Universal Periodic Review (UPR) mechanism. The previous UPR process in 2012 included a number of recommendations relating to human rights defenders in Indonesia. These included recommendations to enhance protection of human rights defenders (108.115, 108.117), to provide a safe and enabling environment for human rights defenders (108.118), to conduct impartial and independent investigations into acts of violence committed against human rights defenders and to bring those responsible to justice (108.119), to improve legal protection of human rights defenders (108.34, 108.35) and to improve protection of human rights defenders in Papua, in particular (108.33). Five years later, the government has made little progress in response to these issues.

## **C. LEGAL AND INSTITUTIONAL FRAMEWORK**

3. In 2012, a civil society coalition worked closely with the National Commission on Human Rights (Komnas HAM) to prepare provisions on the protection of human rights defenders in a proposed revision to Law No. 39 of 1999 and the bill on Komnas HAM. But when these proposed laws were handed over to the House of Representatives for deliberation, the provisions on human rights defenders were no longer present. Subsequent efforts from Komnas HAM and civil society to include protection of human rights defenders in an amended 1999 Human Rights Law have similarly been unsuccessful. Consequently, in 2016, there remains no umbrella law to protect human rights defenders in Indonesia, or guarantee investigation and a fair legal process for violations affecting HRD.
4. Although there are no national statutes specifically addressing the rights of human rights defenders, there are a number of provisions in state laws that provide for partial protection.<sup>i</sup> The main human rights law, Law No. 39 of 1999 on Human Rights, includes a number of provisions relating to the roles of human rights defenders (Articles 100-103).<sup>ii</sup> The strongest protections are found under Article 66 of Law No. 32 of 2009 on Environmental Protection and Management, which states that 'Every person who struggles for the right to a proper and healthy environment cannot be charged with a criminal or civil offence'. According to Law No. 16 of 2011 on Legal Aid, providers of

legal aid, too, cannot be charged with criminal or civil offences in the conduct of their work (Article 11). Article 15 of Law No. 30 of 2002 on the Corruption Eradication Commission (KPK) requires the KPK to protect witnesses and whistleblowers in corruption cases. Law No. 13 of 2006 on the Protection of Witnesses and Victims (and the revised Law No. 31 of 2014) also provides a degree of protection for human rights defenders, but only if they are witnesses or victims in a case, or if they obtain a letter from the police or Komnas HAM stating that they require protection from the LPSK. Finally, Article 18 (1) of Law No. 40 of 1999 on the Press provides for punishment for violations affecting the work of journalists.<sup>iii</sup>

5. Although these regulations should provide a degree of protection for human rights defenders, they have not been accompanied by the development of a robust framework of protection. As such, these normative provisions are poorly implemented. Moreover, violations of the rights of human rights defenders are usually seen as simply criminal cases, or worse still, the human rights defenders themselves are the ones who face charges.
6. Further, there are a number of laws that threaten the ability of human rights defenders to do their work. Undoubtedly, the most problematic provisions are those relating to defamation. Defamation provisions in Law No. of 2008 on Information and Electronic Transactions are commonly used to silence human rights defenders. Articles 310 and 311 in the Criminal Code (KUHP) also make defamation a criminal offence. Provisions on incitement (Article 160) and damaging property and violence (Article 170) are often used to target human rights defenders also.
7. The protection of human rights defenders in Indonesia is managed primarily by Komnas HAM and the Witness and Victims Protection Agency (LPSK). A positive development since the last UPR process occurred in 2014, when Komnas HAM appointed a special rapporteur (or special desk) for reporting on and collecting information on the protection of human rights defenders. Since May 2016, it has also established special internal mechanisms for providing protection to human rights defenders. But Komnas HAM's mandate is limited to monitoring and delivering recommendations to the police or prosecutors – it has not been able to effectively prevent or intervene in cases of criminalization, physical violence or threats. The limited mandate of the institution has constrained its effectiveness in providing protection for human rights defenders. LPSK, meanwhile, as the state institution with the authority to provide protection, is limited in that it can only provide protection for witnesses and victims of crime. In general, because human rights defenders are not included in these categories, it is difficult for them to access the protection mechanisms in the LPSK. The LPSK protection mechanism is quite inflexible, and for human rights defenders to get protection they must first obtain a justification letter from another institution, like the police, to prove that they are (or could become) a victim of crime. This is highly problematic in cases when the threat is coming from the police institution. As such, the LPSK has not been effective in providing protection to human rights defenders.

#### **D. IMPUNITY FOR PAST VIOLATIONS AGAINST HUMAN RIGHTS DEFENDERS**

8. One of the most iconic cases of Soeharto's New Order era involved *Bernas* journalist Fuad Muhammad Syafruddin (Udin), who had written a series of articles on corruption in Bantul district implicating the district head and the ruling regime. In 1996, two unknown attackers arrived at his house and beat him with a metal pipe. He died three days later in

hospital. The statute of limitations on murders in Indonesia is 18 years, meaning that his murderer will never be charged.

9. Similarly, the primary actor behind the assassination of human rights activist and lawyer Munir Said Thalib, who was poisoned with arsenic on a Garuda Indonesia flight in 2004, has never been charged. Despite evidence implicating senior State Intelligence Agency (BIN) official Muchdi Purwoprandjono, only former pilot Pollycarpus Budihari Priyanto, who put the arsenic in Munir's drink, was charged.<sup>iv</sup> The ongoing impunity for these prominent cases against human rights defenders contributes significantly to the risk environment for human rights defenders in Indonesia. There is little to no deterrent against future violations against human rights defenders.

## **E. OVERVIEW OF THE SITUATION OF HUMAN RIGHTS DEFENDERS IN INDONESIA**

10. As stated, the several strong provisions protecting the rights of human rights defenders have not been matched by the development of a strong and effective mechanism or system guaranteeing the protection of human rights defenders. Human rights defenders were victims of violence, threats and intimidation. A large number of human rights defenders were also criminalised because of their work.
11. In the environment and natural resources sector, based on cases handled by local civil society organization Walhi, in 2014 alone, 173 human rights defenders were arrested (criminalised), seven were abused and two died.<sup>v</sup>
12. Based on data from another civil society organization, Imparaisal, from 2012-2015, there were at least 72 cases involving violations of the rights of human rights defenders. These included three murders or violence resulting in death, six cases of physical abuse resulting in disability or severe injury, 29 cases of physical abuse resulting in minor injuries, 20 cases of criminalization, six cases of forced disbanding of events or prohibitions on association, and 14 cases involving threats of violence toward property, individuals or families.<sup>vi</sup>
13. According to KontraS, meanwhile, there were 20 cases involving violations against human rights defenders in 2013 alone. These cases included six cases of arbitrary arrest, five cases of physical abuse, one case involving destruction of equipment, three cases of forced disbandment, three cases of criminalization, and one case of intimidation. In 2015, it recorded that 24 human rights defenders, environmental activists and indigenous community members were criminalized. Forty-nine anti-corruption activists were also criminalized.<sup>vii</sup>
14. In addition to the violence and intimidation recorded against journalists by Elsam, the Legal Aid Foundation for the Press (LBH Pers) recorded 50 cases of violence against journalists in 2013, 79 cases in 2014, and 47 cases in 2015.<sup>viii</sup>
15. Meanwhile, another civil society organization, Elsam, recorded 27 cases involving restrictions to the freedom of expression of human rights defenders in the first year of the Joko Widodo administration (2014-2015). Seventeen of these cases related to bans or forced cancellations on films or discussions, four involved disbanding meetings related to 1965 and other past violence. Other crackdowns on freedom of expression involved deportations, arbitrary arrests and censorship.<sup>ix</sup>
16. Perpetrators of human rights violations against human rights defenders are dominated by police, private security contractors and religious vigilante groups.<sup>x</sup>

## **F. VIOLENCE, ABUSE AND MURDERS OF HUMAN RIGHTS DEFENDERS**

17. The weakness of protection mechanisms for human rights defenders and impunity for past abuses places human rights defenders in a vulnerable position. A number of human rights defenders were killed because of their work in 2013-2016, and environmental human rights defenders were particularly susceptible to violations.
18. On 26 September 2015, Salim Kancil, a 52-year old environmental activist from Lumajang, East Java, was beaten to death by thugs after he organized a protest against an illegal sand mine on Watu Pecak Beach in Selok Awar-Awar subdistrict. He was taken from his home by the perpetrators, tied up and taken about 2km to the village hall. Along the journey he was beaten and repeatedly electrocuted by the perpetrators. When he still hadn't died, they stabbed his abdomen with a knife and struck his head with rocks until he passed away. His corpse was discarded on the side of the road to intimidate other local residents who had objected to the sand mine. On 23 June 2016, the Surabaya District Court sentenced two perpetrators, Haryono and Mat Dasir, to 20 years in prison,<sup>xi</sup> Widiyanto received a sentence of 13 years in prison, while Nurtinarlap, Timartin, Ngamatin, Gito, Harmoko, Eli, Sandi, Tejo, Edi, and Rudi all received sentences of 12 years in prison.<sup>xii</sup> The higher-level mastermind(s) escaped charges.
19. In another case affecting an environmental human rights defender, IndraPelani (22), a member of the Tebo Farmers Union in the province of Jambi, was killed by seven security officers from pulp plantation Wira Karya Sakti, a subsidiary of Asia Pulp and Paper, on 2 March 2015. Indra's corpse was found in a swamp following a disagreement with guards manning the plantation. His hands and feet were bound, his mouth gagged with a t-shirt, and his head and body showed signs of severe wounds. Not long after his death, several perpetrators handed themselves over to police and confessed to their crimes. The Muarabulian District Court in Jambi sentenced three perpetrators to 14 years in prison, one to 10 years and another to 8 years in prison. Two others escaped prison time.<sup>xiii</sup> According to civil society organization Walhi Jambi, the trial contained serious deficiencies. In the three month-long process, the court made no attempt to investigate the motive for the murder, and no representatives from the company were called to provide a statement. The court treated the case as a simple murder, despite strong suspicions that it was connected to Wira Karya Sakti, which uses the Manggala Cipta Persada (MCP) security contractor.<sup>xiv</sup>
20. In Bali, on 5 November 2012, prominent Walhi activist I Wayan 'Gendro' Suwardana was attacked by two unknown assailants at his office at Wihartono and Partners, in Denpasar, Bali. He was allegedly beaten so that he would stop his environmental advocacy work.<sup>xv</sup>
21. Exposing corruption continued to be dangerous. In Madura, East Jawa, in January 2016, anti-corruption activist and head of Bangkalan civil society organization CiDE, Matur Husaini, was shot by an unknown assailant outside his home in Bangkalan. The shooting was presumed to be in response to Mathur's efforts (along with a number of other activists) to investigate allegations of corruption against Bangkalan District Head Fuad Amin.<sup>xvi</sup>
22. Consistent with previous years, the human rights situation in Papua remains deeply concerning and human rights defenders faced significant threats to their safety and security. In one of the most serious cases, political activist Martinus Yohame was abducted, tortured and found dead on 26 August 2014. Martinus was the head of the Sorong branch of the pro-independence West Papua National Commission (KNPB). He had gone missing six days earlier. Martinus's murderer has not yet been identified.<sup>xvii</sup> Warpo Wetipo, the protest coordinator of the West Papua National Commission (KNPB), stated that he and six other KNPB activists were detained and tortured in police custody on 3 May 2016. Warpo described being beaten across the ears by police and temporarily

losing consciousness. The KNPB activists were arrested following a demonstration in front of Cendrawasih University in Jayapura, Papua on 2 May 2016.<sup>xviii</sup> Papuan human rights lawyer Anum Siregar was attacked by an unknown assailant in Wamena, Papua province, on 16 September 2014. The attacker stole her bag and injured her hand before fleeing the scene. Anum had been representing Areki Wanimbo, from the Lani Jaya Tribal Council, at a pre-trial hearing at the Wamena District Court, arguing that he had been arbitrarily arrested in breach of stipulations in the Criminal Procedure Code (KUHAP). Wanimbo was arrested one month earlier after meeting with foreign journalists making a documentary on the Papuan separatist movement, and was accused of ‘rebellion’ under Articles 106 and 110 of the Criminal Code. Anum reported her attack to police but it was not followed up.<sup>xix</sup>

23. Although no journalists were murdered in retaliation for their work since the last UPR, journalists continued to be intimidated, threatened and attacked. In 2015 alone, LBH Pers recorded at least 47 cases of violence against journalists. In 2014, it recorded 79 cases, and in 2013, 50 cases.
24. Violent acts against journalists included physical beatings and forced erasure or seizure of work. Three foreign journalists from Al Jazeera, ABC Australia and Bloomberg reporting on a Papuan student demonstration in Jakarta had their equipment seized, photos erased and one of them (Archicco Giulliano, from ABC) was reportedly beaten.<sup>xx</sup> Local journalist Zuhri Febrianto was also beaten by members of the Pekanbaru Police when covering an Association of Islamic Students (HMI) congress. Zuhri was reportedly beaten with a stick and stepped on, suffering bruises and wounds to his head and body. Following the attack, police then reported Zuhri for defamation under the 2008 Information and Electronic Transactions Law.<sup>xxi</sup>
25. Legal aid and human rights lawyers were also attacked because of their work. In January, for example, Aldo Felix Januarydy, from the Jakarta Legal Aid Foundation, was attacked by state security forces during the forced eviction of his clients from an informal settlement in Bukit Duri, Jakarta, on 12 January 2016, resulting in significant wounds to his face. Aldo was attempting to negotiate a settlement for the residents, whose case was still being heard at the Jakarta State Administrative Court (PTUN).<sup>xxii</sup>
26. In Yogyakarta, a large number of incidents of violence were recorded against human rights defenders. Most of the incidents recorded in Yogyakarta were caused by hard-line Islamic organizations. On 27 October 2013, for example, an intolerant group broke up a family gathering and training event for victims of stigmatization in relation to the 1965 violence, at the Santi Dharma Retreat in Sleman.<sup>xxiii</sup> Five attendees were assaulted by the members of intolerant groups.<sup>xxiv</sup> In April 2014, the head of a Yogyakarta NGO, the Interfaith Forum (FLI), Aminudin Aziz, was beaten by a mob and his car damaged. He had allegedly offended a group of Islamic hard-liners who were protesting about a Christian celebration in the area.<sup>xxv</sup> On 21 November 2014, on International Transgender Day of Remembrance, a group of about 10 Islamic hard-liners broke up a peaceful demonstration in Yogyakarta. They pulled one of the transgender women and kicked her, as well as one of the male members of PKBI, who was also beaten with bamboo poles. As a result of the attack, two of the demonstrators had to be taken to the hospital with broken fingers and serious bruises.<sup>xxvi</sup> Also in Yogyakarta, on 2 April 2016, intolerant Islamic groups and police broke up the Lady Fast 2016 event,<sup>xxvii</sup> which was held in the Survive Garage community space in Bantul. A mob descended on the feminist event, damaging property, insulting the female attendees and assaulting at least one of them. A policeman in civilian clothes discharged his weapon to intimidate attendees.<sup>xxviii</sup>

## **G. CRIMINALIZATION OF HUMAN RIGHTS DEFENDERS**

27. One of the most common attacks used against human rights defenders is criminalization. The practice of criminalization of human rights defenders has grown since Indonesia was last reviewed under the UPR mechanism. Criminalization takes many forms, although one of the most common is through the use of Law No. 11 of 2008 on Information and Electronic Transactions, which includes provisions on insults and defamation. The law is often used to stifle freedom of expression and weaken activists and organizations critical of the government. During this reporting period, activists were also subject to arbitrary arrest and criminalized through the manufacturing of cases and the use of torture during detention and investigation to extract confessions.<sup>xxix</sup>

### **Criminalization of environmental human rights defenders**

28. Arbitrary arrests and criminalization of activists working on environmental and land rights issues continued to be a significant concern. For example, the director of Walhi in South Sumatra, Anwar Sadat, was arrested and sent to prison after leading a demonstration of farmers in front of the South Sumatra Police Station that resulted in the police gate being damaged. The Palembang District Court sentenced Anwar to seven months in prison for inciting others to commit violence under Article 170 of the Criminal Code. This highly flexible article has often been used to silence environmental activists. The farmers had been protesting about the seizure of their land by plantation company Perkebunan Nusantara (PTPN) VIII Cinta Manis South Sumatra, in Ogan Ilir district.<sup>xxx</sup> In addition to Anwar, his colleague Dedek Chaniago and leader of the farmers' group Kamaludin, as well as 25 other farmers were arrested.
29. Criminalization on a large scale occurred in six villages in Kalimantan. Between 2012 and 2016, a large number of local residents from several villages in Kubu Raya district, West Kalimantan (specifically, Olak-Olak, SeruatDua, Dabong, Pelita Jaya, Sungai Selamat, Mengkalang Jambu, Mengkalang Guntung, and Ambawang) were arbitrarily arrested for protesting against oil palm plantation Sintang Raya, which is operating a concession of 22,000 hectares in the region. Residents claim that the company has continued to operate on land to which they have legal rights. As a result of their stance against the company, residents have been arbitrarily arrested, imprisoned and kidnapped by police and hired thugs. According to *Lingkar Borneo*, at least 22 residents have been criminalized, with one kidnapped and another intimidated.<sup>xxxi</sup>
30. There were a broad range of other cases affecting environmental human rights defenders, most of whom were community human rights defenders:
- Four farmers from Kulon Progo in Yogyakarta were targeted following a demonstration against the development of a new airport, which would take over their homes and productive land. The four farmers, Sarijo, Wakidi, Tri Marsudiand Wasiyo, were sentenced to four months in prison for incitement (Sarijo) and damaging property (the three others).<sup>xxxii</sup>
  - Also in KulonProgo, five other farmers, who had protested against an ironsand mine, were reported to police by mining company Jogja Magasa Iron (PT JMI) over claims that they had caused disturbance (*kegaduhan*) by revving their motorcycle exhausts. They were eventually charged under Article 176 of the Criminal Code, on making noise disturbing a religious event.<sup>xxxiii</sup>
  - In Yogyakarta, environmental activist AjiKusumo was sent to prison in 2014, following a demonstration against the Utara apartment in Karangwuni, Sleman. Aji was reported by developer Bukit Alam Permata for damaging a banner, and he was sentenced to three months and 15 days in prison.<sup>xxxiv</sup>

- Environmental activist Muhammad Miki had spoken out against mining activities that damaged the environment and water source around Mt. Kandaga, in Antajaya, Tanjungsari subdistrict, Bogor. He was arbitrarily arrested and detained without a warrant by police, who accused him of stealing goods owned by a local company. Following four months of detention, on 3 December 2015, the Cibinong District Court freed him of all charges.<sup>xxxv</sup>
- In Central Kalimantan, Hison Sahen, from Kemawen, Monttalat, in Barito Utara, was arrested following a cultural demonstration against the Berjaya Agro oil palm plantation, which locals accuse of taking their traditional lands. Hison was charged with carrying a sharp weapon during the demonstration and sentenced to five months in prison, despite the fact that the blade he was carrying was a traditional weapon of the Dayak people.<sup>xxxvi</sup>
- In 2014, activist Ricky Tamba was reported and named a subject for defamation under Article 27(3) of the law because of an open letter that demanded that the Lampung governor and deputy governor meet their campaign promises.
- Environmental activist Bisri Mustofa was also targeted for defamation, under Article 310(1) and (2) of the Criminal Code. Bisri led a demonstration against the development of the LA City apartment complex in Lenteng Agung, South Jakarta, which local residents had damaged the local environment and resulted in floods. On 26 August 2014 he was found not guilty.
- Threats were not always physical in nature. In 2013, in Batu, East Java, a community human rights defender, H Rudi, was threatened with a civil case by the owner of the Rayja Hotel. Rudi had opposed the construction of the hotel, which he claimed would damage the water source in Umbul Gemulo. Rudi is only a community human rights defender but was sued for Rp 30 billion for allegedly impeding the construction of the hotel.<sup>xxxvii</sup>

### **Criminalization of human rights defenders working in the legal aid sector**

31. Criminalization also occurred against human rights defenders working in the legal aid field. In April 2014, Sugeng Teguh Santoso, the head of the One Justice Foundation (YSK), a local civil society organization in Bogor, was reported by former police general Mangisi Situmorang for defamation under Articles 310 and 311 of the Criminal Code. Sugeng was representing Yuliana Lewier, a domestic worker who was a victim of physical abuse caused by the wife of the former policeman, Mutiara Situmorang.<sup>xxxviii</sup>
32. Labour rights activists and two public defenders were also criminalized when advocating for the rights of Indonesian workers. On 30 October 2015, 23 laborers, one student, and two lawyers from LBH Jakarta were arrested following a demonstration against Government Regulation No. 78 of 2015 on Wages, which they considered violated workers' rights to a decent wage. They were arrested arbitrarily and charged with resisting orders from the police.<sup>xxxix</sup>

### **Criminalization of human rights defenders using defamation charges**

33. As stated above, public officials have increasingly relied on Law No. 11 of 2008 on Information and Electronic Transactions (the ITE Law), which includes provisions on insults and defamation, to silence their critics. According to LBH Pers, at least 12 people were targeted for defamation under Article 27 of the ITE Law in 2013. In 2014, LBH Pers recorded that seven people were criminalized under the law. In 2015, meanwhile, the Setara Institute recorded that four people were criminalized.

34. In 2014, for example, activist and farmer Ricky Tamba was named a suspect under Article 27(3) of the law after he called on the governor of Lampung to follow up on his campaign promises.<sup>xi</sup>
35. Haris Azhar, the coordinator of one of Indonesia's most prominent human rights organizations, Kontras, was also targeted under the 2008 Information and Electronic Transactions Law. In a widely read Facebook post, Haris alleged that drug kingpin Freddy Budiman had revealed to him that he had bribed police, military and State Narcotics Agency (BNN) officials to run his drug business. Both BNN and military officials responded by reporting Haris for defamation under Article 27(3) of the ITE Law.<sup>xli</sup>
36. Mahfud Zakaria, the secretary general of the Peoples Labor Union (SBK) of East Java, was also criminalized, named a suspect by the Surabaya municipal police for spreading slanderous information.<sup>xlii</sup>
37. Women's activist Rahayu (Yayuk) Kandiwati from Magelang, Central Java, was named a suspect for defamation in 2013 after she lent her public support to a victim of domestic violence, Siti Rubaidah, who also happened to be the wife of the Magelang deputy mayor. Joko Prasetyo, the deputy mayor at the time, reported Yayuk and Siti Rubaidah for defamation and she was named a suspect by police, who opened an investigation into the defamation accusations.<sup>xliii</sup>

### **Criminalization of anti-corruption activists**

38. In early 2015, the third major conflict between the Corruption Eradication Commission (KPK) and the National Police prompted a spate of cases involving criminalization of anti-corruption activists. This began when two members of the KPK leadership team, Abraham Samad and Bambang Widjojanto, were named as suspects in different cases. The cases were widely seen as motivated by revenge, as they were announced shortly after the KPK named the sole candidate for police chief, Budi Gunawan, as a suspect for corruption. Other senior KPK leaders were also targeted. Adnan Pandu Praja, Johan Budi, and Zulkarnaen were criminalized because they had revealed corruption in the police force.
39. Corruption investigator Novel Baswedan was also criminalized by members of his former institution. Novel is an investigator with the KPK, on loan from the police, and has a reputation as a fierce anti-corruption campaigner. He led investigations into a corrupt then head of the National Police Traffic Corps, Djoko Susilo, and was despised by police because of it. Police have investigated him over an assault case that occurred when he was stationed in Bengkulu province in 2004.
40. In 2016, two Indonesia Corruption Watch (ICW) activists, Adnan Topan Husodo and Emerson Yuntho, were reported for defamation, after they made statements in the media questioning the anti-corruption credentials of Romli Atmasasmita, a Padjajaran University legal expert, who was sitting on the selection panel for the next leadership team of the KPK. Romli reported them under Articles 310 and 311 of the Criminal Code.

### **Other notable cases of criminalization**

41. The Papuan community also faced discrimination and criminalization in Yogyakarta. On Friday 15 July 2016, Papuan students who had planned to hold a peaceful demonstration were intimidated and threatened by hundreds of security officials. Eight Papuan university students were arbitrarily arrested and taken to the Yogyakarta Provincial Police Station. One of the students, Obby Kogoya, was then named a suspect and accused of violating Article 212 of the Criminal Code, which relates to using violence or threats of violence to oppose an official performing their duties (Article 212).<sup>xliv</sup>



42. In one of the most prominent cases affecting journalists over the past five years, the editor in chief of *The Jakarta Post*, Meidyatama Suryodiningrat, was named a suspect by the Jakarta Police in December 2014 for insulting Islam. He was reported over a cartoon, republished in the Post, that showed the Islamic creed, the *Shahada* on a pirate flag, with a skull and crossbones.
43. Palti Panjaitan, a priest from HKBP Filadelfia, was charged with assault after he attempted to defend his church in an attack at Christmas 2012. Protestors had thrown rotten eggs, urine and feces at his congregation, which was trying to worship at the site where they hoped to build a church. Local authorities have prevented HKPB Filadelfia from building the church, despite a Supreme Court ruling in their favor.

## **H. RESTRICTIONS ON THE ACTIVITIES OF HUMAN RIGHTS DEFENDERS**

44. Other common violations of the rights of human rights defenders have included restrictions on their freedoms of association and expression. As described above, one notable case occurred in Jakarta, when police broke up a demonstration against Government Regulation No. 78 of 2015 on Wages, which they considered violated workers' rights to a decent wage.
45. Journalists also had events disbanded or disrupted. On 3 May 2016, to mark World Press Freedom Day, the Association for Independent Journalists (AJI) planned a screening of the film *Pulau Buru: Tanah Air Beta* (Buru Island, My Homeland), which tells the story of a former political prisoner returning to the island prison. But the screening was disbanded by Yogyakarta police, who claimed AJI did not hold the correct license for conducting a film screening. AJI had, in fact, already informed police of the event, and had even invited the police to attend.<sup>xlv</sup>
46. On 16 December 2014, in a similar incident, AJI Yogyakarta was forced to cancel a planned screening of Joshua Oppenheimer's film, *The Look of Silence*. Yogyakarta police had urged AJI to cancel the event, warning that if they did not, they were vulnerable to being attacked by the Indonesian Anti-Communist Front (FAKI).<sup>xlvi</sup>

## **I. THREATS AND INTIMIDATION AGAINST HUMAN RIGHTS DEFENDERS**

47. In addition to the acts of violence mentioned above, human rights defenders were subjected to a broad variety of threats and intimidation. As this report has demonstrated, there were many serious threats against human rights defenders. A select few cases are presented here.
48. In February 2016, environmental human rights defenders Ahmad Saini and Merah Johansyah, from the East Kalimantan Mining Advocacy Network (Jatam), were threatened by a group of thugs. The thugs throttled their necks and slammed the table to warn them against continuing advocacy activities against abandoned coal mines that had already resulted in the deaths of 24 children.<sup>xlvii</sup>
49. Between June and September 2013, human rights activists and journalists gathered under the Peoples Coalition for Monitoring the Military Courts (KRPPM) were victims of intimidation. The coalition was formed to monitor the trial of 11 members of the Army special forces unit Kopassus, who were charged with killing four detainees in a raid on the Cebongan Prison. There were early indications that the trial would not be transparent. Some journalists had thugs arrive at their homes and were threatened against reporting the actual proceedings in the court room. A number of other human rights activists were followed home after the trial, and were threatened by thugs, military intelligence officers, and Islamic hard-liners.<sup>xlviii</sup>

50. In Aceh, Rosnida Sari, a lecturer at Ar-Raniry State Islamic University (UIN) Banda Aceh was threatened by a group who said that they would attack her home. She was also insulted publicly by the rector of the university, who told her that the Islamic Defenders Front (FPI) wanted to kill her. The incident that inspired this hatred was simply taking a group of Muslim students to a Christian church to promote interfaith understanding.<sup>xlix</sup>
51. In Papua, on 19 September 2012, Olga Hamadi, the head of Kontras in the province, was threatened by Naligi Kurisi, a traditional community leader because he filed a pre-trial motion against the Jayawijaya Police to challenge the arbitrary arrest and torture of five suspects in the murder of Martin Kurisi in Wamena. Olga ended up dropping the case over fears for his safety.<sup>l</sup>
52. Women human rights defenders are subject to particular threats because of their gender and the focus of their work. Women's human rights defenders who are also domestic workers are often threatened with loss of work because of their activism. The SapuLidi Domestic Workers Union, for example, has described how its members have been threatened with sacking when they have participated in organizational work. For example, an expat collected a 'blacklist' of domestic workers who were active in organizational work and distributed it among other employers.<sup>li</sup>

## **J. RECOMMENDATIONS**

1. Revise Articles 100 to 103 of Law No. 39 of 1999 on Human Rights and formulate a separate and specific law regulating the rights of human rights defenders.
2. Provide Komnas HAM with greater authority to provide protection to human rights defenders.
3. Address impunity for past violations of the rights of human rights defenders.
4. Establish an urgent response mechanism for human rights defenders involving the National Police, Komnas HAM and other related state agencies.
5. Provide effective rehabilitation and recovery services for human rights defenders and their families who have been victims of violence
6. Refrain from using criminal provisions to criminalize or manufacture indictments against human rights defenders who are conducting advocacy activities as part of their work, especially those who have the right to impunity from prosecution under the law.
7. Revoke Article 27 of the 2008 Information and Electronic Transactions Law, which is frequently used to criminalize human rights defenders and activists who are critical of the government.
8. Revise Articles 310 and 311 of the Criminal Code (KUHP) on defamation because they are too elastic and provide for penalties that are incommensurate with the seriousness of the offences.
9. Provide guarantees for the right to security and protection of human rights defenders
10. Provide state-funded recovery and healing services for human rights defenders
11. Investigate and prosecute perpetrators of violations of human rights against human rights defenders. This includes holding liable masterminds who directed crimes from behind the scenes.
12. Conduct efforts to promote and educate (the public) about the work of human rights defenders to reduce the negative stigma in society about their work

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i Article 28C(2) of the Indonesian Constitution, for example, provides that ‘Every person has the right to improve his or herself through collective struggle to develop his or her society, nation and state’.

ii Article 100: ‘Every person, group, political organization, community organization, nongovernmental organization or other civil society organization has the right to participate in the protection, enforcement and advancement of human rights’.

Article 101: ‘Every person, group, political organization, community organization, nongovernmental organization or other civil society organization has the right to submit reports on violations of human rights to Komnas HAM or other institution that is authorised to protect, enforce and advance human rights’.

Article 102: ‘Every person, group, political organization, community organization, nongovernmental organization or other civil society organization has the right to propose suggestions to Komnas HAM or other institution about policy in relation to human rights’.

Article 103: ‘Every person, group, political organization, community organization, nongovernmental organization, higher education institution, institute of study, or other civil society organization, either individually or working in collaboration with Komnas HAM, can conduct research, education (activities) and disseminate information about human rights’.

iii Article 18(1) states: ‘Any person who intentionally and illegally performs an action that impairs or obstructs the implementation of Articles 4(2) and (3) [which relate to freedom from censorship and the right of journalists to seek and disseminate information] faces imprisonment of up to two years or a fine of up to Rp 500 million’.

iv <http://www.kontras.org/home/index.php?module=pers&id=2162>

v Pembela HAM Dalam Ancaman; Laporan Pembela HAM Lintas Sektor di Indonesia, Al-Araf dkk, IMPARSIAL: 2016, Jakarta, Cet. 1, h. 88

vi Imparsial, Table Kekerasan terhadap HRD 2011-2015

vii <http://www.kontras.org/home/index.php?module=pers&id=2212>

viii Catahu LBH Pers 2013-2015.

ix Pembela HAM Dalam Ancaman; Laporan Pembela HAM Lintas Sektor di Indonesia, Al-Araf dkk, IMPARSIAL: 2016, Jakarta, Cet. 1, h. 76-77

x Pembela HAM Dalam Ancaman; Laporan Pembela HAM Lintas Sektor di Indonesia, Al-Araf dkk, IMPARSIAL: 2016, Jakarta, Cet. 1

xi These findings from observation and investigation conducted by Walhi; <http://walhijatim.or.id/2016/02/mafia-tambang-di-lumajang-harus-dihukum-seberat-beratnya/>; <http://suryamalang.tribunnews.com/2016/06/23/otak-pembunuh-salim-kancil-lolos-hukuman-seumur-hidup-ini-vonis-yang-dijatuhkan-hakim>

xii <http://www.republika.co.id/berita/koran/hukum-koran/16/06/24/o99nk927-pembunuh-salim-kancil-divonis-20-tahun-penjara>

xiii <http://www.walhi.or.id/usut-tuntas-pelaku-pembunuhan-indra-pelani.html>

xiv <http://www.walhi.or.id/jatuhkan-sanksi-hukum-bagi-pelaku-dan-usut-tuntas-keterlibatan-pt-wks-app-sidang-kasus-pembunuhan-alm-indra-pelani-di-pengadilan-negeri-muara-bulian-jambi.html>

<http://www.walhi.or.id/jatuhkan-sanksi-hukum-bagi-pelaku-dan-usut-tuntas-keterlibatan-pt-wks-app-sidang-kasus-pembunuhan-alm-indra-pelani-di-pengadilan-negeri-muara-bulian-jambi.html>

xv The two attackers arrived at Gendo’s office during the middle of the day. Gendo met the attackers, who immediately beat him, splitting his lip and causing him to feel faint. As they left, they said in Balinese: ‘No more funny business, you’d better watch out’ (*Macem-macem gen ci... Awas ci.*)

<https://www.kontras.org/home/index.php?module=pers&id=1615>

xvi See Al Araf et al, ‘Human Rights Defenders Under Threat: Cross Sectoral Report on Human Rights Defenders in Indonesia [*Pembela HAM Dalam Ancaman; Laporan Pembela HAM Lintas Sektor di Indonesia*], Imparsial, (2016, Jakarta), 42.

xvii For a report on the attack, see: ‘Indonesia must end attacks on freedom of expression in Papua, Amnesty International, (30 August 2014), <http://www.amnesty.org.au/news/comments/35426/>; a longer report is also available in Indonesian from the site *Papuans Behind Bars*,

<http://www.papuansbehindbars.org/?p=3034&lang=id>

xviii Tempo, ‘Seven KNPB Activists Claim They Were Tortured at Papuan Mobile Brigade Police Station’ [7 Aktivis KNPB Mengaku Disiksa di Mako Brimob Papua], (6 May 2016),

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<https://nasional.tempo.co/read/news/2016/05/06/078768861/7-aktivis-knpb-mengaku-disiksa-di-mako-brimob-papua>

<sup>xix</sup> See: Haris Azhar, 'The Insistence of Investigation on Violence and Persecution against Human Rights Defenders: Mrs. AnumSiregar', Kontras, Press Release, (18 September 2014),

[http://www.kontras.org/eng/index.php?hal=siaran\\_pers&id=233](http://www.kontras.org/eng/index.php?hal=siaran_pers&id=233)

<sup>xx</sup> See: Anton Hermansyah, 'LBH Pers concerned about frequent violence against journalists', The Jakarta Post, (2 December 2015), <http://www.thejakartapost.com/news/2015/12/02/lbh-pers-concerned-about-frequent-violence-against-journalists.html>

<sup>xxi</sup> Andrei El Faruqi, 'Riau Journalists Criticise Violence Against Journalists' [Wartawan Riau

KecamKekerasanTerhadapJurnalis], Tempo, (8 December 2015),

<https://nasional.tempo.co/read/news/2015/12/08/063725876/wartawan-riau-kecam-kekerasan-terhadap-jurnalis>

<sup>xxii</sup> See Lawyers Rights Watch Canada, 'Indonesia: Maltreatment of AlldoFellixJanuardy', (13 April 2016),

<http://www.lrwc.org/indonesia-maltreatment-of-alldo-fellix-januardy-letter/>

<sup>xxiii</sup> <http://www.thejakartapost.com/news/2013/10/29/resurgence-intimidation-families-1965-purge-victims.html>

<sup>xxiv</sup> LBH Yogyakarta, 2013

<sup>xxv</sup> LBH Yogyakarta, 2014, lihat di

<http://regional.kompas.com/read/2014/05/12/1541276/Aparat.Didesak.Tindak.Tegas.Aksi.Intoleransi.di.Yogya>.

<sup>xxvi</sup> The Yogyakarta Waria Association (IWAYO), the Indonesian Family Planning Association (PKBI), and a number of other LGBT organizations held a peaceful event to commemorate the 2014 International Transgender Day of Remembrance at the Yogyakarta Monument. The night before the event, organisers received a text message from an Islamic organization asking organisers to cancel the event. But they decided to go ahead, and at 19:00 they began distributing flowers to road users around the monument. At 21:15, soon after the event finished, a group of thugs arrived carrying bamboo poles. They pulled one of the transgender women and kicked her, as well as one of the male members of PKBI, who was also beaten with the bamboo poles. As a result of the attack, two of the demonstrators had to be taken to the hospital with broken fingers and serious bruises.

<https://m.tempo.co/read/news/2014/11/21/058623548/peringati-hari-transgender-aktivis-yogyakarta-diserang>

<sup>xxvii</sup> The Lady Fast 2016 event was a cultural event that aimed to discuss a variety of problems faced by women, such as sexual violence, and included arts exhibitions and bands. The local neighborhood community had previously agreed to the event, provided that it did not extend beyond 11pm.

<sup>xxviii</sup> LBH Yogyakarta, 2016,

[http://www.bbc.com/indonesia/berita\\_indonesia/2016/04/160403\\_indonesia\\_diskusi\\_perempuan\\_bubar\\_ormas](http://www.bbc.com/indonesia/berita_indonesia/2016/04/160403_indonesia_diskusi_perempuan_bubar_ormas)

<sup>xxix</sup> In 2012-2013, LBH Jakarta handled nine cases involving police manufacturing cases. In 2014-2015, meanwhile, it handled 18 cases that involved case manufacturing and torture during the investigation stage. In 2013, another civil society organization, Kontras, recorded 3 cases,

<http://kontras.org/lampiran/DATA%20PENGADUAN%20REKAYASA%20KASUS.pdf>

<sup>xxx</sup> <http://www.antaralampung.com/berita/267841/direktur-walhi-sumsel-divonis-tujuh-bulan-penjara>

<sup>xxxi</sup> The company, PT. Sintang Raya, operates a concession of 22,000 hectares. The Pontianak State Administrative Court (PTUN) ruled to cancel Sintang Raya's operating license, covering an area of 11,129.9 hectares. The Supreme Court rejected the company's cassation appeal. Between 2012 and 2016, police and hired thugs have targeted local residents and farmers. See: <http://www.panap.net/sites/default/files/NLNL-Indonesia-Kasus-Pelanggaran-HAM-di-Sintang-Raya.pdf>

<sup>xxxii</sup> The incident began on 30 November 2014, 30 26 May 2015, when the four farmers, who were members of the Wahana Tri Tunggal Farmers Organization, protested over plans to develop a new airport in Temon district, which they claimed would consume their productive land. They sealed off the Glagah Village Hall in protest but were charged under Articles 160 and 170 of the Criminal Code on incitement and damaging property and were sentenced to four months in prison.

<sup>xxxiii</sup> The conflict began when the five farmers, who were gathered under the KulonProgo Coastal Land Farming Community (PPLP-KP), planned to hang a number of banners or flags declaring their opposition to the sand mine. Returning home from setting up the flags, they were said to have purposely revved their exhausts when turning a corner, resulting in the 'disturbance'.

<sup>xxxiv</sup> Aji Kusumo, a resident of Mantrijeron, in Yogyakarta, had demonstrated against the Utara apartment development along with a number of other protestors, who claimed it would damage the social and physical environment in the area. See <http://www.kumham-jogja.info/hukum-ham/1049-perusak-banner-apartemen-uttara-dihukum-tiga-bulan>

<sup>xxxv</sup> See One Justice Foundation, 'Judges Drop Charges Against Muhammad Miki' [*Putusan Bebas Majelis Hakim Terhadap Muhammad Miki*], Press Release, (3 December 2015), <http://satukeadilan.org/ysk-putusan-bebas-majelis-hakim-terhadap-muhammad-miki.html>

<sup>xxxvi</sup> <http://pilnet.or.id/kasus/kasus-hison-bin-sahan-1449746009>

<sup>xxxvii</sup> <http://www.mongabay.co.id/tag/sumber-air/>

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xxxviii <http://satukeadilan.org/ysk-vonis-terdakwa-penyekap-prt-ringan-pembela-korban-dikriminalisasi.html>

xxxix The trial was still underway at the time of writing this report.

<http://www.bantuanhukum.or.id/web/tag/pengacara-publik/>

xi He was targeted after he led a class action against the governor and deputy governor with the ‘Tegar Team’, claiming that the leaders had broken their campaign promises. He wrote a widely read open letter, as well as a number of posts on social media, which the governor claimed constituted defamation. He was also charged under Article 310 on defamation and Article 160 on incitement. See: *Republika Online*, ‘Ricky Tamba’s Open Letter to the Governor and Deputy Governor of Lampung’ [*Surat Terbuka Ricky Tamba Untuk Gubernur dan Wagub Lampung*], (31 August 2015), <http://www.rmol.co/read/2015/08/31/215465/Surat-Terbuka-Ricky-Tamba-untuk-Gubernur-dan-Wagub-Lampung->

xii Jewel Topsfield, ‘Indonesian rights activist Haris Azhar cancels Australia trip to fight police lawsuit’, *Sydney Morning Herald*, (8 August 2016), <http://www.smh.com.au/world/indonesian-rights-activist-haris-azhar-cancels-australia-trip-to-fight-police-lawsuit-20160808-gqnor4.html>,

<https://m.tempo.co/read/news/2016/08/03/078792796/tito-tni-dan-bnn-laporkan-haris-azhar-ke-polri>

xiii He was reported by Gunawan Basri, the head of public affairs at PT. Hasil Fastindo, a wholesale supplier of industrial fasteners. Mahfud was reported after he publicly stated that two Hasil Fastindo employees, Saiful Romadhon and Christian Dicky Susanto, had been prevented from attending Friday prayers by the company.

xliii See also: <http://suamerdeka.com/v1/index.php/read/cetak/2013/02/20/215823/Yayuk-Kandiwati-Dicecar-22-Pertanyaan>

xliv On Friday 15 July 2016, police and military forces were put on standby in front of Papuan student accommodation on Jalan Kusumanegara. At least 800 members of the security forces were dispatched to intimidate the Papuan students, who had planned a peaceful protest March to the center of the city. Although Papuan students had protested throughout 2016, this was the largest show of force against Papuan students. This intimidation eventually resulted in the peaceful protest being cancelled. Eight Papuan university students were arbitrarily arrested and taken to the Yogyakarta Provincial Police Station. One of the students, Obby Kogoya, was then named a suspect and accused of violating Article 212 of the Criminal Code, which relates to using violence or threats of violence to oppose an official performing their duties (Article 212) and the lesser charge of abuse or maltreatment resulting in serious injury. A number of journalists and human rights activists attending were threatened and intimidated.

xlv See Bambang Muryano, ‘Police disperse World Press Day event in Yogyakarta’, *The Jakarta Post*, (4 May 2016), <http://www.thejakartapost.com/news/2016/05/04/police-disperse-world-press-day-event-in-yogyakarta.html>

xlvi LBH Yogyakarta, 2015. A similar film screening at the Indonesian Institute of Art (ISI) and Kafe Memoar was disbanded by a hard-line anti-communist organization, FAKI, and the Islamic Community Forum (FUI). The attackers brought metal pipes and threatened violence if the screening was not cancelled.

xlvii Personal communication with Merah Johansyah at the *National Consultation of Indonesian Civil Society*, in Bogor, 3-4 August 2016. <https://www.jatam.org/teror-kekerasan-kembali-mengancam-aktivis-lingkungan/>

xlviii On 3 March 2013, a group of unidentified attackers broke into Corrections Institution II Sleman, commonly known as Cebongan Prison. The attackers killed four inmates, who were being held over the death of an Army Special Forces (Kopassus) soldier, Heru Santoso. It emerged that the attackers were from the Kopassus, and killed the four men in revenge for the death of their friend. The case was heard at the Military Court on 20 June 2013, with the court reaching a verdict on 5 September. During the trial process, a number of human rights activists formed a coalition with journalists to monitor the trial – the Peoples Coalition for Monitoring the Military Courts (KRPPM). Although the military promised to hold an open trial, this did not stop the KRPPM from being intimidated and threatened. A number of journalists were threatened at their homes and warned not to write about the process in the courtroom. A number of other human rights activists were followed home, and were threatened by thugs, intelligence officials and members of mass organizations who supported the military.

xlix According to Rosnida Sari, she heard that a group of people from an Islamic boarding school planned to head to her house, but they were stopped by police or another lecturer.

i According to Kontras, the case began when Kontras Papua head Olga Hamadi filed a pre-trial motion (02/Pid.Pra/2012/PN.Wamena) against the arbitrary arrest and torture of five suspects in the murder of Martin Kurisi in Wamena. A day before the case, Olga sought to clarify the allegations of torture with the Jayawijaya Police. On 19 September 2012, when Olga attempted to enter the Wamena District Court, he was stopped by seven people who asked him to return home. Ten others grabbed his arms and tried to drag him out of the court. A policeman arrived on the scene and asked Olga to come to the station, but Olga refused. Eventually court security stepped in and kept Olga safe. Threats over his safety eventually led to Olga dropping the case.

ii Personal communication with Lita Anggraini from Jala PRT