Joint Submission

INDONESIAN CIVIL SOCIETY ORGANIZATIONS ON THE UNIVERSAL PERIODIC REVIEW

27TH Session of Working Group on the UPR

Coordinated by:

HRWG

Indonesian NGOs Coalition for
International Advocacy

Jakarta, 22 September 2016

A. Preparation of Report

1. This report submitted by Indonesia NGOs network, coordinated by Indonesia's NGO Coalition for International Human Rights Advocacy (Human Rights Working Group, HRWG), namely: HRWG - Arus Pelangi - Perlindungan Insani Indonesia (PI) - Yayasan Lembaga Hukum Indonesia (YLBHI) - Koalisi Perempuan Indonesia (KPI) - Konsorsium Pembaruan Agraria (KPA) - Lembaga Bantuan Hukum (LBH) Pers - Lembaga Bantuan Hukum (LBH) Masyarakat - Himpunan Wanita Disabilitas Indonesia (HWDI) - Sekretariat Anak Merdeka Indonesia (Samin) - Wahana Lingkungan Hidup Indonesia (Walhi) - Jaringan Advokasi Nasional Pekerja Rumah Tangga (Jala PRT) - Institute for Criminal Justice Reform (ICJR) - Lembaga Studi dan Advokasi Masyarakat (ELSAM) - Centre for Marginalized Communities Studies (CMARs) Surabaya - Trade Union Rights Centre (TURC) - Koalisi Keadilan dan Pengungkapan Kebenaran (KKPK) - Setara Insitute - Vivat Indonesia - Institute for Peace and Human Rights - Sobat KBB - Pusaka - Franciscans International - Indonesia Corruption Watch - Konsorsium Reformasi Hukum Nasional (KRHN) - Kalyanamitra - Imparsial - Migrant Care - Jaringan Buruh Migran - Relawan Perempuan untuk Kemanusiaan (RPuK) Aceh - Jaringan Advokasi Tambang (JATAM) Nasional - LBH Jakarta - Yayasan Swadaya Mitra Bangsa (Yasmib) Sulawesi - Indonesian Civil Society Network For Refugee Rights Protection (SUAKA).

2. Report was arranged since April 2016 and initiaded with Indonesian civil society network meeting that was discussing a series of recomendation regarding UPR 2012. Coordination meetings are held afterwards to ensure inputs from each organizations. This report was consulted in a national civil society meeting that was held on Agustus 3rd – 4th 2016 in Bogor, Jawa Barat, Indonesia, that brings together various Indonesian civil society organizations.

B. Ratification of international standard (A/HRC/21/7 - Para.: 108.1 – 108.26, 109.1 – 109.8)

3. In 2014, based on the encouragement from Ministry of Foreign Affairs, Indonesian parliament has planned to ratify International Convention on Forced Disappearance. However, a few political parties still object the plan and the ratification plan has not been brought forward to date.

4. Until this report is being made, Indonesian government also failed to ratify the ILO Covention 189 on Domestic Workers (Rec. A -109.9).

5. In 2014, Indonesian goverment stated that Indonesia would not ratify Rome Statute, unless the government released a new political policy.

C. Penal Code Reform (A/HRC/21/7 - Para.: 108.30, 108.31, 108.32, 108.116)

6. Indonesian Penal Code reformation is currently going on in the Parliament and almost reached the final stage. The parliament prioritized the discussion of the Bill of Indonesian Penal Code Book I on 2016 and continued in Book II. The government submitted the Bill of Indonesian Penal Code draft on February 2nd 2015 and get it in the National Legislation Program on 2016.[i] From the Book I discussion, unfortunately, there are few articles that are still not in accordance with human rights principles, and some of them are regarding the death penalty as type of criminalization, formulation of defamation of religion/blasphemy,

higher and over-criminalization, and articles that restrain human rights like *les majeste, hatzai artikelen,* and insults to individual and state agencies.

Recommendation: Ensuring the Draft of Indonesian Penal Code is compliance with the international human rights standard and accommodates UN human rights treaty bodies' recommendations.

D. NHRI, Institutional framework and CSOs' engagement (A/HRC/21/7 - Para.: 108.32-36, 108.51, 108.52, 108.53)

7. Institutional framework development in human rights protection in Indonesia has not made a significant change. Komnas HAM (NHRI) as the most dominant institution for human rights protection has not made any significant change, both institutionally and mandates, because it is still based on Law No. 39 of 1999.

8. Law No. 39 of 1999 as the base of National Comission on Human Rights has not been revised and causing mandate limitation from National Comission on Human Rights to solve human rights violation cases in Indonesia. National Commision on Human Rights does not have enough force to push their recommendations to other national institution or other government.

Recommendation: Strengthen mandate and position of National Commision on Human Rights in solving human rights violation cases, including giving the power to force National Commision on Human Rights recommendations to be implemented by the government or national institution.

E. Capacity Building of Law Enforcement Officer (A/HRC/21/7 - Para.: 108.44 – 108.48)

9. Law enforcers' capacity building has been one of the problems in Indonesia. So far, law enforcers training program is still dominated with very limited civil society, quantitatively and territorially. Training program that has been done by law enforcer or national institution is still very few and has not yet answer the main problem which is the violation of human rights by law enforcers.

Recomendation: Include human rights and democracy materials to cops, judges and prosecutors curriculum.

F. National Plan of Action (A/HRC/21/7 - Para.: 108.49, 108.50, 108.77)

10. Trough Presidents Regulation No. 75 of 2015, President Jokowi has signed Human Rights National Actions Plan (RANHAM) 2015-2019. Technical difficulties regarding the materials in RANHAM 2015-2019 is that there is no significant considerations in deciding on what should be included in it. This results in the exclusion of a few plans in the RANHAM 2011-2014 in RANHAM 2015-2019, even though there are a few that has not been realized until now; a few unintegrated recommendations of human rights international entity, like UPR recommendations of 2012, Concluding Observation of ICCPR, ICESR, CEDAW Committee, CRC, etc.

11. In practice, RANHAM 2015-2019 is still a normative document, which does not give a significant effect to human rights protection in Indonesia and not yet integrated massively in regional level. Obstacles in implementing RANHAM 2015-2019 is caused by the lack of government officials knowledge in

interpreting RANHAM 2015-2019 achievements itself, it has not yet integrated with program and government budget posture, and technical procedural obstacles is that local governments have to form regional RANHAM in province and regency/city level which are assigned every year. It's also weakened by inadequate external and independent monitoring mechanism.

Recommendation:

a. Continue previous RANHAM 2011-2014, and include recommendation/concluding observation from UN agencies in RANHAM 2015 – 2019, and integrating RANHAM 2015-2019 with work program and government budget posture;

b. Improve coordination and synergy among government institution in the implementation of RANHAM locally (province and regency/city), and build an external monitoring mechanism periodically.

G. Human rights violation (A/HRC/21/7 - Para.: 108.88)

12. Human rights violation cases in the past are cases that is still unsolved until now. Impunity is still firmly embedded, none of the violators are being brought to legal proceedings. In the other side, government with National Commission on Human Rights has initiated a settlement on violations on human rights in the past through reconciliation lane, which dismiss the "truth disclosure" aspect in human rights violation event itself.

13. President has promised to settle human rights violation cases in the past and has not yet succeded. 7 human rights violation cases in the past that are still obstructed in the Attorney General's Office, a direct institution below the President, are: Semanggi I and II cases, Forced disappearance 1997-1998, Mei tragedy 1998, Talang Sari-Lampung, mysterious shooting, Mass killings 1995-1996, Wasior and Wamena. Attorney general has offered reconciliation without further investigation, hence the potential of facts omission from those cases.

Recommendation:

a. Encourage the President of Indonesia to form a Presidential Committee to solve human rights violation cases in the past in line with transitional justice principles;

b. Urge the formation of Truth and Reconciliation Commission ("KKR") with placing the Bill of KKR as the priority bill of 2017/2018 to be legitimized by Indonesian Parliament.

H. Criminalization torture and the prevention (A/HRC/21/7 - Para.: A-108.26, 108.27, 108.28, 108.29, 108.69, 108.70, 108.70, 108.71)

14. Torture has not yet been stated as one of the criminal act in Indonesian Penal Code. So far the article that has been used to ensnare torturers is a persecution article. In the Draft of Penal Code 2015, torture criminalization has been included, but with different terminology and scope compared to Convention Against Torture. In the other hand, there isn't any prevention mechanism towards torture in Indonesia, either from independent procedures or NHRI.

15. Torture cases keep on happening, and even increased. Working Group Anti Torture (WGAT) records shown that torture cases increased in 2015, previously

38 cases in 2014 to 50 cases in 2015, and happened in almost every cities in Indonesia. ELSAM monitoring also shown, since January until May 2016 there has been 12 torture cases.[ii] In 2014, perpetrators are dominated by cops (90%) and keeps on going in as majority of the perpetrators is from the police departement (35 cases/70%), 9 cases is done by the army, 4 cases by coorporations and 2 cases by wardens. 2016 shows similar patterns with 7 torture cases perpetrated by police officer, followed by wardens, *Densus 88*, and the army. Moreover, data also shown that there is an increase in child torture cases, in 2014 there are 4 children that has been victimized and 10 children in 2015.[iii]

16. Torture in Indonesia also still happening in death penalty context, either in the context of death row phenomenon or death row syndrome that was found while the convicted is waiting for death penalty execution (see Annex I). Death penalty based on Reprieve's finding, all death sentence data until August 2016 is 177 person. In the other hand, unfair trial is still happening in death sentence verdicts, as found in the case of RODRIFO GULARTE that was excecuted in 2015 while suffering from schizophrenia *(death report issue is stated specifically by Anti Death Penalty Network).*

Recommendation:

a. Encourage investigation and settlement efforts of torture cases happened, cutting the impunity chain, and ensure a compensation, rehabilitation and recovery to victims, including criminalization of torture in the Indonesian Penal Code.

b. Ratificate OP-CAT and ensures a national mechanism on preventing torture, both from National Commission on Human Rights and independent institutions.

c. Evaluate death sentence cases, affirm substitution of death penalty for good behavior convicts after 10 years in prison, and push the moratorium of death penalty.

I. Protection on women rights, eradication of discrimination, participation and violence against woman (A/HRC/21/7 - Para.: 108.64, 108.65, 108.66, 108.67, 108.72, 108.73).

17. In 2012 – 2016 period, there are no concrete effort made by the government in legitimizing the Bill of Gender Mainstreaming that has been the base of women protection in Indonesia.

18. Until now, there are still a few policy that discriminate woman, including:

a. The Law No. 1 of 1974 on Marriage, about the age of marriage, poliginy, etc.

b. Indonesian Ministry of Health Regulation No. 6 of 2014 on Revocation of Ministry of Health regulation No. 1636/Menkes/Per/Xii/2010 on Female Circumcision that has left a gap for medical professionals to do female circumcision;

c. A few discriminative and gender bias local regulation based on exclusive values and morality of a certain tradition, that until now has not yet been evaluated by the central government.

19. Indonesian government is still afraid in responding the increasing violence againts woman and/or girls that keeps on happening. Instead of taking a strategic step trough reformation of the Draft of Indonesian Penal Code, the government is approving Government Regulation in Lieu of Law No. 1/2016 about the second change of Law No. 23/2002 on Child Protection that includes chemical castration and death sentence as one of the punishment. In the other hand, there are not even one clause in the Government Regulation in Lieu of Law that ensure the rights of the victim of sexual assaults, like recovery, rehabilitation, and health cares, medically and non-medically.[1]

J. Access to health services; infant and maternal mortality, reproductive health, inclusive sexual and reproductive education (A/HRC/21/7 - Para.: 108.120 – 124, 108.55, 108.120, 108.122, 180.123, dan 180.125).

20. Maternal and Child Mortality Ratio (M/CMR) is still one of the alarming facts in Indonesia. An effort that has been done by government has not yet been able to decrease M/CMR significantly. Based on the data by Indonesian Woman Coallision (Komisi Perempuan Indonesia) in 5 regency/city in Indonesia shown that M/CMR number is still high.[iv] The report showed, services that has been received by the community is still minimum, the lack of infrastructures in health facilities class 1 is also being complained, for example in Indramayu and Labuhan Batu, there are ambulance cars but no driver.

21. Regarding the M/CMR, one of the reason is the high numbers on child marriage in Indonesia. This is triggered by Marriage Law that still let child as young as 16 years old to get married. Moreover, Constitutional Court has rejected Judicial Review to the Article. Data from the Central Bureau of Statistic has shown that, in 2010 child marriage reached 44,72%, from the total amount of woman who married that year, and in 2012 there are 43,23% of child marriage.[v]

Health and social security services

22. Government has already promised a health insurance for all citizens. Nevertheless, there are a few obstacles in fulfilling those rights, including: poverty data that has been used as the base to decide the Recipient of National Health Insurance Premium Aid (JKN-PBI) has not been updated regularly and the participant that has already registered did not automatically get JKN-PBI card. Kapal Perempuan stated that in 2014 government still uses the data from the Social Protection Data Collection Program (PPLS) 2011 which resulted on many citizen having identity mistakes in JKN-PBI card or did not registered.

23. Furthermore, JKN-PBI participants get discriminative treatments. The process of making the card itself takes longer than usual, did not served because of quota limitation, a previlege for non-JKN patients, rejection with the full room excuse, and so on.[vi] JKN also did not cover women who are the victim of violence because they does not consider it as a disease or did not include it in health cares, especially domestic violence women victim and

[1] Elsam, 2016, http://elsam.or.id/2016/06/penyiksaan-sebagai-manifestasi-dominasi-dan-kuasa-aparat-penegak-hukum-indonesia/

oblige a police certificate/SKTL to do so. Domestic violence victims had to pay Rp. 300.000, to get a visum in Tarakan Hospital, West Jakarta.

24. The situation became harder when the supervision system and monitoring/evaluation of JKN did not include JKN-PBI program participant dan civil society in general, other than the ineffective, unreachable, and inactionable complaint system.

Recommendation:

a. Formulate a comprehensive data collection system to ensure health care, including accommodating and comparating the data from civil society.
b. Build a monitoring system and independent evaluator for gender responsive, inclusive and participative health care by involving every stakeholders, including women who are living in poverty.

K. Access of education for all; free compulsory education, alternative single married pregnant, and disadvantage areas (A/HRC/21/7 - Para.: 108.126 – 108.133, 125)

25. 1945 Constitutional and National Education Law No. 20/2003 on National Education System is one of the based of national education system management by the state. Indonesian government has launched a nine years compulsory education, with the distribution of Indonesia Smart Card (KIP), and even sanctions for student that refused to go to school.

26. In addition, through the Indonesia's Constitutional Law and National Education System Law, the state is required to allocate 20% of the National Budget/Regional Budget for education. Nevertheless, almost all regencies, cities, and even provinces budget allocation is still far from 20% from their Regional Budget. Moreover, regions also poorly developing the education programs in their areas.[vii]

27. Indonesian National Budget in 2016 has allocated 20% of the total budget, that is up to Rp. 419,2 trillion from total Rp. 2095,7 trillion. In spite of that, education aids are limited to operational costs, and does not include infrastructure renovations, quality improvements dan human resources. This leads to the neglection of the education quality itself, now even competing with private schools. As the result, these free schools did not go hand to hand with adequate education quality.

Recommendation: Increase the quality of 9 years free education, including insurance of budget for facilities, infrastructures, and teacher/human resources capacity building.

L. Fair Trial and proper legal action (108.89)

28. *Fair trial* is one of the most serious problem in Indonesia that keeps on increasing, starting from procedural errors to case sabotage. From 2010 to 2015, Jakarta Legal Aid's data shows that there is an increase in fair trial cases. In 2015 there are at least 13 individual cases and 5 group cases which directly assisted by Jakarta Legal Aid. From 18 case, half of them are criminalization case that led to case sabotage and torture in investigation level.[viii] This is caused by the weak

system of criminal law in Indonesia, especially in external monitoring, from investigation process to court.

29. Law enforcement officers, especially the police, are still using admission of guilt as evidence in Police Investigation Report, so torture practices are still happening. Legal aids (as stated in Legal Aid Law) contains manipulation instead, in which legal aids has only been formality and ineffective to prevent tortures.[ix] in Makassar, on 2014 there are at least 19 cases of violence that has been done/allegedly done by police officer in Regional Police of South and West Sulawesi.[x]

30. On 2015 – 2016, Masyarakat Legal Aid accompanied 5 death sentence cases; from 5 death sentenced, 2 of them (RODRIGO GULARTER and HUMPREY JEFFERSON) that has been executed in wave 2 (2015) and wave 3 (July 2016), turns out to had been tortured while waiting for the death sentence and the convicted are executed when the legal process is still going on. In HUMPRE JEFFERSON's case, there were indication of case manipulation and racism in the decision making process in which the verdict state that people with dark skin is identical with drug dealing.[xi]

31. One of the reasons of the high number of fair trial case is that Legal Aid Law is weak in implementation. From case data of drug user in 2014, Masyarakat Legal Aid noted that from 522 cases there are only 66 cases that has been handled by lawyers and only 43 are convicted to be rehabilated, the rest 439 have to do time and pay fines.[xii] Unfortunately, the Draft of Indonesian Law of Criminal Procedure that are currently being done in the parliament has not ensures fair trial in it.

Recommendation:

a. Include fair trial standard in the Draft of Indonesian Law of Criminal Procedure that are currently discussed in the parliament in accordance with human rights standards.

b. Ensure assistance and adequate legal aids to vulnerable groups (poor and marginalized, children, drug user, woman drug courier, LGBT group, human rights activists) from investigation until conviction as stated in Legal Aid Law.

M. Disability rights (A/HRC/21/7 - Para.: 108.134, 108.135, 108.136).

32. Based on recommendation No. 108.134, Indonesia had passed Law No. 8 of 2016 on Disability, in 17 March 2016. Through this law there are some changes in the approach from caritative to human rights equality. But, the implementation level is still weak and discriminations are still happening to the disability groups especially in the provision of infrastructure access (*reasonable accomodation, transportation, dan public services*).

(Disability rights will be reported specifically in a separated report).

N. Standard detention and impartial process, investigation violation of detainee rights (A/HRC/21/7 - Para.: 108.89 and 108.92)

33. The absence of political commitment is causing Indonesia not having monitoring mechanism for detention centers that are integrated with institutions of human rights monitoring and protection. Until now, there are no serious effort towards building an external monitoring mechanism, complaint mechanism, and

legal guarantee that witness or evidence that are obtained from tortures are not legitimate evidence.

Recommendation: Evaluate correctional facilities management, building monitoring and evaluation mechanism both from internal and independent institution.

O. Childrens right, juvenile justice, prohibit violence against children, domestic violence, regulation harmonization (A/HRC/21/7 - Para.: 108.63, 108.93. 108.62, 108.82, 108.74, 108.18)

34. Indonesia has passed Law No. 11 of 2012 as substitution for Law No. 3 of 1997 on Child Criminal Justice System (SPPA), with new paradigm on children in conflict with law, focusing on restorative justice, abolish child prison and replace it with Child Special Assistance Institution (LPKA).[2] But the main problem in the Law's implementation is the number of new institution as the substitution of child detention centers. Law No. 3 of 1997 on Child Criminal Justice System (SPPA) oblige the provision of 4 institutions, LPKA, LPKS (Social Welfare Implementation Institution), Special Room for Child Services (RPKA), and Institution for Temporary Children Stay (LPAS) as substitute. Institute for Criminal Justice Reform (ICJR) stated that from 115 verdict of Child Criminal Court in DKI Jakarta province in 2012, 113 are still convict children with Criminal Law. [xiii] Until July 2016, official sites of Directorate General of Correctional Facilities shown that there are 1.002 children in their facilities in 33 areas, not including children under police custody.

35. With the number of child convicts 2.957 children in 33 areas of Indonesia, not all have LPAS and LPKA. Factually, child correctional facility only exists in 17 areas in Indonesia so it can be seen those who are detained and imprisoned in the areas without LPAS and LPKA are staying in adults prison. [xiv] The assistance data of Masyarakat Legal Aid shows that 7 children in conflict with the law is did not get probation, even though Child Criminal Justice System Law ensures child's freedom to apply for probation.

Recommendation: Ensure the availability of every implementation rules of Child Criminal Justice System Law and facilities for the institutions such as LPKA, LPKS, dan RPKA, that are mandated by Child Criminal Justice System Law, including increasing the awareness and understanding of law enforcement apparatus on children's best interests, especially those who are in conflict with the law.

P. Migrant Workers (A/HRC/21/7 - Para.: 108.137, 108.138)

36. Despite the ratification of Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families on 2011, Indonesia has not harmonized the domestic laws on migrant workers comprehensively. The Bill of revision of Law No. 39 of 2004 on Placement and Protection of Migrant workers has been planned since 12 years ago, but stopped in the Indonesian Parliament's Legislative Agency.

---

[2] Pada tanggal 5 Agustus 2015, Menteri Hukum dan HAM meresmikan 33 LPKA (18 Lapas Anak, 15 masih menyatu dengan LP Dewasa),

37. There is no safe migration assurance for every migrant worker, particularly women, causing vulnerable situation for female migrant workers. This is shown by the amount of violent cases happening, and some of them are assisted by Solidaritas Perempuan. Solidaritas Perempuan stated that from all the cases from 2012 to 2015, trafficking cases are the highest (25%), followed by labour cases, lost of contact, physical and psychological assaults, and sexual violences. [xv] The lack of strong regulation and sanctions allegedly become the main reasons for the illegal agents and pimps in the field to recruit migrant workers and doing manipulative practices on child migrant workers' legal identity.

Recommendation: Develop monitoring and evaluation mechanism for migrant worker programs, and eradicate illegitimate recruitment practices that exploits migrant workers.

Q. Harmonization of local regulations (A/HRC/21/7 - Para.: 108.71)

38. Despite the efforts made by Indonesian Government to harmonize the laws with human rights, no efforts have been done to the local regulations that are against the anti-torture principles, for example Qanun No. 6 of 2014 on Jinayat that regulate lashing punishment.

39. On June 2016, Ministry of Home Affairs abolish a few problematic local regulations, there are 2,227 provincial level regulations, 306 independent local regulations, and 620 regency/city level regulations.[xvi] Nevertheless, most of the local regulations abolished are about retribution and local investation, and not to adapt the local regulations with human rights principles. Ironically, the Ministry of Home Affairs did not give any clear information on what local regulations that are abolished so that there is no evaluation because there are local regulations that are discriminative and intolerant to minority groups based on religion, tribes, ethnicity, women, children, LGBT, and disability.

Recommendations:

a. Urge Indonesia's Ministry of Home Affairs to evaluate local regulations that violates human rights principles, and have not yet abolished or revoked, including Qanuns in Aceh that are against the laws that lies upon them;

b. Increase coordination in the involvement of central government, civil societies, and national human rights institutions in the process of policymaking in the regional level with respect to local autonomy.

R. Review the regulation and guarantee of expression (A/HRC/21/7 - Para.: 108.103, 108.113)

40. Even though the freedom to express is guaranteed by Indonesia's Constitution Law, Human Rights Law, and Press Law, the rights for freedom of expression and opinion are still vulnerable to violation in practice. In 2015, Press Legal Aid (LBH Pers) noted that there are 47 cases on journalists. Until April 2016, there are 10 violence cases to journalists, and most of the perpetrators are policemen.[xvii] Criminalization of interviewees in TV programs also became a trend, there are 3 criminalization cases against activists for defamation against individuals or public institutions (Report of the Press Legal Aid Data, 2016). With many reasons, the labours doing demonstrations also being criminalized,

including legal aid advocates. The last period of October to mid-December 2015, 46 labours, 3 Jakarta Legal Aid advocates, 13 civil society activists, and 306 Papuan activists are arrested for stating their opinions or assisting activities that are considered as expressing opinions in public.[xviii]

41. Safenet report on 2012-2016 noted that there are at least 174 persons became the victim of Defamation Article in the Law of Electronic Informations and Transactions. Some of the examples are the case of Emerson Yuntho and Adnan TP that are reported for allegedly defaming Adlun Fikri when they want to reveal a bribery case by uploading the video to youtube. Another cases are the wildlife observer who criticized KBS through facebook, Kalibata City apartment resident who tries to criticize them through twitter, and lastly, the case of a mother criminalized by a school for uttering her opinion in the social media on the bullying case her son experienced at the exact school mentioned.

Books Banning

42. Lately, books banning issue arises, particularly for books that are 'accused' as related and/or spreading 'left' thoughts and ideologies. It cannot be separated from the strong resistance to the settlement of past human rights cases, especially the 1965 case. Various settlement efforts, both initiated independently by civil society or victims, and by the state, strongly opposed by various groups that wish for the 1965 to be unresolved, either from vigilante groups or state actors.[xix]

Discussion dismissals and threats

43. Violation of rights to express, gather, and opinion cases are increased from 2015 to 2016. Civil society records show that at least since July 2015 until July 2016 there are 53 cases, starting from restriction and intimidation of "Senyap" movie screening, including in universities (18 cases), dismissals of Victims of 1965 meeting (2 cases), discussion and workshops (17 cases), shows/carnavals/art exhibitions (6 cases), demonstration (1 case), and many more expression varieties. Ironically, the main perpetrator of the restriction is the police, that are ofthen supported by vigilante groups.[xx]

S. Domestic Workers Protection (A/HRC/21/7 - Para.: 108.81)

44. There is not even one policy that protects domestic workers in Indonesia. Law No. 13 of 2003 on Employment, in employment relations, cannot reach domestic workers. As a result, there are cases of domestic workers rights violations cannot be reached by the law and the violence cases against domestic workers are increasing every year. The Data that are documented by JALA PRT mentioned that the heavy violence cases against domestic workers are increasing from 726 persons in 2007-2011 to 653 persons in 2012-2013 periods, 408 persons in 2014, and 376 persons in 2015. Those cases shows that 65% domestic workers are experience multi-violence, like unpaid salaries, maltreatment, harassment, and human trafficking. Domestic Workers Law legalization is the priority of President (as mentioned in his vision and mission) but until now there are no realization from the parliament to pass the Law.[3]

T. Freedom of religion and belief (A/HRC/21/7 - Para.: 108.106, 108.111, 108.68, 108.112);

[3] http://gerilyanews.com/index.php/opini/93-ham-dan-perlindungan-pekerja-rumah-tangga

45. Despite the Indonesia's Constitution Law and Human Rights Law clearly stated the religious rights, there are some regulations of central and local governments that are against the principles of freedom of religion and belief, and become the trigger to intolerant actions and violation of human rights, as found in Law No. 1/PNPS/1965 on Prevention of Religions Abuse and Insults, Joint Decree of 3 Ministries on Ahmadiyah and Gafatar, and local regulations that forbids Ahmadiyah and Shia activities.[xxi]

46. Violence encouraged by religions keeps on happening because of the weak law enforcement for violence perpetrators with religious background, as happened in Tanjung Balai on July 29, 2016. Hatespeech, as the trigger of the violence, is banned with Article 156 Indonesia's Penal Code and Police Chief Circular Letter on hatespeech handling. Nonetheless, the regulation is not effectively implemented, and tends to limit the freedom of expression and opinion (*Freedom of religion report will be submitted in the special report*).

Recommendation:

a. Revoke discriminative and intolerant regulations, as Law No. 1 of 1965 on Prevention of Religions Abuse and Insults (UU PPNS), local regulations, and other regulation that forbid religious activities like Ahmadiyah and Shia.

b. Increase knowledge and understanding of law enforcer on the freedom of religion and belief, including the handling of hatespeech while at the same time respecting human rights principles.

U. Human Rights abuses in Papua, CSO and Journalists access, Papua's protection mechanisms (A/HRC/21/7 - Para.: 108.95, 108.1145, 108.115)

47. The unlawful arrests of West Papuans remain happened during the 2013-2016 period. Last June 2016, there were thousands of West Papuans conducted peaceful demonstrations simultaneously in Jayapura, Sentani, Wamena, Manokwari, Merauke, Sorong, Fakfak, Yalimo, Paniai, Nabire, Yahukimo and Malang. The demonstrations were held in support of the ULMWP to be recognized as a full member of the Melanesian Spearhead Group (MSG) and to reject the human rights investigation team formed by Indonesian state, which they deem not impartial. In total, 1.168 West Papuans were unlawfully arrested in just one day, which is on 15 June 2016.

Freedom of Expressions in Papua

48. Adequate protection is not yet available for journalists in Papua, including open access for foreign journalists.[xxii] Likewise, the violence and threats to journalists. Independent Journalist Alliance (AJI) Jayapura recorded that in 2014 there are 18 intimidation cases and violence against journalist in Papua, 20 cases in 2013, and 12 cases in 2012.

49. The government is using security approach in Papua rather than dialogue approach that would touch Papua's root problem. Pemerintah lebih mengedepankan pendekatan Sekuritisasi di Papua ketimbang menggunakan pendekatan dialog yang akan menyentuh akar persoalan di Papua. Laporan Imparsial menyebutkan, gelar pasukan TNI di Papua adalah tidak wajar mengingat status Papua bukanlah daerah darurat militer melainkan tertib sipil.

Sekuritisasi justru mempertajam ketidakpercayaan antara masyarakat Papua dan Pemerintah Indonesia.

Recommendation:

a. Conduct an impartial investigation into the cases or arbitrary arrest in West Papua, as well as in several other places in Indonesia, and guarantee the rights to freedom of expression, and freedom of association and assembly, for all Papuans.

b. Stop securitization approach in Papua and build a constructive dialogue with every parts of the society in Papua to develop Papuan's trust to Indonesian government.

V. Human Rights Defenders (A/HRC/21/7 - 108.115, 108.117, 108.118, 108.119).

50. Until 2016 there are no laws to protect human rights defenders. Several laws, Human Rights Law, Environment's Protection and Management Law (Article 66), and other regulations have weak protections toward human rights defenders and causing lots of cases. Impunity is still strong in those cases, as found in the case of Munir's murder that has not been solved up until now. *Indonesia's civil society prepared a separated report for human rights defenders.*

W. Security Sector Reforms (A/HRC/21/7 - 108.84, 108.90, 108.91)

51. One of the main problem in the security sector reformation is the existence of Military Court, regulated in Law No. 31 of 1997 on Military Court, even though the Law No. 34 of 2003 on Indonesian National Army clearly stated one roof criminal justice system for military and civil for general criminal offences.

52. In the business sphere, Imparsial records that there are 32 Army's MoU with Governmental Agencies or Privates, making armies working outside their security functions, potentially militarize the civil sector. It's also confirmed in the Law of Social Conflict Handling and several Bills which are currently being discussed, Bill of National Security and Bill of Terrorism.

X. Combating Corruption (A/HRC/21/7 - 108.85)

53. Although ratified and adapted in Law No. 7 of 2006, UN Convention Against Corruption (UNCAC) is not fully performed yet. There are norms in UNCAC that have not been implemented in national laws, like illicit enrichment law, trading in influence law, or bribery in private sector. In the other hand, the revision discourse of Corruption Eradication Commission is always thrown, allegedly to weaken the function and authority of Corruption Eradication Commission in corruption eradication.

54. President Jokowi has passed President Instruction No. 7 of 2015 on National Strategy on Eradication and Prevention of Corruption, focusing on prevention works through the improvement of bureaucratic management and technology and information system in ministries and agencies. Nevertheless, there are no optimal implementation from the stakeholders in the instruction, for example the law enforcement institutions that has not yet shown any improvement in the management of case handling information and no evaluation of the President Instruction No. 7 of 2015 impementation.

Recommendation:

a. Both central and regional governments need to produce anti-corruption programmes to be implemented immediately. This includes monitoring politicians' asset declarations, criminalizing illicit enrichment and the abuse of power.

b. Evaluate the implementation of President Instruction No. 7 of 2015, with reward and punishment mechanism for state's institutions or ministries who are complying or not complying President Instruction No. 7 of 2015.

---

[i] "Profil RUU Kitab Undang-undang Hukum Pidana", accessed from DPR RI (Indonesia's parliament) website, http://www.dpr.go.id/prolegnas/index/id/10

[ii] Elsam, 2016, http://elsam.or.id/2016/06/penyiksaan-sebagai-manifestasi-dominasi-dan-kuasa-aparat-penegak-hukum-indonesia/

[iii] Working Group Anto Torture, "Report on the Implementation of Convention Against Torture 2015", (Jakarta: WGAT, 2015), p. 45

[iv] Data was collected in a workshop on 10-13 September 2015 in Surabaya. The activity was participated by 26 people from research areas, Sumenep Regency – East Java, Parigi Moutung Regency – Central Sulawesi, East Sumba – East Nusa Tenggara, Indramayu Regency – West Java dan Labuhan Batu Regency – North Sumatera.

[v] Koalisi Perempuan Indonesia (KPI), "Refleksi 2015 dan Catatan Awal tahun 2016".

[vi] Cases recorded by Kapal Perempuan from several hospitals in Jakarta and other part of Indonesia found that:

a) It takes 3-6 months to create JKN-PBI while JKN Mandiri only takes a week maximum;

b) RS Budi Asih East Jakarta, RSCM Central Jakarta, are doing limitation for patient service, causing patients not getting services and have to repeat the queue in the next day;

c) RS Sari Asih Ciputat directing JKN-PBI or JKN Mandiri patients from Emergency Room to *up grade* the ward for better health facility, so that they are not given free healthcare.

d) RS Budi Asih East Jakarta does not receive JKN-PBI patients in emergency rooms with full room reason;

e) RS Pelabuhan North Jakarta divides the waiting room and medicines pickup station between JKN-PBI patients and JKN Mandiri;

f) JKN-PBI patients have to buy medicines outside the hospital with the reason of medicines unavailability in RS Kupang, Kupang Regency, East Nusa Tenggara;

g) RSUD Koja North Jakarta ended the service for JKN-PBI patients;

h) RSCM does not gives certainty for JKN-PBI patients' surgery schedules;

i) Indonesian Cancer Foundation does not receive *pap smear*, IVA for unmarried women;

j) RS Siloam Kupang, East Nusa Tenggara, told JKN-PBI patients to go home after five days even though they are still sick;

k) RS Leona dan RSUD Yohanes Kupang, East Nusa Tenggara, do not receive JKN-PBI patients because they did not bring recommendation letters.

[vii] "Mayoritas Daerah Belum Penuhi Alokasi Anggaran Pendidikan", *Koran Jakarta*, 13 April 2016, accessed from http://www.koran-jakarta.com/mayoritas-daerah-belum-penuhi-alokasi-anggaran-pendidikan/. To get to know more of regional budgets, you may visit http://npd.data.kemdikbud.go.id/

[viii] Jakarta Legal Aid, *Catatan Akhir Tahun 2015: Hukum untuk Manusia atau Manusia untuk Hukum?* (Jakarta: LBH Jakarta, 2015), p. 36

[ix] Jakarta Legal Aid Institute, Annual Report 2015; In the other hand, UN Anti Torture Special Rapporteur recommendations has not been implemented ever since he visits Indonesia. Several of the recommendations are building an external monitoring mechanism for investigation process, and prohibiting the usage of evidence obtained through torture.

[x] From 19 cases in Makassar, it is recorded that 52 people became victims of apparatus' violences. From 52 victims, 6 civilians dead, 11 civilians get shot, and 14 people persecuted where 8 of them are journalists, 3 students, and 2 civilians. The rest of them experiencing terror. Moreover, from 19 violence cases recorded by Makassar Legal Aid, only 5 policemen accused for the crime until now. From those five assigned as suspect by criminal detectives, there are no one processed in the court. Makassar Legal Aid, Annual Report 2014, p. 9

[xi] Legal assistance documents by Masyarakat Legal Aid 2015

[xii] Masyarakat Legal Aid and ICJR

[xiii] IJCR, July 2016, http://icjr.or.id/anak-masih-berpotensi-masuk-rumah-tahanan/

[xiv] Sufriadi and Erasmus, *Studi atas Praktik-Praktik Peradilan Anak di Jakarta*, 2013, Jakarta: *Institute for Criminal Justice Reform*, p.85; IJCR, July 2016, http://icjr.or.id/anak-masih-berpotensi-masuk-rumah-tahanan/

[xv] Solidaritas Perempuan, *Catatan Penanganan Kasus 2012 -2015: Menggugat Tanggung Jawab Negara atas Perlindungan Buruh Migran Perempuan dan Anggota Keluarganya,* (Jakarta: Solidaritas Perempuan, 2015), p. 32

[xvi] "Mendagri: Tidak Ada Perda Bernuansa Islam Dihapus", *Berita Kemendagri,* 15 June 2016, accesed from dari http://www.kemendagri.go.id/news/2016/06/15/mendagri-tidak-ada-perda-bernuansa-islam-dihapus

[xvii] Report of Press Legal Aid, 2015 and 2016.

[xviii] Jakartaa Legal Aid, *Catatan Akhir Tahun 2015: Hukum untuk Manusia atau Manusia untuk Hukum?* (Jakarta: LBH Jakarta, 2015), p. 30

[xix] Elsam, 2016, http://elsam.or.id/2016/05/melarang-buku-tindakan-inkonstitusional-yang-mencederai-kebebasan-berekspresi/

[xx] Document of attitudes by Press Legal Aid, AJI Indonesia, together with Safe Net network.

[xxi] (See regulation list in the report of Cmars dan Komnas perempuan, SETARA Institute, Wahid Institute, dan National Human Rights Commission).

[xxii] At the start of his period, President Jokowi once said that foreign journalist can access Papua. In fact, even though they can get into Papua, practically the interviewees' safety are threatened.