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Submission to the United Nations
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I. Mandate and UPR Process

1. The INHRC[1] provides this submission to the UNHRC with regard to Indonesia's 3rd Cycle of Universal Periodic Review. Komnas HAM is an independent state institution established in 1993 under Presidential Decree No. 50 of 1993 concerning Human Rights (replaced by Law No. 39 Year 1999). In accordance with the mandate of Law No. 39 Year 1999 on Human Rights, Komnas HAM has the function of monitoring, mediation, public awareness, and research on human rights, including implementation of international human rights norms in Indonesia. (**Annex 1**)

2. This submission does not provide a complete assessment of Indonesia's compliance with the outcome of the 2nd Cycle of UPR in 2012, but focuses on Komnas HAM recent and current areas of work. In addition, Komnas HAM had consultations with the Government and CSOs on 1st and 24th August 2016. However, this report covers some of the issues as recommended by the Committee in 2012 along with current issues. Komnas HAM conducted a series of consultations internally and with the Komnas Perempuan[2] and the KPAI[3] during the preparation of this report.

II. Human Rights Issues Addressed in the 2009-2012 Review

A. <u>Human Rights Topics</u>

1. Freedom of Expression[4]

3. The Government took positive steps with revision of the Law No. 11 of 2008 on ITE[5] to guarantee the right to freedom expression and speech in digital media.

4. Clauses in this law are used to restrict freedom expression in digital media.[6] Moreover, other forms of repression of expression and opinion occur in the form of prohibition of film screenings, public discussions[7] and restrictions on freedom of expression in public places.

5. Recommendations: (1) Revision of the ITE Law in 2017. (2) Encourage the Police to take firm action against officials and community organizations who use or threaten violence to repress freedom.

2. Right to Life[8]

6. From 2004-2015, sixteen (16) executions were conducted.[9] From 2015 until today, the Government has carried out three waves of executions.[10] However, there are positive devolpments such as delaying the execution of Mary Jane Veloso and ten (10) people scheduled in Wave III.

7. Problems arose from the Government's decision to carry out executions in cases still in the process of judicial review,[11] including a person suffering from mental illness. Additionally, the legal process undertaken in the cases of death sentences does not fulfill a sense of justice and legal protection, mainly related to the non-provision of the rights of death row inmates, such as the right to legal aid and language interpreters, the duration of the trial to execution

process, allegations of torture and engineering law in each stage of the proceedings.

8. Recommendation: Abolish the death penalty and conduct a case by case examination of all death penalty decisions in the Supreme Court.

3. Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment[12]

9. Ministry of Justice and Human Rights, together with Komnas HAM, Komnas Perempuan, KPAI and the Ombudsman RI created a pilot project for monitoring detention centers at two (2) prisons.[13]

10. Based on Komnas HAM monitoring,[14] various forms of torture and cruel and degrading treatment [15] often occur during police interrogations.[16] Komnas HAM continues monitoring a number of penitentiaries[17] and immigration detention centers (*Rudenim*).[18]

11. Recommendation: Expedite ratification of the OP-CAT, ratification of the 1957 Refugee Convention and the 1961 Protocol, or create rules / policies to regulate the handling of asylum seekers and refugees.

4. Combating Impunity[19]

12. The Attorney General held coordination meetings with Coordinating Ministry of Politics, Law and Security (Kemenkopolhukam), Kemenkum HAM, the National Police (Polri), the military (TNI), National Intelligence Agency (BIN), and the Komnas HAM to discuss resolution of cases of gross human rights violations. Kemenkopolhukam, the Presidential Advisory Council and the Komnas HAM organized a National Symposium on the Events of 1965 to open access to victims for truth and reparations. The Parliament initiated formation of the Aceh TRC. The Palu City Government formed a Palu Mayor Regulation for 1965 Victim Reparation.

13. However, the Attorney General has not followed up the results of the Komnas HAM investigation of gross human rights violations.[20] Meanwhile, national regulations continue to support impunity.[21] Further, some national regulations are not in accordance with international standards of respect of human rights.

14. Recommendation: Establishment of TRC under the authority of the President and immediately revise Law No. 31/1997 on Military Justice

5. Freedom of Religion and Belief (FRB)[22]

15. Among improvements related to FRB, the Government is writing a Draft Law on the Protection of Religious Communities. The Minister of Religious Affairs continued an initiative to resolve expulsion of Shia groups,[23] and the Ministry of Home Affairs is engaged in simplification of administrative

services and civil registration for religious minorities. Religious tolerance materials are now part of school curriculum.

16. Violence continues between religious groups in the form of arson and obstruction of religious observances of religious minorities. Police have been hesitant to interfere in violence between religious communities.

17. Recommendations: (1) Finalize the draft law on protection and encourage ratification in the Parliament within a period of 3 years. (2) Urge the police to protect the rights of religious minorities and take preventive measures against the occurrence of discrimination and hate crimes.

6. LGBT

18. Positive steps undertaken include implementation of HIV/AIDS prevention programs by Government in cooperation with NGOs, accessibility to services / healthcare and protection of the right to work and education. Also, protection of marginalized and vulnerable groups and respect for the values of diversity is included in the RPJMN.[24]

19. NGO programs have experienced interference, including Komnas HAM's cooperative program to strengthen minority rights.[25] Public anti-LGBT campaigns are increasing, encouraged by anti-LGBT public comments, including ministry representatives and members of Parliament.[26] Also reported are acts of expulsion, persecution, torture, arbitrary detention, prohibition of conducting seminars and bullying against LGBT.

20. Recommendations: (1) Government to make a firm committment to implementation of protection and respect of human rights for LGBT persons pursuant to the Constitution and the Human Rights Act. (2) Request that State apparatus refrain from public expressions of negative attitudes towards LGBT groups. (3) Request the police to guarantee protection for LGBT groups.

B. Specific Groups of Human Rights Stake Holders

1. Indigenous Peoples[27] [28]

21. The Constitutional Court has corrected Article 1 (6) of Law No. 41 of 1999 on Forestry through Decision No. 35/2012 related to indigenous forests. Several ministries and local governments have initiated policies and/or regulations for the recognition, respect and protection of indigenous peoples.[29] One of these steps are in line with the recommendations of the UPR related to the guarantee of religious freedom for minorities, including indigenous peoples.[30]

22. Violations of the rights of indigenous peoples continue. Very few indigenous communities have been recognized by local governments, rights to communal lands have not been restored since the period of colonial rule and vast territories belonging to indigenous peoples are claimed as State Land.[31] Indigenous community leaders and indigenous rights activists face

criminalization while attempting to defend communal rights to indigenous territories. Komnas HAM is aware of the complexity of the issues related to indigenous peoples. Indonesia's 1945 Constitution recognizes the existence of indigenous peoples in Indonesia referred to as *masyarakat hukum adat* (traditional law society).

23. Recommendations: (1) The Government should prepare a comprehensive program for indigenous communities and their land rights issues in a timely manner,[32] **(2) Government and Parliament should expedite the Bill on Recognition and Protection of Indigenous Peoples Rights approval process, based on human rights principles, including clauses on remedies for a variety of continuing human rights violations; (3) Establish an independent institution for the promotion and protection of the rights of indigenous peoples, (4) Government should adopt a uniform definition and terminology by using the term "indigenous people" as the translation of the term "*masyarakat hukum adat*" and vice versa.**

2. Persons with Disabilities[33]

24. The Government has made an effort to advance the rights of persons with disabilities with ratification of Law No. 8/2016 on Persons with Disabilities and other regulations.[34] Also, increased accessibility for participation in the electoral process (2015) and a national campaign "*Indonesia Bebas Pemasungan 2017*".[35]

25. The new law has not been fully implemented, furthermore, accessibility for participation in local elections for persons with disabilities is not optimal, especially related to those with mental disabilities and those living in remote/rural areas.[36] Also, persons with mental disability still experience difficulties with accessing medicines and health services due to stigmatization and neglect.

26. Recommendations: (1) Socialization of Law 8/2016 to all elements of society.(2) Expedite preparations for implementing regulations of Law No. 8/2016 and affirmative action programs for the elimination of stigmatization of persons with disabilities generally and the use of physical restraints such as chaining, leg stocks and cage confinement for persons with mental disabilities.

4. Human Rights Defenders[37]

27. In 2015, the Ministry of Justice and Human Rights organized a national policy seminar on Protection of Human Rights Defenders in Indonesia.[38] Parliament also initiated a draft law on the Protection of Human Rights Defenders and entered the bill for consideration in the National Legislation Program (Prolegnas) 2010-2014 agenda,[39] however the draft bill was not re-entered for the 2015-2019 agenda.

28. Throughout 2012-2016, human rights defenders were under attack in various forms including murder across Indonesia.

29. Komnas HAM recommends that the Government and Parliament include the issue of the protection of human rights defenders into the revision of Law No. 39/1999, to includes normative guarantees, protection mechanisms, effective restoration and responsible institutions, as well as enforce sanctions against perpetrators.

C. Ratification of Human Rights Instruments[40]

30. The Government ratified OP-CRC in September 2012. Kemenkopolhukam held policy discussions regarding the completion of work on Gross Human Rights Violations in October 2012.[41] In 2016, several institutions[42] signed a MoU to conduct monitoring of the treatment of people in places of detention and prevention of torture.[43] Meanwhile, Komnas HAM finished preparing a position paper to encourage ratification of the OP-ICRPD.[44]

31. Since the 2nd UPR cycle, the Indonesian Government has not ratified the OP-CAT, the Rome Statute, CPED or OP-ICRPD. Failure to ratify these treaties is responsible for non-fulfillment of the rights of individuals in detention, the continuation of impunity and lack of an international mechanism for handling disability cases.

32. Recommendation: The Indonesian Government immediately ratify OP-CAT, the Rome Statute, CPED and OP-ICRPD.

D. National Legislation Relevant to the Promotion and Protection of Human Rights

1. Strengthening Human Rights Institutions and RANHAM[45] 2015 – 2019[46]

33. Efforts for institutional strengthening of human rights became the agenda in RANHAM 2 and RANHAM 3.[47] Presidential Instruction outlines the steps needed for RANHAM implementation.[48]

34. Implementation is slow due to lack of development for regulatory and support mechanisms.[49] Evaluation of RANHAM implementation revealed some challenges[50] that need to be addressed.

35. Recommedations: (1) Enactment of a Revised Human Rights Law in 2018 and a separate new law regarding Komnas HAM. (2) Establish an effective implementation mechanism for RANHAM 2014-2019.

2. Revised Penal Code (RKUHP)[51]

36. The Revised Penal Code (RKUHP) was prepared more than 10 years ago. The government has submitted a draft RKUHP to be discussed in Parliament, and has completed the first book discussion on general provisions and will continue discussion of the second book of criminal offenses in the agenda of its next session. Appreciation is given to the Government for inclusion of the principle of legality and the crime of torture in the RKUHP.[52]

37. The duration of the RKUHP discussion led to many changes that must be made, especially the persistence of articles contrary to human rights principles,[53] the inclusion of the catagory of special crimes to become general crimes[54] and the death penalty.

38. Recommendations: (1) RKUHP only organize general crimes. Special crime, including international crimes, should be dealt with as a crime / special crime and regulated in the statute books as special criminal law due to the particular characteristics involved. (2)Remove the death penalty and ratify RKUHP within 3 years.

2. Combating Terrorism (new)

39. The Government has made efforts to change Act No. 15 of 2003 on the Elimination of Terrorism and legislation has been under discussion in Parliament. The police are receptive to improvements within a MoU with Komnas HAM related to human rights based policing programs. BNPT[55] is cooperating in the framework of combating terrorism with various agencies including Komnas HAM.

40. The draft law on terrorism is not in line with human rights standards due to the inclusion of the death penalty as a punishment option, excessive time in custody, extrajudicial detention of suspected terrorists for 6 months and use of the military in counter-terrorism. Also, there is no provision on the protection of victims affected by terrorism. In 2010, Komnas HAM received reports of alleged wrongful arrests by Spesial Detachment 88.[56]

41. Recommendations: Completion of the Revised Terrorism Bill in 2016 to include human rights principles, as well as the need for a supervisory mechanism in the implementation of the revised terrorism law. The Government should also ensure immediate implementation of the law upon enactment.

E. Other Matters

1. Human Rights Education and Training[57]

42. The Government has taken steps to improve education and human rights training for police,[58] central and local government officials[59] and educators.[60]

43. Alleged human rights violations by authorities still occur. This is in part due to lack of education and human rights training for police[61] and government officials.[62]

44. Recommendations: (1) Monitoring and regular evaluations of current human rights education. (2) Mainstreaming of human rights within the education system for police and government officials.

2. Evictions

45. The Indonesian Government seeks to develop infrastructure[63] within the framework of national development.[64]

46. Despite efforts and policies issued by the Government, forced evictions occur during infrastructure development projects[65] that in practice often involve the use of violence and excessive force by security apparatus. Evictions result in the loss of shelter, arbitrary arrest, homelessness and loss of the right to participate in city planning.[66]

47. Recommendations: Government harmonization of regulations for human rights based development projects, especially where evictions may be necessary.

3. Papua Issues[67]

48. The Government has taken positive steps related to Papua[68]. Furthermore, the Attorney General has recently (2016) followed up Komnas HAM 2004 investigation over incidents at Wamena (2003) and Wasior (2001), which can be categorized as gross human rights violations.[69]

49. Despite the Government efforts, existing policies have not addressed the root problems, particularly as perceived by the people most affected. Various forms of injustice in the field of civil and political rights are still felt by the populations of the Province of Papua and West Papua[70]. Economic, social and cultural imbalances, as well as repression of civil and political rights, both past and present, demand the immediate restoration of rights for the people of Papua and reparation for rights violated in the past. The conditions grow increasingly critical due to the failure to set an agenda for settlement of human rights issues in a comprehensive manner with a clear timeline.

50. Recommendations: (1) Government open a dialogue with the populations of Papua to solve crucial issues with fairness and dignity. (2) Formation of a TRC in Papua as mandated in Act No. 21 of 2001 on Special Autonomy for Papua. (3) The Attorney General should follow up Komnas HAM 2004 investigation regarding the incidents of Wamena and Wasior. (4) The Government should take immediate steps to end the continuing violence and violation of human rights in Papua.

4. Business and Human Rights

51. The Indonesian Government support the UN Guiding Principles on Business and Human Rights in 2011, and the Constitutional Court has interpreted Article 74 of Law No. 40 Year 2007 regulating Limited Liability Companies and CSR implemention to include environmental responsibility.

52. Many businesses continue to violate human rights,[71] while the state has no legal enforcement instruments for fullfilment and rehabilitation of the rights of the victims.[72]

53. Recommendations: (1) Government provide rehabilitation for victims of human rights violations due to business activity (2) Government to hold corporations responsible by establishing regulations using existing national human rights instruments.

5. Right to Health: National Health Insurance, FCTC[73] and the Impact of Forest Fires

54. The Government has taken positive steps to fulfill the right to health such as National Health Insurance (NHI),[74] study the impact of smoking control,[75] and the impact of forest and peat-land fires.[76]

55. NHI membership data collection is not optimal[77] and tobacco use is increasing, including among minors and women.[78] Serious health problems result from prolonged exposure to forest and peat-land fires, especially among children.[79]

56. Recommendations: (1) Effective data collection is necessary to reach full NHI participation. (2) Ratification of the FCTC by 2018. (3). A comprehensive and integrated health study should be conducted, including examination of regulations related to the impact of forest and peat-land fires, especially related to vulnerable groups. This study will generate data necessary for creation of a comprehensive working plan.

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[1] Indonesian National Human Rights Commission (*Komisi Nasional Hak Asasi Manusia* abbreviated Komnas HAM)

[2] National Commission on Violence Against Women (*Komisi Nasional Anti Kekerasan Terhadap Perempuan* abbreviated Komnas Perempuan)

[3] Child Protection Commission of Indonesia (*Komisi Perlindungan Anak Indonesia* abbreviated KPAI)

[4] In response to recommendation 108.103, 108.113, 109.9

[5] Law No. 11 of 2008 on Internet dan Transaksi Elektronik (Internet and Electronic Transactions abbreviated ITE)

[6] See http://id.safenetvoice.org/pelanggaranekspresi/ (visited 30 July 2016)

[7] Komnas HAM received more than 13 file complaints related to freedom of speech in 2015. In 2014, Komnas HAM, in cooperation with Partisipasi Indonesia screened The Look of Silence (Senyap). However, of the planned screenings of the film at 116 cities throughout 2015, 31 were cancelled due to threatened violence by right-wing Muslim organizations or outright banned by state apparatus alleging the film to be communist propaganda. Furthermore, the Alliance of Independent Journalists stated that 47 cases of violence against journalists occurred in 2015.

[8] In response to recommendation 109.21, 109.22, 109.23

[9] Executions for death row consisting of drug cases, serial killings and terrorism cases.

[10] Based on the Komnas HAM Annual Report 2015, Wave I on January 18, 2015 against 6 (six) people on death row, Wave II on 29 April 2015 to 8 (eight) and Wave III on 29 July 2016 four (4) executions carried out of the scheduled fourteen (14) executions with a total of 50 prisoners executed to date.

[11] Unfair trial due to application for appeal filed for Zainal Abidin sidetracked in Palembang District Court 10 years prior to the submission to the Supreme Court in 2015. The Zulfikar Ali case is still in the process of appeal.

[12] In response to recommendation 108.26, 108.27, 108.28, 108.29, 108.69, 108.70, 108.71

[13] Banjarmasin Prison and Bogor Prison (Class IIA)

[14] Complaint files received by Komnas HAM regarding the police show an average increase from 2012 to 2015 with 1,938 files in 2012, 1845 files in 2013, 2,483 files in 2014 and 2,734 files in 2015.

[15] Based on the analysis of reports related to the police, forms of torture included beatings, kicking and trampling the body and head, burning, slapping, harm to genitals, electricution and binding with some cases resulting in death.

[16] Based on the report analysis relating to the police force, Komnas HAM has issued recommendations to the police, in 2012 (379 recommendations), 2013 (463 recommendations), 2014 (622 recommendations) and 2015 (1193 recommendations).

[17] In 2013, Komnas HAM monitored prison riot that happened at Class I Tanjung Gusta Prison, Medan (July 27, 2013), Torture Cases at Class IIB Solok prison(1-2 October 2013) and prison riots at Class IIA Barelang Prison in Batam on 4th Nov 2013. In 2014 monitoring were done at prisons in West Sumba and Waikabubak (March 26 2014), as well as the Class I Prison of Makassar (August 27, 2014). Komnas HAM also monitored political prisoners at Class IIB Prison of Nabire (October 23, 2014) and Class I Prison of Surabaya (18 November 2014), Class I and class IIA Prisons of Malang (19 November 2014). In 2015 monitoring were done at Class IIA prison and detention center in Banjarmasin (July 11, 2015) and Class IIA Paledang Prison in Bogor (July 29, 2015). Komnas HAM also monitors Death inmates at Class I Prison in Tangerang and Nusakambangan (for Class IA Batu Prison, Class II Narcotics Prison, Class IIA Pasir Putih Prison, Class IIA Permisan Prison, Class IIA Kembang Kuning Prison and Class IIA Besi Prison) on 20-22 October 2015. In 2016 monitoring was done related to clashes among inmates affiliated to 'Baladika' at Class IIA prison in Denpasar, Bali (February 24, 2016), Class IIA prison and detention center in Pontianak (14 April 2016), riot incident at Class IIA Banceuy Prison in Bandung (9 - May 11, 2016), riots and burning incidents at Class IIB Malabero Detention Center in Bengkulu (11 and May 12, 2016). Komnas HAM also monitors cases of people with mental illness that imprisoned in the houses in East Java, Bali, Banten, South Sulawesi and West Java (April-August, 2016)

[18] Based on monitoring data, in the last 3 years Komnas HAM has conducted some monitoring visits to immigration detention centers: in Kupang, NTT (22 and August 23, 2013), Belawan, North Sumatra (19 and October 20, 2013), Tanjung Pinang, Riau Islands (6-7 November 2013), Makassar, South Sulawesi (25-26 August, 2014), Kalideres, Jakarta (17-18 September 2014), Jayapura, Papua (October 21, 2014), and Surabaya, East Java (17 November 2014). Komnas HAM also visited the Immigration Office Makassar, South Sulawesi (25 August 26 2014). In 2016 Komnas HAM visited immigration detention centers in Pontianak, West Kalimantan (14 April 2016), Jayapura (June 16, 2016). The findings from the visits are, among others, over-capacity of the immigration detention centers, different policies and lack of standards to manage the detention centers, unclear period of detention in as it depends on the role of UNHCR, and the lack of capacity and capability of staff/employees, particularly their understanding to coach the detainees.

[19] In response to recommendation 108.94, 108.96

[20] There are eight cases of gross human rights violations that have been investigated by Komnas HAM and are still waiting for the investigation of the Attorney General.

[21] Regulations supporting impunity, such as Act No. 31/1997 on Military Courts (list UU)

[22]In response to recommendation 108.68, 108.97, 108.99, 108.100, 108.104, 108.106, 108.107, 108.108, 108.110, 108.112

[23] As reported by a number of media sources, many Shia groups experienced displacement, among others in Madura (See https://m.tempo.co/read/news/2012/01/13/058377115/pengusiran-paksa-warga-syiah-sampang-dikecam)

[24] National Medium Term Development Plan (*Rencana Pembangunan Jangka Menengah Nasional*/RPJMN) taken from the "*NawaCita*", the programs promised by President Joko Widodo (Jokowi) during his presidential election campaign in 2014. In *NawaCita*, Jokowi committed to protect vulnerable and marginalized groups as part of the fulfillment of human rights.

[25] Komnas HAM has worked with UNDP to strengthen the programs for minority rights in support of the mandate of Komnas HAM where one target group is the LGBT minority. The program was frozen by *Bappenas* because the Indonesian government has banned programs from receiving foreign aid related to LGBT issues. The minister of foreign affairs also said the freezing of funds is as an attempt by Indonesia to counteract foreign influences deemed damaging to national morals. Several ministers have made public anti-LGBT statements to the media including the Minister of Research and Technology and Higher Education stating that LGBT should be banned from universities and the Minister of Social Affairs stated there should be rehabilitation for LGBT and considers them as a contagious disease.

[26] Anti-LGBT campaign by officials contained in Press Releases on statement by Komnas HAM regarding the situation of attitudes towards the LGBT Community (See http://www.komnasham.go.id/kabar-latuharhary/siaran-pers-pernyataan-sikap-komnas-ham -atas-situation-that-happened-community-lgbt)

[27] The 1945 Constitution and Law 39 of 1999 on Human Rights recognizes *masyarakat hukum adat* or literally translated “traditional law society”. The term may refer to “indigenous peoples” in the context of international human rights law.

[28] In response to recommendation 108.140, 108.144

[29] The Ministry of Home Affairs issued Decree No. 52 Year 2014 on Guidelines for Inventory and Identification of Indigenous Peoples; MOHA, MENHUT, MENPU, KBPN establish Joint Regulations on the Procedures for Settlement of Land Tenure Being in Forest Area. The Directorate General of Culture of The Ministry of Education and Culture has identified and promoted local religious and beliefs.

[30] Referring to the recommendation of Universal Periodic Review (2012), necessarily the Parliament and the Government draft discussion of Law on the Recognition and Protection of the Rights of MHA. However, until the month of August 2016, the fate of the draft law is still uncertain. President Joko Widodo promised to establish an independent institution for the promotion and protection of Rights of the MHA, but until now there has been no clarity, although steps have been initiated since its formation in 2015.

[31] Komnas HAM, Summary of Findings and Recommendations for Improvement of the Law and Policy Concerning Respect, Protection, Compliance and Remedy Relating to the Human Rights of Indigenous Peoples over their Territories within the Forest Zone, Jakarta, 2016 (**Annex 2**)

[32] Komnas HAM, 2016, ibid.

[33] In response to recommendation 108.134, 108.135, 108.136

[34] Law No. 8/2016, the Mental Health Act No. 18 In 2014, RAN is integrated in RANHAM Disabilities from 2014 to 2019 and the establishment of disabilities bylaws in some areas.

[35] The government statement issued through the Ministry of Social Affairs about Indonesia regarding ending the use of stocks, chaining and cage confinement for persons with mental illness by the year 2017 as published in a number of media outlets . http://www.antaranews.com/berita/542731/pemerintah-targetkan-indonesia-bebas-pasung-2017 and http://www.bbc.com/indonesia/berita_indonesia/2015/01/150129_indonesia_difabel_pemilu)

[36] Komnas HAM monitoring report on the 2015 Elections. http://www.komnasham.go.id/sites/default/files/dokumen/LAPORAN%20PEMANTAUAN%20PILKADA%202015_1.pdf.

[37] In response to recommendation 108.115, 108.117, 108.118, 108.119

[38] National Seminar on the Protection of Human Rights Defenders Policy in Indonesia, accessed on August 29, 2016. http://balitbangham.go.id/berita/berita-balitbang/337-seminar-nasional-kebijakan-perlindungan-pembela-ham-di-indonesia.

[39] List of draft bills in the National Legislation Program (Prolegnas) 2010-2014. http://www.dpr.go.id/dokakd/dokumen/prolegnas_Prolegnas_2010-2014.pdf

[40] In response to recommendation 108.1, 108.2, 108.3, 108.4, 108.5, 108.6, 108.7, 108.10, 108.12, 108.13, 108.14, 108.15, 108.16, 108.17, 108.20, 108.21, 108. 22, 108.23, 108.24, 108.25, 109.1, 109.4, 109.6

[41] Accountability Adviser to the President (Hasibuan, Albert, 2016:23).

[42] Ministry of Justice and Human Rights (Kemenkum HAM), Komnas HAM, Komnas Perempuan, KPAI, Republic of Indonesia Ombudsman (ORI) and the Witness and Victim Protection Agency (LPSK),

[43] Memorandum of Understanding on Efforts to Control and Prevent Torture and Degrading Treatment or Other Cruel, Inhuman, or Degrading Punishment to Any Person Located in Places of Detention within oversight of the Ministry of Justice and Human Rights of the Republic of Indonesia, signed at Jakarta, 27 April 2016.

[44]Encourage Endorsment of the *"Optional Protocol to the Convention on the Rights of Persons with Disabilities"* in Order to Fulfill the Human Rights of Persons with Disabilities. (Nainggolan, Yossa, A.P, and Rusman Widodo, Mochamad Felani, Dien Mochammad, Ernawati: 2016).

[45] National Human Rights Action Plan

[46]In response to recommendations 108.32, 108.34

[47] RANHAM II from 2011 to 2014. Currently RANHAM III from 2015 to 2019 reauthorized by Presidential Order No. 75, Year 2016.

[48] On October 2, 2015, Presidential Order No.10/2015 was issued, containing the 2015 Human Rights Action Agenda for ministries / agencies and local government.

[49] Revision of Law 39 of 1999 on human rights is one of the proposed strengthenings of human rights institutions, but has not passed into law.

[50] Less than optimal coordination between RANHAM & RAN Penca implementing agencies and less than effective mechanisms of monitoring, evaluation, and reporting on the implementation of RANHAM 2011-2014 and RAN Penca 2004-2013 (taken from the presentation by Ardanta Ary Sigit (2016), Presidential Regulation No. 75 Year 2015 on National Human Rights Action Plan 2015 - 2019 (RANHAM 2015-2019). The presentation was delivered during Human Rights Training for Cinere officials, August 2015)

[51] In response to recommendation 108.26, 108.27, 108.28, 108.29, 108.30, 108.69, 108.116

[52] The term 'torture' incorporated in the draft penal code is limited to the meaning or the term under article 1 para 1 of CAT which, in essence, refers to the act of torture committed by or with the consent or acquiescence of a public official or a person acting in an official capacity. It does cover an act of 'torture' committed by an independent person. Additionally, an act of cruel, inhuman or degrading treatment or punishment is not incorporated (as a criminal act) in the Draft Penal Code.

[53] Clauses that are considered contrary to human rights should not be set in RKUHP, particularly with regard to the criminalization of ideology, such as treason and insulting the president. Protection and respect of human rights is recognized in the 1945 Constitution through the amendment process, the enactment of Law No.

39/1999 on Human Rights, and Law No. 26 Year 2000 on Human Rights Court, as well as the ratification of international human rights instruments..

[54] Special Crimes include corruption, gross human rights violations, narcotics trafficking, etc.

[55] National Agency for Combating Terrorism (Badan Nasional Penanggulangan Terorisme abbreviated BNPT)

[56] According to Komnas HAM data, an estimated 118 terrorist suspects (through March 2016) have been the victim of acts of extrajudicial murder, torture and arbitrary detention.

[57] In response to recommendations 108.36, 108.37, 108.38, 108.39, 108.40, 108.41, 108.42, 108.43, 108,44, 108.47

[58] Since 2012, efforts of human rights education and training have been carried out by the National Police in cooperation with the Komnas HAM Subcommittee on Education and Training. (Komnas HAM (2013) Annual Report 2013 p. 43- 45) and (Komnas HAM (2014) Annual Report 2014 p. 65 & 68).

[59] One such effort made by the Ministry of Home Affairs, which since 2013 has conducted human rights education and training to the 530 municipal police of the 11 provinces in Indonesia (2016 Harjana Basuki Understanding the Importance of Human Rights For Municipal Police Officers). The district government in collaboration with the Komnas HAM and civil society in Human Rights Training for Local Government Officials about Human Rights Friendly City June 1-3, 2015.

[60] Training and Human Rights Education for Educators conducted by the Regional Office of the Ministry of Law and Human Rights Banten Province in collaboration with Komnas HAM. (Komnas HAM (2014), Annual Report, 2013, p. 45)

[61] Education and training efforts need more attention as indicated by complaint case data received by Komnas HAM in 2015 related to the police and district administration who are responsible for a majority of complaints. Also noted, the scope of human rights education and training for policing apparatus is still limited.

[62] The commitment by regional heads to increase the capacity of local government officials is still limited.

[63] Build up Indonesia from the fringes to strengthen these areas and villages within the framework of a unitary state (Nawacita, point 3).

[64] Law No. 5 of 1960 on Agrarian Regulation, Law No. 2/2012 and No. 148/2015 on Land Procurement for Public Interest.

[65] Based on Forced Evictions Reports LBH Jakarta in 2015, the eviction at the Capital region are used for different interests, among others, the construction of reservoirs, the normalization of the territorial waters, the construction of a city park, of toll roads and road widening projects or green belt.

[66] Restoration of the Rights of Victims of Human Rights Violations (Komnas HAM, Annual Report 2015:33 [Indonesian language version of report])

[67] In response to recommendation 108.95, 108.114, 108.115, 109.33

[68] The positive steps including granting pardons to five ex-political prisoners, issuing a political statement about press freedom in Papua and development of the concept to improve human rights condition by the Presidential Staff Office and the Coordinating Minister for Politics, Law and Security (*Menkopolhukam*).

[69] Under Law No. 26 of 2000 on Human Rights Court, the term "gross violations of human rights" refers to the crime of genocide and crimes against humanity adopted, in essence, the crime of genocide and crimes against humanity referred to in the Rome Statute of the International Criminal Code (ICC), 1998

[70] Reaction against these injustices results in criminalization as 'separatist', while acts of violence committed by the military and police against the population continue. In addition, the populations experience restrictions on freedom of the press, speech and thought .

[71] Business and Human Rights in Indonesia: From Principles to Practice, HRRC. Waagstein, Patricia Rinwigati. http://hrrca.org/wp-content/uploads/2015/05/BHR-in-Indonesia.pdf); Komnas HAM, draft reports of child deaths in abandoned coal mine pits, 2016

[72] Indonesian courts may also serve to assess corporate responsibility in failure to provide a solution to those who are disadvantaged. The Indonesian human rights court is mandated in cases of gross human rights violations such as genocide and crimes against humanity, but is not mandated to address cases related to violations committed by corporations.

[73] Framework Convention on Tobacco Control

[74] On June 1, 2014, the Government issued a policy on National Health Insurance (Jaminan Kesehatan Nasional /JKN)

[75] In 2010, the Agency for Health Research and Development officially identified deaths from tobacco-related diseases; and in 2015, the Government began a campaign for implementation of smoking free areas (Kawasan Tanpa Rokok/KTR) in various public places and the workplace.

[76] Related to land and forest fires, Komnas HAM appreciates Government initiatives to established the Peatland Restoration Agency (*Badan Restorasi Gambut*) to conserve the peatlands in major provinces.

[77] Poor data collection in JKN processing was reported in a number of media sources JKN. http://www.kompasiana.com/inspirahmf2014/jkn-mimpi-bagi-masyarakat-kurang-mampu_54f39348745513a32b6c7a23

[78] Komnas HAM academic paper related to the Bill on Ratification of FCTC

[79] Adverse effects of smoke for children published in many media reports. http://www.penanggulangankrisis.depkes.go.id/__pub/files25385Dampak%20kabut%20asap%20kebakaran%20hutan%20terhadap%20%20%20%20kesehatan-%20%20PDPI.pptx