

SHADOWS AND CLOUDS: HUMAN RIGHTS IN INDONESIA

SHADY LEGACY, UNCERTAIN FUTURE

EXECUTIVE SUMMARY

Despite a definite improvement of its human rights record since 1998 and numerous political statements of commitment to human rights, Indonesia continues to face a number of serious human rights challenges, including impunity within the state security forces, a range of legislations inconsistent with its international human rights obligations, a judiciary in need of strengthening, and growing intolerance towards religious and other minorities.

The report is the result of an international fact-finding mission jointly organised by FIDH, Imparsial, and KontraS in 2010 in Indonesia. The mission found that a culture of impunity has been carried over from the Suharto era and is compounded by the broad and entrenched power of the military, inadequate police reform, and the susceptibility of the judiciary to external influences. Independent and credible investigations into serious human rights violations, especially those involving security forces, remain a rarity. A number of members of the military who have been accused or convicted of human rights abuses continue to remain on active duty. More generally, the status of civilian control over the army remains dubious. The situation in Papua, which appears to be a remnant of strong armed New Order tactics, replete with torture of separatists, is a significant example thereof. The ongoing lack of accountability for the assassination of human rights defender Munir Thalib Said in 2004, and the acquittal of alleged mastermind Muchdi Purwopranjono after a deeply flawed trial, is yet another example of persisting impunity.

The introduction of counter-terrorism legislation and its misuse has also led to serious human rights abuses by state security forces and intelligence personnel. The Anti-Terrorism Law (Law 15/2003) contains a definition of 'terrorism' so vague and broad that it opens the door to arbitrary application by the state to criminalise legitimate and peaceful criticisms. The Law also gives broad and unchecked power to law enforcement, intelligence and security officers to detain, interrogate, and conduct invasive surveillance over civilians with inadequate safeguards to prevent violations of fundamental freedoms and human rights. The report further points out the threat the Law presents to the independence of judicial system as it allows the involvement of non-judicial intelligence officials in legal proceedings involving alleged terrorist suspects.

The joint report also identifies a worrying trend of growing intolerance and discrimination towards religious, ethnic and sexual minorities. The report found that minorities, most notably religious but not exclusively, have felt increasingly vulnerable in recent years. The authorities appear to be acquiescing to radical religious groups that often intimidate and resort to violence against religious minorities; their passivity is so alarming that several observers have been led to believe the government may have been deliberately, though not openly, lending support to illiberal groups in the country, in particular Islamic fundamentalist groups. The fact that several state or para-statal institutions have either turned more radical (e.g. in the case of the Council of Ullamahs of Indonesia, or MUI) or lost some of their independence (e.g. in the case of Komnas HAM), does not help. Many observers note the impact of the general atmosphere of radicalisation on the policies of the government, either too weak to counter them or cunningly using religion for reasons of political opportunism. Civil society groups have documented at least 50 cases of assault against the Ahmadiyah community in 2010. In a recent telling incident on 28 January 2011, police in Makasar, South Sulawesi, failed to protect an Ahmadiyah mosque and stood by as members of the Islamic Defenders Front (FPI), a radical Islamist group, destroyed and defaced property of the mosque. This pattern of threat became deadly on 6 February 2011 when three Ahmadiyah followers were killed in an attack by as many as 1,500 villagers against an Ahmadiyah congregation in Umbulan village, Pandeglang regency in Banten province.

As a consequence of this increasingly illiberal political climate, human rights defenders have become more vulnerable as they stand up for Indonesia's traditionally pluralist, liberal social fabric. This is further aggravated by threats to freedom of expression: Indonesia's criminal defamation legislation contains very vague language and is extremely vulnerable to manipulation by public and private actors to silence legitimate and peaceful expression of dissent, thus producing a chilling effect on freedom of expression that is essential to Indonesia's on-going democratisation. The penalties these laws carry are disproportionate to the issue of reputational harm.

SBY, as president Susilo Bambang Yudhoyono is commonly called, in spite of repeated verbal assurances, has not taken a strong stance to defend human rights or the institutions designed to protect them. His passivity amounts to a culpable complicity.

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