
INDONESIA

OBSERVATORY FOR THE PROTECTION OF HUMAN RIGHTS DEFENDERS
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Political context

The key political developments in Indonesia in 2009 were most certainly the legislative and presidential elections of April 9 and July 8. The elections were dominated by persons with strong military backgrounds and several of the presidential and vice-presidential candidates faced serious allegations of human rights violations. President Susilo Bambang Yudhoyono was re-elected in the first round, with more than 60 per cent of the vote and the participation of approximately 176 million voters. President Yudhoyono's Democratic Party also won the legislative elections. Although the elections proceeded relatively smoothly¹, incidents of violence and protest in West Papua were reported². The end of the election period was tragically marked by the July 17 dreadful suicide bomb attacks at the JW Marriott and the Ritz-Carlton in Jakarta.

2009 has also seen an influx in political arrests based on charges of subversion or treason, and the official approach to social unrest in Indonesia continued to rely heavily on the military (especially in West Papua). Activists talking about self-determination of indigenous Papuan people were silenced with criminal charges, political trials and years of imprisonment. As with previous years, the most serious obstacle to bringing gross human rights violations to courts was the unwillingness of the Attorney General to conduct investigations on the recommendations of the National Commission for Human Rights (Komnas HAM). In addition, the role of Indonesia's elite military special forces (*Komando Pasukan Khusus* – Kopassus) is particularly worrying. Kopassus soldiers typically do not wear uniforms and have no formal role in policing, but act on their own or in response to complaints of public disturbances. Those taken back to the Kopassus barracks are likely to be ill-treated, in full impunity.

Against this context, a welcome development in 2009 was the introduction of the National Police Chief Regulation on the Implementation of Human Rights Principles and Standards (PERKAP Number 8 Year 2009), which refers extensively to the prohibition of torture and sets high stand-

1/ For a critical approach of the 2009 elections, see National Alliance for Change and the Youth Indonesian Movement Report, *The April 2009 Election was Flawed; Save Indonesia's Democracy*, April 12, 2009.

2/ See The Commission for Disappeared and Victims of Violence (KontraS) Statement, April 9, 2009.

ards for police conduct. This instrument will be particularly important to prevent the use of excessive force in handling demonstrations, as well as during detention³. However, it lacks provisions for enforcement, in particular disciplinary measures in cases of violations of the code. Nevertheless, torture continued to be used in Indonesia to obtain information or cover up cases of abuse in the police force and the act of torture, as defined by the UN Convention Against Torture, is still not included in the Criminal Code as a crime.

Moreover, the Government continued in 2009 to push the Parliament to adopt bills that could endanger human rights activities, in particular the Bill on State Secrecy and the Bill on Mass Organisation. The Bill on State Secrecy could indeed create difficulties for the victims and human rights groups to document human rights abuses⁴, while the Bill on Mass Organisation plans to monitor NGOs fund and to establish a commission to monitor the activities of NGOs, which could advise the Government to freeze NGOs' license and fund. In December 2009, the Bill on the State Secrecy and the Bill on Mass Organisation were listed on the List of the National Legislative Programme 2010-2014. Finally, although a Victims and Witness Protection Agency (LPSK) was established in 2008 under the Witness Protection Act 2006 and inaugurated in July 2008, it remained un-operational due to budget issues. Therefore, human rights defenders who faced serious attack or death threats still had to be relocated or evacuated by private institutions such as national or international NGOs and donor agencies, or religious institutions such as the churches⁵.

Finally, corruption in Indonesia remained rampant at all levels, and the Corruption Court Law, which was finally enacted on September 29, 2009, lacks crucial elements to ensure the effective functioning of the court. In particular, it is not clear whether the Corruption Eradication Commission (KPK) or Public Prosecutor will have the obligation to investigate and prosecute corruption cases before the court.

3/ See KontraS Statement, December 21, 2009 and Imparsial.

4/ In particular, the Bill on State Secrecy provides for the death penalty as maximum penalty for someone who would be "leaking" information related to the war period. In that framework, journalists and human rights NGOs could face death penalty for documenting human rights abuses committed during the war period. See Imparsial.

5/ See International NGO Forum on Indonesian Development (INFID) and Imparsial.

Impunity in the murder of Mr. Munir Said Thalib and judicial harassment against those who try to seek justice in this case

Impunity in the murder of Mr. **Munir Said Thalib**, co-founder of the Commission for the Disappeared and Victims of Violence (KontraS), killed in 2004, continued to prevail in 2009, with a worrying trend of prosecution of those who endeavour to fight for justice. In February 2009, the Komnas HAM appointed a public examination team to “verify the evidence and the trial process” that had led to the acquittal of Maj. Gen. Muchdi Purwopranjono, former Deputy Chief of Indonesia’s National Intelligence Agency and the suspected mastermind behind the murder of Mr. Munir. The team reported that Mr. Muchdi’s trial and the subsequent appeal by the Prosecutor had suffered from a number of irregularities, including allegations of witness tampering, unprofessional handling of the case by prosecutors, the failure of the district court judge to summon at least two key witnesses for the prosecution, and the appellate court judge’s lack of experience in reviewing criminal trials. On June 15, Mr. Muchdi, who was prosecuted for “planning” and “assistance in the murder” of Mr. Munir, was acquitted of all charges by the Court of Appeal. In July 2009, the Supreme Court rejected the appeal of the Prosecutor. As of the end of 2009, those responsible for the murder at the highest levels remained at large.

In this context, Mr. **Usman Hamid**, Coordinator of KontraS and member of the independent fact-finding team established by President Yudhoyono to conduct investigations into Mr. Munir’s killing, was under criminal investigation following his involvement in the campaign for justice for his late colleague. Indeed, Mr. Muchdi Purwoprandjono announced that he would file a criminal defamation suit under Articles 310 and 314 of the Criminal Code⁶ against Mr. Usman Hamid and three other human rights defenders, including Mr. Munir’s widow, Ms. **Suciwati Munir**, who gave her testimony during the trial, Mr. **Hendardi**, Director of the Setara Institute, and Ms. **Poengky Indarti**, Managing Director of Imparsial. However, as of the end of 2009, Mr. Muchdi Purwoprandjono had only filed a complaint with the police against Mr. Usman Hamid, because he allegedly criticised the verdict outside the court and asserted that Mr. Muchdi Purwoprandjono was a murderer⁷. On September 3, 2009, Mr. Usman Hamid received a summons and on September 9, 2009, he

6/ Under those articles, defamation is punishable by over five years’ imprisonment.

7/ Mr. Muchdi Purwoprandjono will probably not be able to sue Ms. Suciwati Munir, Mr. Hendardi and Ms. Poengky Indarti as they testified before the court. Indeed, according to the Criminal Procedural Code as well as the Legal Principles, any testimony made before a court is protected under the law and any witness may therefore testify freely.

reported to the Jakarta police headquarters. As of the end of 2009, the police investigation against him was still ongoing.

Repression against anti-corruption activists

2009 was a hard year for the anti-corruption movement, more specifically for the KPK. Indeed, the police and the Attorney General's Office (AGO) responded to KPK's investigations on their institutions with criminal charges against two KPK Commissioners, Messrs. **Chandra M. Hamzah** and **Bibit Samad Riyanto**, who were arrested on October 29, 2009 under charges of "abuse of authority" and of "receiving bribery". Following nation-wide public pressure in support of the two commissioners, President Yudhoyono set up a fact-finding team, which recommended to dismiss the case and to release both men. Messrs. Chandra M. Hamzah and Bibit Samad Riyanto were released on November 3 and, on December 1, the Attorney General Office dismissed the case. In light of the weak evidence, many understood their detention as an intimidation tactic by the police⁸. The use of defamation laws to stop public criticism of institutions was also particularly worrying. Two other anti-corruption activists, Messrs. **Illian Deta Arta Sari** and **Emerson Yuntho**, from the Indonesian Corruption Watch (ICW), were named as suspects in a criminal defamation case for expressing their scepticism about the amount of money that the AGO claimed to have saved the State through corruption prosecutions. Although their analysis was based on a State Audit Board report, they were accused of defamation by the AGO, after ICW publicly pointed out a multi-trillion rupiah gap (several thousands euros) in AGO's annual budget and called for an investigation. As of the end of 2009, the defamation case was still pending⁹. Mr. **Hendra Budian**, Executive Director of Aceh Judicial Monitoring Institute (AJMI), was also subjected to judicial harassment after he asked the Provincial Attorney-General of Aceh to investigate into a serious case of corruption, in which the victims of the conflict in Aceh (Bener Meriah area) are prevented from enjoying their rights before the Aceh Reintegration Body. When the victims gathered in the office of the Provincial Attorney-General, they were provoked by local officers, and a scuffle occurred. In order to prevent a bigger chaos, AKP Renaldi, the police Commandant gave discretion to Mr. Hendra to control the victims. In the process of doing so, Mr. Hendra broke one of the windowpanes, and the action of the windowpane breaking was sub-

8/ See INFID and Imparsial.

9/ On October 14, 2009, the Attorney General summoned them to the police headquarters for interrogation on allegations of "defamation" after *Rakyat Merdeka* newspaper published their information concerning the official audit result of the Financial Auditor Body on the Attorney General Office. See the Indonesia's NGO Coalition for International Human Rights Advocacy (HRWG), INFID and Imparsial.

sequently taken into a penal case by the District Attorney. Mr. Hendra was tried by the District Court of Banda Aceh, and in March 2009 the court sentenced him to three months of imprisonment and six months of probation under Article 406 of the Criminal Code for “breaking someone’s good”¹⁰. In another disturbing case, the body of *Radar Bali* journalist **Mr. Anak Agung Gede Bagus Narendra Prabangsa** was found afloat in Bias Tugel beach, Karangasem, Bali, on February 16, 2009¹¹. Before he was murdered, Mr. Prabangsa had intensively reported on alleged corruption in the Local Education Office in Bangli district, Bali. Police investigation revealed that a number of people picked up Mr. Prabangsa and brought him to the residence of a member of the local House of Representatives, Mr. I Nyoman Susrama. He was beaten to death and his body was dumped in Goa Lawah beach, Klungkung. Nine persons were arrested in connection to his murder¹². As of the end of 2009, most of them were still facing charges and the judicial process was ongoing.

Acts of harassment against defenders denouncing violent land-grabbing practices

In 2009, defenders denouncing violent land-grabbing practices were regularly subjected to harassment. For instance, on January 28, 2009, **Mr. Muhammad Rusdi**, a farmer and the village chief of Karang Mendapo, was arrested for his leading role in campaigning against land-grabbing by PT Kresna Duta Agroindo (KDA), an oil palm plantation. He was detained at the district police facilities of the Sarolangun Regency. He was subsequently charged with “attempting to embezzle money” entrusted upon him by the citizens that elected him village chief¹³. Mr. Rusdi was subsequently released but, as of the end of 2009, the case against him remained pending before the Supreme Court. Furthermore, during a dem-

10/ See INFID and Imparsial. Mr. Hendra Budian was never detained because of the light violation he was sentenced to.

11/ See INFID and Imparsial.

12/ I Nyoman Susrama, Komang Gede, Nyoman Wiradnyana alias Rencana, I Komang Gede Wardana alias Mangde, Dewa Sumbawa, Endy, Daryanto alias Jampes, I Wayan Suecita alias Maong and Gus Oblong. Mr. Susrama was suspected as the mastermind and others as his accomplices. See, among others, KontraS and HRWG.

13/ Several years ago, KDA illegally cut down 600 ha forest and rubber plantations of Karang Mendapo citizens. The land then became part of a larger palm oil plantation. Since then, KDA distributed a monthly fee of 58,000 rupiahs (4.74 euros) to each registered farmer. There has never been a clearly stated purpose of this payment. In August 2008, the villagers seized the land back and harvested the yields of the oil palms. Ever since, they have been subject to intimidation and maltreatment by unknown persons presumably acting on behalf of KDA. These incidents were reported to the police but to no avail. As part of the protest, the citizens of Karang Mendapo decided to return the fee they had received from KDA. KDA refused to take back this money, so that it was entrusted on Mr. Rusdi until KDA would receive it. This appears to be the reason for Mr. Rusdi’s arrest. See Forum-Asia Press Release, February 5, 2009.

onstration about a land conflict between land workers from Takalar (north Polongbangkeng) who used to own the land that was subsequently sold to the company PT Perkebunan Nusantara (PTPN) and PTPN, which was held on July 15, 2009 near a plantation belonging to PTPN Section XIV, clashes between land workers and PTPN employees grew violent. Consequently, Takalar resort police filed investigation reports against nine land workers. One was arrested and two more were taken into police custody, though no report was filed against PTPN employees. During the following days, the police reportedly arrested two more land workers for their role in the protest, while intimidating others. Moreover, on October 25, as a group of villagers was returning home, they were reportedly chased and shot at by eight mobile brigade officers, who arrested eight of them: Messrs. **Baddu Daeng Sikki** (Panaikang village), **Basee Daeng Gassing** (Ma'lolo of Ko'mara village), **Daeng Gani**, **Daeng Sanre**, **Daeng Salli**, **Daeng Nuntung**, **Daeng Rurung** and **Daeng Nuju**, who were subsequently released. Along with the five peasants who were arrested after taking part in the July demonstration, they were prosecuted under various charges, including "disobedience against public authorities" and "resistance and rebellion" (Articles 160 and 212 of the Criminal Code). All but one protesters were subsequently released.

Repression of peaceful demonstrations

Numerous violent repressions of peaceful demonstrations took place in 2009. On May 9, 2009, a peaceful solidarity demonstration was held on Malalayang beach to support traditional fishermen, marking the opening of the Justice Forum for Marine Affairs (FKPP), an alternative forum to the World Ocean Conference¹⁴. Local police and intelligence organisations hindered the meeting, destroyed parts of the setup and arrested the Executive Director and Regional Coordinator of Friends of the Earth Indonesia (*Wahana Lingkungan Hidup Indonesia* – WALHI), Messrs. **Berry Nahdian Furqon** and **Erwin Usman**. On May 11, 2009, the North Sulawesi Mandao District Court sentenced Messrs. Furqon and Usman to one month imprisonment and two months' probation as well as to a fine of 1,000 rupiah (about 0.08 euros) for "not obeying State officials" as stipulated in Article 216 of the Criminal Code¹⁵. Both men were released on May 15, 2009. Moreover, more than 20 non-Indonesian attendees from the Philippines, Malaysia, and Cambodia who had participated in the peaceful solidarity demonstration were deported on this occasion, without explana-

14/ The civil society movement (particularly the fisher folks and environmental movements) consider the World Ocean Conference as a tool to legitimise the liberalisation of marine resources, leading to the impoverishment of fisher folks through various so-called development policies.

274 15/ See INFID, Imparsial and KontraS.

tion or official deportation letter. The police had apparently withdrawn the letter of permission to hold the event, but had not notified FKPP. No reason was given for this¹⁶.

Police officers also used excessive force against demonstrators in Nabire district, Papua. For instance, on January 29, 2009, in the framework of a peaceful demonstration of about 100 people that was started on January 27 and organised in front of the General Election Commission's building in Nabire by the "Coalition of People who care about the election of the Head of Region" in order to call for the holding of local elections that had already been delayed several times, police officers violently dispersed the remaining peaceful demonstrators in the early morning while they were sleeping on the site. The police kicked and beat some demonstrators with rattan sticks and rifle butts, who suffered bruises and cuts as a result. In particular, police officers beat Mr. **Yones Douw**, a member of the Papuan Kingmi Church and a volunteer with the Institute for Human Rights Study and Advocacy (*Lembaga Studi dan Advokasi Hak Asasi Manusia – ELSHAM*), on the ears and punched him in the face when he attempted to intervene to stop clashes between police forces and demonstrators. He was then arrested and kicked with boots three times¹⁷. Mr. Yones Douw was deprived of food and drinking water during his detention and interrogation. On January 30, the police released him and seven other demonstrators without charge, but instructed them to report to the station each day.

Ongoing stigmatisation of human rights defenders in Papua

Since the visit to Indonesia of the then Special Representative of the UN Secretary General on the Situation of Human Rights Defenders, Ms. Hina Jilani, situation in Papua has not improved: in her report on her visit in 2007, concerning the situation of human rights defenders in the conflict area of Papua, Ms. Jilani had concluded that a climate of fear undeniably prevailed in West Papua, especially for defenders engaged with the rights of the Papuan communities to participation in governance, control over natural resources and demilitarization of the province¹⁸. The situation of these defenders has not eased and, despite the adoption of the Special Autonomy Law in 2001, they continued to be targeted, especially by security apparatuses such as police, military and intelligence officers. In particular, the Government used the separatist label to stigmatise and

16 / See KontraS Press Release, May 11, 2009.

17 / See KontraS and Amnesty International Joint Open Letter, November 30, 2009.

18 / See Human Rights Council, *Report of the Special Representative of the Secretary-General on the situation of human rights defenders - Mission to Indonesia*, UN Document A/HRC/7/28/Add.2, January 28, 2008.

justify violence against human rights defenders in Papua. In addition, the momentum of election was used by perpetrators to increase violence against defenders in Papua. On April 7, 2009 for instance, Mr. **Markus Haluk**, Secretary General of the Central Highland Students Association of Papua (AMPTPI), leader of the Papua National Consensus Committee and Deputy Secretary of the Papua Indigenous Peoples' Council, was arrested and detained for 24 hours after the police accused him of being involved in the series of violence in Jayapura during the general elections of 2009. Yet, he was released soon after the police had failed to find evidence against him¹⁹. Moreover, Ms. **Yosefa Alomang**, a prominent human rights defender who has been fighting since the 1980s against Freeport McMoran, a giant US mining company that is ruining the environment surrounding mining areas and violating the human rights of indigenous Papuans, continued in 2009 to receive death threats because of her human rights activities²⁰.

Urgent Interventions issued by The Observatory in 2009

Names	Violations / Follow-up	Reference	Date of Issuance
Mr. Munir Said Thalib	Impunity / Assassination	Press Release	January 15, 2009
Mr. Usman Hamid, Mr. Munir Said Thalib and Ms. Suciwati Munir	Judicial proceeding / Harassment	Open Letter to the authorities	November 10, 2009

19/ See INFID and Imparsial.

276 20/ *Idem*.