



General Assembly

Distr.: General
24 May 2017

English only

Human Rights Council

Thirty-fifth session

6-23 June 2017

Agenda item 3

**Promotion and protection of all human rights, civil,
political, economic, social and cultural rights,
including the right to development**

Written statement* submitted by the Asian Legal Resource Centre, a non-governmental organization in general consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[14 May 2017]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

GE.17-08379(E)



* 1 7 0 8 3 7 9 *

Please recycle The recycling symbol, consisting of three chasing arrows forming a triangle.



INDONESIA: Hardliner groups have more power over the judiciary than the text of the law

1. The Asian Legal Resource Centre (ALRC) wishes to inform the UN Human Rights Council (UNHRC) regarding the immense pressure and protests put on the trial against the Jakarta governor Mr. Basuki Tjahja Purnama (aka Ahok). Ahok stands convicted today, by a court that feared and acted upon the pressure from Islamic fundamentalists than the principles of law.
2. This case is bad precedent, wherein law enforcement agency has acted under pressure to pacify hardliner groups who organised massive demonstrations calling to punish Ahok. Since the beginning of the trial in December 2016 until its end in May 2017, public protests were organised in front of the court to pressure the judges to punish Ahok and the judiciary complied.
3. Mobilizing of mobs, to pressure judges to decide cases in line with what the pressure group demands undermines the possibility of fair trial and the independence of judiciary. The UN Human Rights Council should note that today the institution of judiciary in Indonesia faces serious threats.
4. During the long years of dictatorship, the judiciary was virtually ignored, and the basic institutional framework for an independent judiciary was completely undermined. It is in the years after the fall of the dictatorship that some measures were adopted to negate the situation that prevailed under the dictatorship and these efforts are at a very early stage.
5. The Indonesian judiciary lacks the adequate infrastructure and resources to function properly. The country does not have enough number of judges to undertake court proceedings and adequate courts and other infrastructure to function for the existing judges that given the number of cases they have to deal with the workload is enormous and delays in adjudication a common phenomenon.
6. An institution to develop independence and professionalism takes time. In essence it is a change in the professional culture of the institution, for which exceptional care and encouragement is to be provided to the institution to undergo that transformation. In the case of judiciary, it is the responsibility of the state to provide all the catalysts for such a change to happen, for the members of the judiciary and the Bar to ensure that threats to their independence are not ignored. Unfortunately this is not the case in Indonesia. The Bar for instance is fractured with biased interests, for instance in the name of religion and ethnicity, where the principles of rule of law and fair trial are given a back seat.
7. The result of this situation is that the average citizen believes that the courts are not temples of justice where equality before the law is practiced, but institutions that work for those in power and are rich. To change this, instances like that led to the conviction of Ahok do not help.
8. Instances like the conviction of Ahok, once again recalls the state of Indonesian judiciary during the time of the dictatorship. If the military was the ultimate arbiter during dictatorship, it is hardliner groups that have formed a political force that dictates the judiciary today in Indonesia. In addition, the military itself operates above the law in Indonesia. This means laws apply in two different ways to the ordinary people and those in uniform. This has to end.
9. In view of the above, the ALRC requests the Human Rights Council to urge the government of Indonesia to ensure an environment to develop an independent judiciary in the country. The ALRC also requests the Council to encourage Indonesia to formally invite the UN Special on the Independence of Judges and Lawyers to visit the country and undertake a study of the challenges faced by the country's justice institutions and to work with the government to bring about a positive change.