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**PROMOTION AND PROTECTION OF ALL HUMAN RIGHTS, CIVIL,
POLITICAL, ECONOMIC, SOCIAL AND CULTURAL RIGHTS, INCLUDING
THE RIGHT TO DEVELOPMENT**

**Written statement* submitted by International NGO Forum on Indonesian
Development (INFID), a non-governmental organization in special consultative status**

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

[19 February 2008]

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

The Situation of Human Rights Defenders in Indonesia¹

The positive progress of the protection effort for HRD in Indonesia is that the Government of Indonesia has invited the Special Representative of the UN Secretary General on HRD Protection Ms. Hina Jilani to visit Indonesia in June 2007 and to observe the condition of HRD in Indonesia.

Additionally law enforcement on Munir case indicated encouraging progress when the Supreme Court on 25 January 2008 accepted the case review of Pollycarpus Budihari Prijanto² and the Chief of the Indonesian Police stated that they would immediately take further action by investigating other suspects that are suspected of being involved in the conspiracy of murdering Munir³ besides the former CEO of Garuda Indonesia Indra Setiawan⁴ and the secretary of the pilot chief of Garuda Rohainil Aini⁵.

But the progress mentioned earlier does not close the many cases of violation toward HRD in 2007, particularly in conflict areas such as Papua and Aceh. Stigmatization as separatist is still accused to the two regions and is still being the justification for the officers to commit violence toward HRD, such as experienced by 11 members of Dewan Adat Papua (Papua Cultural Council). They were interrogated by Papua Regional Police on 6 July 2007 related to the raising of the Morning Star flag in the Sampari dance which was performed in the opening ceremony of the Dewan Adat Papua's Conference⁶.

Separatist issue also becomes the reason for the Government of Indonesia to deploy the soldier massively to Papua in order to be able to maintain the area of NKRI (the United Republic of Indonesia). But the deployment actually was not in line with the guarantee for

¹ The Written Statement is submitted by IMPARSIAL, the Indonesian Human Rights Monitor, together with INFID (International NGO Forum on Indonesian Development) and HRWG (Human Rights Working Group).

² See the verdict of the case review Mahkamah Agung RI No. 109 PK/Pid/2007 dated 25 January 2008. In the verdict the Supreme Court granted the case review appeal submitted by the Public Prosecutor, annulled the verdict of the Supreme Court dated 3 October 2006 No. 1185 K/Pid/2006 which had annulled the verdict of Jakarta High Court dated 27 March 2006 No. 16/Pid/2006/PT.DKI which had confirmed the verdict of the Civil Court of Jakarta Pusat dated 20 December 2005 No. 1361/Pid.B/2005/PN.Jkt.Pst and re-adjudicated and stated the condemned person Pollycarpus Budihari Prijanto had legally and convincingly proven guilty for committing criminal act 1. Committing pre-planned murder, 2. Committing Letter forgery. Punishing Pollycarpus with 20 (twenty) years imprisonment sentence.

³ According to the Chief of the State Police General Soetanto the involvement of BIN (National Intelligent Agency) officials in Munir case is still being investigated <http://www.antara.co.id/arc/2008/2/13/kapolri-keterlibatan-pejabat-bin-dalam-kasus-munir-masih-diselidiki/> See also the result of the investigation of the Facts Finding Team of Munir case, the actors of Munir murder conspiracy are suspected to be involving the high officials of the State Intelligence Agency among whom are former Deputy V Muchdi Purwopranjono and former director of BIN Hendropriyono.

⁴ The Civil Court of Jakarta Pusat on 11 February sentenced 12 months imprisonment for Indra Setiawan because he was considered as having been proven to be involved in the murder of Munir by making the letter that appointed Pollycarpus Budihari Prijanto as Aviation Security.

⁵ The Civil Court of Jakarta Pusat in its verdict dated 12 February set Rohainil Aini free from any allegations because she was considered of not proven to be involved in the murder of Munir.

⁶ The eleven members of Papua Traditional Council/Dewan Adat Papua board are 1]. Tom Beanal: Chairman of DAP 2002-2007 [2]. Willy Mandowen [3]. Benyamin Yarisetouw [4]. Thaha Moh. Alhamid: Secretary General of DAP [5]. Forkorus Yaboisebut: Chairman of DAP 2007-2012 [6]. Leonard Imbiri: General Secretary of DAP 2002-2007, 2007-2012 [7]. Yakob Kasimat: Secretary to the committee of KBMAP [8]. Welem Rumasep: Vice Secretary KBMAP [9]. Astrid Rumbonde: Vice Secretary KBMAP [10]. Alfrida Faidiban: Treasurer KBMAP [11]. Asmira Alhamid: Vice Treasurer. They were interrogated as witnesses in the criminal act of treason as meant by article 106 jo 87 KUHP (Indonesian Criminal Code)

security for the Papua people because on the contrary the people were anxious and scared. Priest John Djonga, a Catholic priest on duty in the border area of Indonesia and Papua New Guinea at the district of Waris-Regency of Keerom-Papua who attempted to speak out the people's objection, simply was seriously threatened to be murdered by the members of Kopassus (Special Armed Forces)⁷.

The visit of Hina Jilani in Papua which should have made the officers in Papua increasing their protection to HRD contrarily became the arena for retaliation by the officers in Papua toward HRD. Several HRDs in Papua became the victims of intimidation and terrors after they met Ms. Jilani, among whom are Frederika Korain of SKP Jayapura⁸, Alberth Rumbekwan of Komnas HAM Papua⁹ and Yan Christian Warinussy of LP3BH¹⁰. Terror and intimidation such as spying and sending terror SMS to the HRD spreading from the grass root activists to the officials of Majelis Rakyat Papua/Papua Cultural Council (MRP) who were suspected by the actors of terror as representatives of the separatists in Papua.¹¹

⁷ Priest John Djonga the St. Mikhael-Waris, Keerom-Papua parish, experienced intimidation and terrors which were committed by Lettu Usman, Chief of Kopassus Pos Banda Distrik Waris-Keerom-Papua and his 6 subordinates. Lettu Usman threatened to kill and bury the Priest in a 700 m deep gorge. Members of the forces/Kopassus were also assumed of stalking the priest to the residence of the priests of Projo Condios in Abepura and trespassing the yard. The priest, John, has filed a report to the Regional Police /Kapolda of Papua on 18 September 2007 but the Regional Police Chief said they could not protect the priest if the actors were from the military. Imparsial tried to send letter of protest to the Government and the Department of Law and Human Rights already sent letter to the Chief of Armed Forces for urgent attention on this issue.

⁸ On 8 June 2007 Frederika Korain, Reverend Perinus Kogoya and Bathol Yomen from SKP Jayapura hitched a ride in a car in their trip from Sentani airport to Jayapura after meeting Hina Jilani in Jakarta. Approximately at 07.15 WIT when they got to Ifar area, their car was hit by a blue Kijang (car) DS 1693 AF. Frederika got off the car and asked the other car's driver to get off. Someone from the car got off and admitted to be Letkol FX. Subangun and to be the Intelligent Commander/Komandan Intel of KODAM XVII Trikora. The Intel gave his cell-phone number 0811484860 and said that his driver had unintentionally hit the car of SKP. But when Imparsial who got the report from Frederika tried to contact the cell phone number and tried to trace to KODAM XVII, the cell-phone was never activated and the person claiming to be Letkol FX. Subangun was not an Intelligent Commander/Komandan Intel of KODAM and KODAM could not provide any explanation about it. The person who hit Frederika and the others, prior to the accident was also seen in the line of intelligent who supervised the arrival of Hina Jilani at Sentani airport. Imparsial tried to send letter of protest to the Government but never responded.

⁹ Chairman of Komnas HAM Papua Alberth Rumbekwan was threatened through phone and SMS by unidentified person who said he was going to kill Alberth because he was considered of selling the nation to foreigners. Alberth had also been stalked both in his office and at home. Imparsial has connected directly with Alberth Rumbekwan and has attempted protection for him with the assistance of Amnesty International, PBI Indonesia and NGOs in Papua (Foker LSM, SKP Jayapura, Elsham Papua, LBH Papua and ALDP). Imparsial tried to send letter of protest to the Government but never responded.

¹⁰ Several days prior to and after meeting Hina Jilani, Yan Christian Warinussy from LP3BH kept being watched by unidentified person, who was assumed to be an intelligent personnel and admitted as Herry. Herry said to Warinussy that he was the correspondent for Elshinta radio Jakarta in Manokwari. When Warinussy reported to Imparsial, Imparsial attempted to cross-check with Elshinta radio Jakarta and Elshinta radio stated that they never had any correspondent by the name of Herry with the characteristics as mentioned by Warinussy. Warinussy obtained protection from PBI Papua. Imparsial tried to send letter of protest to the Government but never responded.

¹¹ Terror by sms had been received by almost all HRD activists in Papua; the message was sent by unknown person and contained threat and abusive remarks to the HRD activist. One of the examples is "*Kalian2 ini sudah yg adu2 bangsa Papua dengan HAM untuk hancurkan torang. Ko mau bukti pembantaian torang pasukan kilat buat ko pu suku ko pu maitua/paitua ko pu anak jadi tulang belulang untuk bukti ya ada di tanah papua zone damai. Ini ceriut ko tinggal ambil itu nanti*" which was sent by unknown person to Alberth Rumbekwan the Chairman of Komnas HAM Papua. Imparsial was also forwarded the terror messages from several other HRDs Papua which was sent by unknown person to them between June and September 2007.

The fear of “Papua separatism” still haunts the government of Indonesia. Thus one of the Papua people’s rights that are always under the tight control of the government is the freedom to express their opinion. The Attorney General issued the Decree of the Attorney General No. Kep-123/A/JA/11/2007 has banned the circulation of a book written by Sendius Wonda, S.H., M.Si entitled “*Tenggelamnya Rumpun Melanesia; Pertarungan Politik NKRI di Papua Barat*”.¹²

The Government of Indonesia has not given legal protection to HRDs to be free in doing their task of promoting Human Rights. There are many laws that contrarily are used to criminalize HRD. Although the Constitutional Court in its decree has stated that Articles 134, 136 Bis, 137 KUHP (Indonesian Criminal Code) on contempt on the President and the Vice President and Articles 154 and 155 KUHP on hatred toward the Government of Indonesia, are not applicable for they are considered to be contradictory to the Constitution, yet in fact there are many articles in KUHP that are used to criminalize HRD. Of those articles, among which is Article 160 KUHP on insulting such as experienced by Papua Human Rights activist Sabar Olif Iwanggin¹³ and Acehese activists¹⁴, and the article 207 on contempt toward the general authority and article 310 KUHP on defamation such as experienced by Bersihar Lubis¹⁵.

¹² The Attorney General has also issued an instruction no. INS-004/1/JA/11/2007 to the all its office in Indonesia to confiscate the book and to carry out intelligent operation for the confiscation act on the printed material, also to demand the responsibility of those who do not comply to it. Wonda’s book ban, according to Prosecutor Asri Agung Putra of Jayapura, is because the book consisted of many things that discredited the government and contained an attempt to break the unity, among which HIV/AIDS that was spreading in Papua was intentionally organized to be spread by the government by sending prostitutes from Java to wipe out Papua people. Wonda’s book also mentioned the Family Planning/ KB program which was said to reduce the people of Papua. The Attorney General’s department will take further action by studying the content of the book before determining further legal action.

¹³ Sabar Olif Iwanggin, a volunteer in ELSHAM Papua and one of the lawyer team for the Bantok 16 Maret 2006 case, on 17 October were arrested by the joint apparatus of Reserse Polda Papua and Detasemen Khusus 88 Anti-Terror in front of GOR Cendrawasih in Jayapura. The arrest was carried out relating to the suspicion of victims’ involvement in the terror message case that often happened in the area of Papua. In the press release, the legal representative and family said that the victims merely received a message from unknown number then he sent it to several close friends and family with the intention that they would not be provoked. Sabar was accused of committing an offence against the President, Mr Presiden Susilo Bambang Yudhoyono and was charged with article 160 KUHP and at the moment the case is being brought into court in PN Jayapura. The message received by Sabar Olif from Marto Yowey was “*New information, be on alert, SBY has already ordered to eliminate the people of Papua and take control over the natural resources of their land. The methods used to eliminate the people of Papua are food poisoning, pay doctors, pay food stalls, pay motorbike taxis, pay drivers and ABRI Forward this (information, red.) quickly to the whole community of Papua before it will be too late..... Maya IPDN (Institute Pemerintahan Dalam Negeri, red.) BANDUNG.*”

¹⁴ 8 activists of Banda Aceh Legal Aid Institute at Langsa Office: Kamaruddin, Muksalmina, Yulisafitri, Sugiono, Mustiqal, Juli Fuadi, Mardiaty and Juanda were brought to justice in December 2007 after they organized peaceful demonstration against Bumi Flora Palm Plantation in Langsa-Eastern Aceh. The Prosecutor accused them as insulting Bumi Flora and charged them with article 160 KUHP.

¹⁵ Bersihar Lubis, a senior journalist, was charged with article 207 jo 316 and 310 KUHP because he was considered of committing an offence to the Attorney General after Lubis wrote in an opinion column of Tempo Newspaper on 17 March 2007 where he criticized the prohibition of history textbook for Junior and Senior Highschool that wrote about G30S without adding the word PKI. Lubis titled his opinion “Kisah Interogator yang Dunggu/The story of Stupid Interrogator”. It was the word “Dunggu” that was considered as an offence to the General Attorney’s department. Lubis was brought to court in PN Depok on 19 September 2007. The Public Prosecutor charged 8 months imprisonment. The judge will give the verdict on 20 February 2008.

The law in Indonesia can also be manipulated and used to protect state officials who committed violence act on HRD. An obvious example of it is the verdict of PN Jakarta Selatan No. 297/PDT.G/2007/PN Jaksel on 12 December 2007 which rejected the claim made by Imparsial to BAIS with the reason that although BAIS had accused Imparsial, KontraS and Elsham Papua as radical groups and that the accusation had disadvantaged Imparsial's reputation, but the accusation of BAIS was expressed in a closed meeting, so the Court considered that BAIS did not violate the law. Imparsial filed appeal to the verdict.

But on the other hand, claim on law violation act filed by the former President Soeharto against TIME magazine, which had been considered of not meeting the elements of law violation by the Civil Court and High Court of Jakarta, contradictorily was granted by the Supreme Court, and the TIME magazine was sentenced to pay Rp 1 trillion to Soeharto because the picture and article in TIME was considered to insult reputation and dignity of Soeharto as the retired Great General of the Armed Forces and former president of Indonesia.

Violence toward journalist also indicated high intensity in 2007. Independent Journalists Alliance (AJI) in end year evaluation stated that in 2007 there have been 75 violence cases toward journalist in Indonesia, increasing from 53 cases in 2006. The threat toward press in Indonesia is no longer in the form of *breidel* or censorship during the era of Soeharto, instead it is now a threat of criminalization and imprisonment to media workers.¹⁶ AJI also noted that violence toward journalist in 2007 has also caused death i.e. the death of Ali Imron.¹⁷

The actors committing violence against HRD in 2007 are still dominated by military, police and bureaucratic civilian personnel. But the violence committed by fundamentalist groups acting on behalf of anti-communist issue has also increased in 2007. For example Front Pembela Islam (FPI), Ikatan Masyarakat Madura (Ikamra), Majelis Ulama Indonesia (MUI) Jawa Timur and Pemuda Muhammadiyah Jawa Timur that are joined in Front Anti Komunis carried out demonstration in the office of Jawa Pos Newspaper, Surabaya by accusing Jawa Pos as the new form of communism channel. The mass consisting of Front Anti Komunis, Forum Ukhuwah Islam, HMI, Persatuan Masyarakat Anti Komunis (PERMAK), CICS and Komite Pemuda Anti Komunis that are joined in the People Movement against Communism carried out demonstration in front of the office of Indonesian Institution of Research (LIPI) demanding that one of the researchers and historian of the institution, DR. Asvi Warman Adam, be fired because he was labeled as a communist.

Violence threats on HRD are in the forms of psychic threat among which by sending sms or abusive remarks, and physical threat such as beating and molestation. Sensitive issues that have caused many victims of the HRDs, among others are the issues of communist, regional leader election, land and environment, labor, natural disaster, and pluralism.

¹⁶ 2007 End Year Statement of Aliansi Jurnalis Independen (AJI): Bebaskan Pers Indonesia dari Ancaman Kekerasan dan Pemidanaan (Free Indonesian journalists from violence threat and criminalization) , Jakarta 28 December 2007.

¹⁷ Idem. Ali Imron was journalist of Media Harapan on 22 June 2007 after he was tortured by strangling his neck with a rope, and his arms and legs bound. Ali Imron at that time was investigating criminal case of marriage by contract between foreign citizen and Indonesian women.

So far the Government's protection efforts to minimize violence on HRD are very little. In some cases, the Government seemed only to be taking an action when the case is being publicized to international level which apprehensively will damage the image of Indonesia in the international forum, for example the terror case on the Chairman of Komnas HAM Papua Alberth Rumbekwan. In many cases the Government also gave the impression of still protecting the actors of violence. Only a few cases were being processed by law, even those were given very light verdict and were only given to the actors in the field.

Apart from still maintaining regulations that hinder the works of HRD, the government also formulates new regulations that have the potential as threats for HRD, among which by the discussion of the Intelligence bill, the State Secrecy bill, the Press bill and the Reserve Component bill.

Recommendation:

Based on the facts mentioned above, we urge the UN Human Rights Council to consider the following things:

1. Demand the Government of Indonesia to harmonize the Declaration of Human Rights Defender Protection into the national law of Indonesia and to revoke all the laws and regulations that are contradictory to the Declaration;
2. Demand the Government of Indonesia to translate and distribute the Declaration of Human Rights Defender Protection to be the directive manual for states personnel, particularly the Armed Force, the State Police, intelligent and civilian bureaucrat;
3. Demand the Government of Indonesia to pass law on Human Rights Defender protection;
4. Demand the Government of Indonesia to end the impunity toward the actors of violence against HRD by legal processing all crimes committed and punishing the actors without any exceptions;
5. Demand the Government of Indonesia to seriously take follow-up actions on the investigation of Munir case and to legal process the people suspected to be involved in the conspiracy of Munir murder, including investigating the former high level officials of the State Intelligence Agency.
