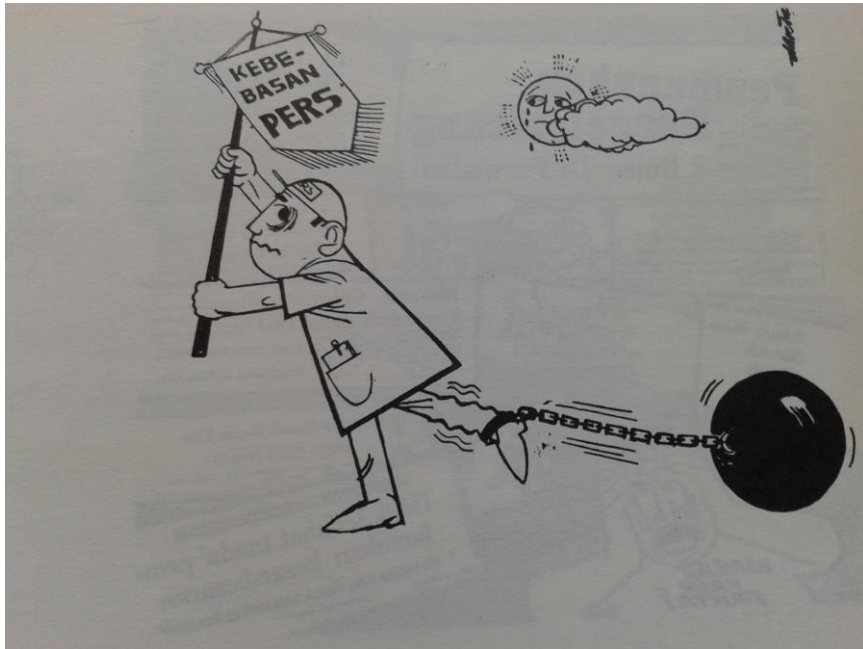


Weekly Update Human Rights in Indonesia – 29-12-2014

End-of-Year Special: Freedom of expression

Freedom of expression

Mid December a study has been published on the freedom of expression in Indonesia. This was reason for us to gather some more, recent and not so recent information on the freedom of expression as an End-of-Year Special. Enjoy reading and best wishes for 2015!



Kompas, 23-01-1969; from: G.M. Sudarta, Indonesia 1967-1980, PT Gramedia, 1980 (Kebebasan Pers = Press Freedom).

Press Freedom, Law and Politics in Indonesia

by H.P. Wiratraman

Press freedom in Indonesia is still under pressure, despite the demise of Soeharto's regime in 1998. Herlambang Wiratraman defended his thesis on 11 December 2014.

The political transition of 'Reformasi' has promoted a decentralised model of governance, which has led to new types of attacks on the press. Extra-judicial killings, physical violence, bringing criminal or civil claims against journalists and impunity of those perpetrating such acts have made it difficult for many journalists to conduct their work in a proper manner and without fear.

This study aims to present a comprehensive overview of how press laws and court cases involving the press have influenced press freedom in Indonesia. Adopting a socio-legal approach it looks at the history of press laws, their implementation through government institutions and courts, and the debate concerning these laws and their implementation. Four key research questions serve as the point of departure:

1. how has the concept of freedom of expression and press freedom evolved in Indonesian law?
2. how has press freedom as one of the main pillars of constitutional democracy been guaranteed by the Indonesian legal system?
3. how has press freedom been shaped by various actors?
4. do these dynamics reflect the rule of law?

Without press freedom a constitutional democracy cannot function properly, to the extent that the degree of press freedom becomes an indicator of the level of

This Amnesty International Netherlands clipping service is made for Amnesty members and others interested in the human rights developments in Indonesia – for information only – not to be quoted as Amnesty information. For more information or to be included in or deleted from the mailing list, write to m.meijer@amnesty.nl.

For back issues view <http://www.marthameijer.org/page36.php>

Weekly Update Human Rights in Indonesia – 29-12-2014

End-of-Year Special: Freedom of expression

democracy in a particular country. This socio-legal study aims to clarify how the concepts of freedom of expression and press freedom have evolved in Indonesian law; how press freedom as one of the main pillars of constitutional democracy has been guaranteed or curbed by the Indonesian legal system; how press freedom has been shaped in practice; and how this can be evaluated from a rule of law perspective.

The research found press freedom in Indonesia is still under pressure, despite the demise of Soeharto's authoritarian New Order regime in 1998. Decentralised model of governance during 'Reformasi' has led to new types of attacks on the press. Extra-judicial killings, physical violence, bringing criminal or civil claims against journalists and impunity of those perpetrating such acts have made it difficult for many journalists to conduct their work in a proper manner and without fear. Hence, there is still a pattern of legal and non-legal attacks against the press. The research has found that from colonial times until the present Indonesia has struggled with press freedom.

The study of Dr. Herlambang Wiratraman can be accessed via:

<https://openaccess.leidenuniv.nl/handle/1887/30106>

Press Freedom, Free Expression Still Under Threat in Indonesia

Freedom House, December 18, 2014

An international delegation visiting Indonesia last week raised concerns about the current state of media freedom in the country, calling on the Widodo administration to take a new approach towards freedom of expression. Criminalisation of online speech, a climate of impunity for attacks against

journalists, the concentration of media ownership among five moguls and the politicisation of media outlets are all current areas of concern.

"This is a window of opportunity for the new Widodo administration to consolidate the position of Indonesia as a regional leader on freedom of expression. The time for action is now", the mission said. "Important gains have been made in terms of media freedom but there are major issues that will continue to hold the country back if not given due priority".

The mission met with journalists and freedom of expression groups in Jakarta and Bali as well as Indonesia's Minister of Communications and Technology, Rudiantara. While the Minister expressed a commitment to continue the public dialogue on broadcast regulatory reform, he indicated that state-sponsored filtering of Indonesia's internet would continue.

Journalists from across the country reported continued acts of intimidation, threats and killings by both state and non-state actors, such as police, religious hardliners, and organised violent groups, described as "thugs", which are affiliated with political and business interests. This puts enormous pressure on journalists to self-censor.

The successful prosecution in the 2009 murder of Anak Agung Prabangsa, while welcome, is unfortunately an exception to the ongoing culture of impunity in the country. Many cases remain unsolved, notably the 1996 murder of Fuad Muhammad Syafruddin, known as "Udin".

"The failure to hold Udin's murderers to account, nearly twenty years on, continues to cast a pall over Indonesia's justice system", the mission said. "We urge President Widodo to renew efforts to find the killers". Authorities also deliberately obstruct international journalists' access to sensitive regions through

This Amnesty International Netherlands clipping service is made for Amnesty members and others interested in the human rights developments in Indonesia – for information only – not to be quoted as Amnesty information. For more information or to be included in or deleted from the mailing list, write to m.meijer@amnesty.nl.

For back issues view <http://www.marthameijer.org/page36.php>

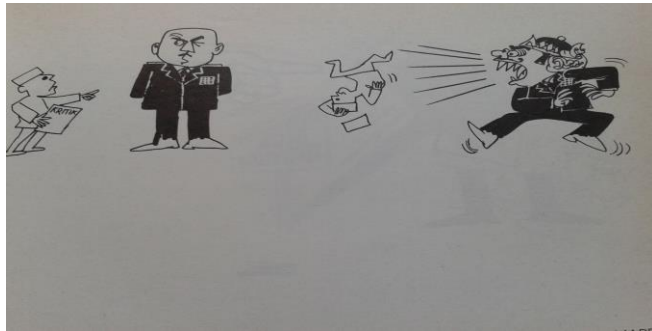
Weekly Update Human Rights in Indonesia – 29-12-2014

End-of-Year Special: Freedom of expression

an opaque and overly bureaucratic process of applying for visas. In the rare instances where access is granted, journalists are accompanied by government and security officials.

Several elements in Indonesia's regulatory framework also fall foul of international human rights standards, such as the Electronic Information and Transactions (ITE) Law and oversight of the broadcasting sector. Political domination of media outlets, which undermines editorial independence, is also a cause for concern.

The mission's observations and recommendations are available at: <https://freedomhouse.org/article/observations-and-recommendations-international-partnership-mission-indonesia> . Indonesia is rated Partly Free in Freedom in the World 2014, Partly Free in Freedom of the Press 2014, and Partly Free in Freedom on the Net 2014.



Kompas, 26-03-1969; from G.S. Sudarta: Indonesia 1967-1980; PT Gramedia, 1980.

Indonesia's internet legislation

<https://www.techinasia.com/deeper-indonesias-problematic-internet-law-impede-freedom-expression/> September 14, 2014

by Enricko Lukman¹

Those who have been listening in to Indonesia's tech scene in the last two weeks would by now have heard the name Florence Sihombing, an Indonesian citizen in Jogjakarta. She is involved in the highly disputed case involving the UU ITE (regulation about electronic information and transaction) in Indonesia. The law – which was established in 2008 – regulates citizens' conversation online, and lets anybody charge anyone for making them "feel offended".

Indonesia is a democratic country with a constitutional amendment guaranteeing the freedom of expression. But the existence of the ITE law contradicts the amendment. Sihombing's case is one of many incidents showing how the ITE law can be broadly interpreted. We will also look at other cases related to the legislation which shows the law enforcers' lack of understanding when dealing with these issues. Before we go any further, let's look at some recent cases for context.

Sihombing is an Indonesian who called Jogjakarta people "poor, stupid, and uncultured" on private social network Path. Somebody took a screenshot of it and shared the status on public social media like Facebook and Twitter.

Jogjakarta people showed their discontent regarding Sihombing's status and bullied her online. #UsirFlorenceDariJogja was the worldwide trending hashtag

¹ Editing by Terence Lee and Steven Millward

This Amnesty International Netherlands clipping service is made for Amnesty members and others interested in the human rights developments in Indonesia – for information only – not to be quoted as Amnesty information. For more information or to be included in or deleted from the mailing list, write to m.meijer@amnesty.nl.

For back issues view <http://www.marthameijer.org/page36.php>

Weekly Update Human Rights in Indonesia – 29-12-2014

End-of-Year Special: Freedom of expression

used to make Sihombing notorious on Twitter. It means “evict Florence from Jogja”.

The situation became worse. A few local NGOs took the case to the police by filing a lawsuit against her under the ITE law. They believe that Sihombing should be found guilty for causing “insult, defamation, and provocation”.

Sihombing has since issued a public apology. And even when the numerous NGOs said they have forgiven her for it, they are still continuing the criminal charges against her.

A similar incident also happened in Bandung recently. Ridwan Kamil, a respected mayor of the city, filed a lawsuit against Twitter user Kemal Septiandi. The latter basically made childish, nasty references to Kamil and Bandung cities, using words like “fuck” and “whore.”

But do Sihombing’s and Septiandi’s online rants (one of which was essentially private) warrant them being charged like criminals?

OTHER PROBLEMATIC CASES

Southeast Asia Freedom of Expression (SafeNet Voice), a movement that promotes the freedom of speech in the region, has been following the issue surrounding Indonesia’s ITE regulation. While they believe it is needed to regulate the online world, the law has a few loopholes to be fixed.

1. It’s unclear if violations of the ITE regulations should fall under civil or criminal law.

Because defamation can become either a civil and criminal dispute in Indonesia, the government needs to draw a clearer line. Australia, for example, rules that

any instances of defamation that harm an individual should be considered a civil offense. When the incident affects the community, like endangering the public peace, then it can be considered a criminal offense.

Because the parameter is yet to be clearly defined in Indonesia, there have been a few small incidents which should’ve ended up as civil disputes rather than in the criminal court. One of which is an incident in 2010 involving two high school students who talked trash to each other on Facebook. In the end one of them filed a lawsuit, and successfully got the other student convicted as a “criminal”. The latter was charged with two months and 15 days of imprisonment, but could escape jail time as long as she doesn’t break any laws for five months.

2. Law enforcers may not fully understand the best practices in handling online defamation cases.

There is the case of Donny Iswandono, the journalist who was charged under the ITE law because of his articles on corruption in the South Nias Regency. Iswandono claims to have followed journalistic best practices by asking for the regent’s comments before publishing the article, but it was ignored. Indonesia Corruption Watch believes that the police should’ve prioritized the investigation of the regent’s corruption cases over Iswandono’s defamation charge.

SafeNet Voice regional coordinator Damar Juniarto cites the case of Benny Handoko, who was found guilty of defamation through his tweets. Juniarto said that the judge did not follow the usual protocol of evaluating digital forensic evidence needed to establish the “intention” in defaming the person. To demonstrate intention, the perpetrator must be shown to defame a person more than once. The judge simply dismissed the digital forensic appeal by the defense attorney.

This Amnesty International Netherlands clipping service is made for Amnesty members and others interested in the human rights developments in Indonesia – for information only – not to be quoted as Amnesty information. For more information or to be included in or deleted from the mailing list, write to m.meijer@amnesty.nl.

For back issues view <http://www.marthameijer.org/page36.php>

Weekly Update Human Rights in Indonesia – 29-12-2014

End-of-Year Special: Freedom of expression

It is also very easy to report somebody to the police. Often, just a single text is enough, just like what happened in the ongoing case of Muhammad Arsad, who sent an SMS to his superior, the head of the Selayar Regency.

The police has the authority to hold convicted people in detention for 20 days after the lawsuit is filed. So they need to be really sure if the conviction really makes sense before doing so.²

3. Punishments are not always appropriate for offenders.

Juniarto cites the two recent examples of Sihombing and Ridwan Kamil. Both are cases whereby the prosecutors want to uphold good internet ethics in society. He believes that if authorities want to educate netizens about online ethics, then they should teach the public about best practices. Education is a more direct approach than landing somebody in jail. “I don’t think they will learn much about ethics in jail,” he says.

4. The government should be more consistent in investigating the more serious cases in Indonesia.

The recent presidential election saw a lot of smear campaigns targeting the presidential candidates. This is where the ITE’s defamation law can play a huge role in ensuring the country’s well-being. However, no arrests resulted from those recent ad hominem attacks.

There is also the case of the ITE law’s disproportionate damages for criminal defamation cases compared to the less severe punishment under the criminal code. Those who are found guilty under the criminal code, for example, could be

² See: Indonesian man convicted of libel on Twitter, protest surges over draconian internet law, by Enricko Lukman Feb 5, 2014: <https://www.techinasia.com/cyber-law-twitter-libel-indonesia-guilty/>

sentenced up to nine months of imprisonment or fined up to IDR 4,500 (US\$0.38). The ITE law sentences people up to six years of imprisonment and/or a fine of up to IDR 1 billion (US\$84,750).

The United Nations’ special rapporteur for free expression Frank La Rue says that online defamation should instead have less punishment when compared to defamation cases occurring in print media. This is because in online cases, the concerned individuals could immediately “exercise his/her right to reply instantly to restore the harm caused.”

On top of all that, there are also a few parts in the ITE law that can be interpreted multiple ways. The ITE law lets you charge someone who made you feel “insulted”, “scared”, or “provoked”. Those are very subjective. One person may feel insulted simply by reading a social media status posted by somebody they don’t know, while another person would just ignore it.

Some people argue that as the law regulates disputes between individuals, then it might more appropriately label them a civil offense rather than criminal offense. International bodies like the United Nations and Organization for Security and Co-operation in Europe have also called for the decriminalization of defamation because it restricts the freedom of expression.

IS REFORM ON THE WAY?

Is there any hope to revise the law? Perhaps. Juniarto says that the Constitutional Court has done four judicial reviews regarding the ITE law, but none of them resulted in any regulation change. According to Juniarto, any more judicial reviews won’t do any good. Their hope lies in the Information and Communication Technology (ICT) ministry, who promised SafeNet Voice three weeks ago that they will revise the internet law. But Juniarto’s a bit skeptical,

This Amnesty International Netherlands clipping service is made for Amnesty members and others interested in the human rights developments in Indonesia – for information only – not to be quoted as Amnesty information. For more information or to be included in or deleted from the mailing list, write to m.meijer@amnesty.nl.

For back issues view <http://www.marthameijer.org/page36.php>

Weekly Update Human Rights in Indonesia – 29-12-2014

End-of-Year Special: Freedom of expression

because the same promise was made two years ago without any results. Since the ITE law was established, over 50 cases involving people being charged have come to light. SafeNet Voice hopes that the new ICT ministry under the new government would do things differently.

For now, the government should educate everybody about the best practices in approaching online defamation cases. La Rue suggests that netizens should first try responding to the accusations. And although defamation is considered a criminal offense in countries like the United States and Australia, such cases are more commonly disputed under civil law.

Freedom of expression suppressed in Papua as third peaceful protester dies

Amnesty International, 9 May 2013

The death of an activist after she participated in a peaceful protest in Papua, Indonesia, is a tragic reminder of the precarious state of freedom of expression and assembly in the region, Amnesty International said. Salomina Kalaibin died in hospital on 6 May due to gunshot wounds she received six days earlier at a peaceful commemoration of the 50th anniversary of the handover of Papua to the Indonesian government by the United Nations Temporary Executive Authority.



Possession of the Morning Star flags, a symbol of Papuan independence, is prohibited under a 2007 government regulation in Indonesia. Possession of the Morning Star flags, a symbol of Papuan independence, is prohibited under a 2007 government regulation in Indonesia. © Ulet Ifansasti/Getty Images

Two other people were killed and at least seven other protesters were wounded during the event. At least 22 individuals are currently detained for having participated in the peaceful activities. Many allege the security forces were responsible for the violence. “The death of the three political activists is a stark reminder that in Papua, speaking out comes with a high price,” said Isabelle Arradon, Asia-Pacific Deputy Director at Amnesty International.

“It is imperative that authorities in Indonesia urgently set up a comprehensive and independent investigation into allegations of unnecessary use of firearms by security forces during the protests, make the results available to the public, and bring those responsible to justice.”

This Amnesty International Netherlands clipping service is made for Amnesty members and others interested in the human rights developments in Indonesia – for information only – not to be quoted as Amnesty information. For more information or to be included in or deleted from the mailing list, write to m.meijer@amnesty.nl.

For back issues view <http://www.marthameijer.org/page36.php>

Weekly Update Human Rights in Indonesia – 29-12-2014

End-of-Year Special: Freedom of expression

“Failure to take action will send a message that the security forces in Papua operate above the law.”

On 30 April, police and soldiers opened fire on a group of people who had peacefully gathered in Aimas District, in the city of Sorong, to organize commemorative activities the following day. Two men, Abner Malagawak and Thomas Blesia, were killed on the spot while Salomina Kalaibin, a woman, died six days later due to gunshot wounds to her stomach and shoulder. Two others also suffered gunshot wounds during the incident. Police claim the shootings were done in self-defence.

At least six people have since been arrested and charged with “rebellion” for possession of the Morning Star flags, a symbol of Papuan independence which is prohibited under a 2007 government regulation.

On 1 May 2013 police opened fire into the air to forcibly disperse hundreds of peaceful protesters who had gathered at a market complex in Kwamki Baru, Timika and allegedly shot five people. At least 10 protesters were taken to Mimika District police station and charged with “rebellion”.

That same day, at least one person was shot in the city of Biak when security forces opened fire at a group of at least 50 people who had gathered to raise the Morning Star flag.

Article 6 of Indonesia’s Government Regulation No. 77/2007 prohibits the display of separatist logos or flags and Articles 106 and 110 of the Criminal Code prescribe heavy punishment for “rebellion”.

“The fact that Indonesian law is being used to criminalize freedom of expression, coupled with a situation in which abuses by security forces are rarely brought to

civilian courts is a dangerous situation for peaceful political activists and human rights defenders in Papua,” said Arradon.

Indonesia affirms restrictions to freedom of expression in Papua to UN Human Rights Committee

Joint Press Release by Franciscans International, Human Rights and Peace for Papua (ICP), Imparsial, KontraS, Tapol and the West Papua Network

(July 11, 2013, Geneva) On July 10 and 11, 2013 the UN Human Rights Committee reviewed the implementation of the International Covenant on Civil and Political Rights, one of the most important human rights treaties Indonesia has ratified and has the obligation to implement to ensure protection of these rights in Indonesia.

The Committee highlighted the ongoing violence in Papua and deplored the excessive use of force by the Indonesian security forces. Since there is no effective mechanism available to hold military members accountable, the Committee sees re-occurrences of such violations as likely until Indonesia takes measures to develop effective complaint procedures. The Committee referred to the high number of extrajudicial killings that have occurred in Papua over the last 2 years and deplored the use of violence in dispersing peaceful protests in Papua.

Poengky Indarti from human rights watchdog Imparsial said “the discussion about Papua at the UN Human Rights Committee shows that ongoing human rights violations in Papua continue to be a key concern for the international community.”

While Indonesian military tribunals are in most cases not open to the public and do thus lack transparency, impartiality and independence, the Indonesian

This Amnesty International Netherlands clipping service is made for Amnesty members and others interested in the human rights developments in Indonesia – for information only – not to be quoted as Amnesty information. For more information or to be included in or deleted from the mailing list, write to m.meijer@amnesty.nl.

For back issues view <http://www.marthameijer.org/page36.php>

Weekly Update Human Rights in Indonesia – 29-12-2014

End-of-Year Special: Freedom of expression

government delegation falsely claimed to the Committee that these tribunals are generally accessible to public. Indria Fernida from London based Tapol was shocked to notice the “level of denial of institutional shortcomings that prolong the culture of impunity in Indonesia.” “Victims are disappointed about the failure of Human Rights Courts in Papua and badly need an effective complaint mechanism for violations perpetrated by the military”, Indria Fernida added.

The Human Rights Committee emphasizes that courts holding members of the military responsible have to be open, impartial, transparent and accountable. NGOs who attended the review expect the Committee to give strong recommendations to the government to review the Military Court Law.

The government delegation claimed to the Committee that local media in Papua is free to publish any news. Meanwhile, cases of intimidation, threats and violence against local journalists in Papua continue. In recent years, the international community had to witness the extrajudicial killing of Journalist Ardiansyah Matrais and the violent attack against Journalist Banjir Ambarita.

In its review, the UN body also deplored the situation of freedom of expression in Papua. Lieutenant General ret. Bambang Darmono, chief of the Unit for the Acceleration of Development in Papua and West Papua (UP4B), as a member of the government delegation responded to the Committee, that “freedom of expression is not absolute”. Information the Committee referred to, deplored the problem of political prisoners in Papuan jails. The government’s delegation stated its position that Filep Karma, Kimanus Wenda and other prisoners are lawfully imprisoned for their expressions aiming to separate Papua from Indonesia. According to the delegation, the Indonesian government would continue to stop peaceful expressions of political views that aim at the separation of Papua from Indonesia by means of criminal charges. The delegation sees this limitation of

freedom of expression as necessary to maintain state sovereignty and the territorial integrity of Indonesia. Budi Tjahjono from Franciscans International feared that “this implies a prolongation of the detrimental security approach in Papua.”

The Committee is expected to publish its concluding observations and recommendations to the Indonesian government by the end of July. The Indonesian governments state report as well as NGO reports are available online at <http://www.ccprcentre.org/country/indonesia/>.

Jokowi Breaks Silence on Killings in Paniai, Pledges to Resolve Shootings

The Jakarta Globe, 28-12-2014

Jayapura. President Joko Widodo has told a crowd in Papua that the shooting of five young civilians in the province earlier this month is unacceptable, and that the government will soon form a fact-finding team to investigate the case.

Joko, who is in Indonesia’s easternmost province to attend Christmas celebrations, said the incident, which occurred in the town of Enarotali in Paniai district on Dec. 8, was deplorable.

Security forces opened fire on about 800 peaceful demonstrators, including women and children. Five protesters were killed and at least 17 others — including elementary school students — were injured, according to a report from Human Rights Watch.

Joko, who addressed a crowd of hundreds at Mandala Stadium in Jayapura, the provincial capital, on Saturday, said he empathized with the grieving families.

This Amnesty International Netherlands clipping service is made for Amnesty members and others interested in the human rights developments in Indonesia – for information only – not to be quoted as Amnesty information. For more information or to be included in or deleted from the mailing list, write to m.meijer@amnesty.nl.

For back issues view <http://www.marthameijer.org/page36.php>

Weekly Update Human Rights in Indonesia – 29-12-2014

End-of-Year Special: Freedom of expression

“I want this case to be solved immediately so it won’t ever happen again in the future,” the president said. “By forming a fact-finding team, we hope to obtain valid information [about what actually happened], as well as find the root of the problems.” Joko added he wanted peace in Papua. “I want my visit to Papua to be useful, I want to listen to the people’s voices, and I’m willing to open dialogue for a better Papua,” he said. Joko said the government needed to listen to Papuans in order to solve the long-running conflict in the restive region.

“I think that the people of Papua don’t only need health care, education, the construction of roads and bridges, but they also need to be listened to. That is what I will do in dealing with the problems in Papua,” he said.

Hostilities between Papuan civilians and the security forces have frequently turned deadly since Indonesia annexed the region in 1969.

The president had earlier faced strong calls from Papuans to abandon his plan to celebrate Christmas in the troubled eastern province due to his previous muted response to the Paniai shootings, which were one the worst acts of state violence in years. Victims and activists have said the incident was prompted with the beating of a 12-year-old boy from Ipakiye village, five kilometers from Enarotali, when the boy confronted a group of men in an SUV for driving at night with their headlights off.

The beating resulted in villagers marching to the capital to demand an explanation the next day. At around 10 a.m. the crowd spotted the same SUV and began attacking it. Police then opened fire on the unarmed crowd, witnesses said.

But the National Police chief, Gen. Sutarman, gave a different account of what happened, claiming the victims were planning an attack against the local military

base, where locals suspected the SUV driver was hiding. Police stopped the crowd from advancing by setting up a barricade, he said. “Amid the protest, some [unknown] gunmen fired shots from the hills far away, causing the 200 or so people to riot,” the police general claimed. He also denied that a high school student was among the five people shot dead by officers, despite photographs obtained by HRW clearly showing young men in school uniforms among those shot. The coordinator of the Papua Peace Network, or JDP, Rev. Neles Tebay, welcomed the president’s plan to form a fact-finding team, having previously criticized the police for being “very secretive” about their investigation. “The president is willing to identify the problem, so surely this is a good commitment,” Neles said on Saturday.

No Christmas service in Bogor

The Jakarta Globe, 28-12-2014

Members of GKI Yasmin congregation in Bogor remained unable to hold a Christmas service inside their church on Thursday. This is the fifth year that they have been unable to hold Christmas service in the church since it was sealed by local authorities in 2010.

GKI Yasmin obtained a permit to open a church in Bogor in 2006, but the permit was later revoked by the municipal government following pressure from local hard-line Islamic groups.

A Supreme Court ruling later overruled the local authority decision, compelling the Bogor administration to reopen the church, but even the new Bogor mayor, Bima Arya Sugiarto, who was elected last year, has refused to comply.

This Amnesty International Netherlands clipping service is made for Amnesty members and others interested in the human rights developments in Indonesia – for information only – not to be quoted as Amnesty information. For more information or to be included in or deleted from the mailing list, write to m.meijer@amnesty.nl.

For back issues view <http://www.marthameijer.org/page36.php>