

Questionnaire on the use of legislation, including criminal legislation, to regulate the activities and work of human rights defenders

Submitted by

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1	<p>a) Please indicate if your country has a specific legal framework, laws or regulations that aim to facilitate or protect the activities and work of human rights defenders. Please cite the names of any such laws or regulations in full.</p> <p>Indonesia does not have specific legal framework, laws or regulations aiming directly to protect the activities of human rights defender. However, there is regulation/law such as the international convention on Civil and political rights (ratified by Indonesian government) which have space to protect everyone related to the rights under the Declaration on Human Rights Defender such as the rights to information, Law no 14/2008 on Access for public Information.</p> <p>b) Please indicate how these laws and regulations are in line with international human rights standards, including, but not limited to, the Declaration on Human Rights Defenders.</p> <p>They are in line with International human rights standards. In terms of Law No.14/2008 on Access for public Information, some articles provide some rights guarantee that everyone can access information categorizing as regularly information which public body has obligation to provide regularly, every time and necessarily. However, this law also regulates limitation for everyone to access information which is exempt because it will hinder the legal process such as investigation or inquiry of criminal case, open intelligent data, disturb security protection, open the natural wealth of Indonesia or detrimental to the interests of foreign relations.</p> <p>c) Please also indicate what legal or administrative safeguards are put in place to prevent baseless legal action against and/or prosecution:</p> <p>In Indonesian Criminal Procedure Code, there is an access to apply pretrial in order to examine whether the arrest or detention committed by police is legal or not according to the legal procedure.</p>
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2	<p>a) Please describe the measures taken, if any, to ensure that your country's national security-related laws (including laws on public order, public safety, respect for morals and counter-terrorism laws) are not used to unduly restrict the scope of activities of human rights defenders.</p> <p>Under the law no: 17/2011 on State Intelligent that there is restriction for activities of human rights defenders regarding the criminal act (10 years in jail) for everyone who open or leak the secret of intelligent, while the category of information as part of secret intelligent is not yet clear in the law. If the people who is negligent to open/leak the secret of Intelligent will be punished 7 years in jail. This article will be harm for example journalist or NGO's as individual or organization which they have activity to seek and distribute of information.</p> <p>Under the law no: 7/2012 on Social Conflict Management also has potential to put HRD as party who cause of conflict related to the definition of the conflict.</p> <p>b) Please also indicate in particular how these national security-related laws respect the human right to freedom of expression and opinion</p> <p>Those laws do not respect the human right to freedom of expression and opinion. Under the law on State Intelligent, everyone cannot be easy to open the information that he/she thinks that the information is public information. People also would not be easy to speak out regarding information that he/she has because it can be a criminal act.</p>
3	<p>a) Please describe the measures taken, if any, to ensure that provisions of the criminal code, or other national laws, are not ambiguous or too broad to allow their arbitrary use, thereby restricting the activities of human rights defenders.</p> <p>There is article under the criminal code attempting to criminalize the activities of human rights defender. The criminalization in the form of defamation aims to threat the freedom of expression and opinion of the human rights defender. To avoid the criminalization to the human rights defender, some lawyers are able to send a process of pre-trial under the criminal procedure code in order to complaint unprocedural process of arrest or detain of the human rights defender, but it is often not success. Civil society in Indonesia is also still taking a discussion to review the article in the Constitutional Court in order to revoke it. Beside that the criminal code is still process under the revision by the Indonesian government, but it takes a long time and not finish yet.</p> <p>b) Please indicate what legal or administrative safeguards are in place in order to</p>

	<p>ensure that human rights defenders are not discriminated against in the administration of justice, be it through the handing down of disproportionate sentences, the unreasonable prolongation of criminal or other trials, or any other means.</p> <p>No one specific legal or administrative safeguards provided to ensure the human rights defenders are not discriminated</p>
4	<p>a) Please indicate if your country has specific laws or administrative rules governing the registration, functioning and funding of non-governmental organisations. Please cite the names of any such laws or regulations in full.</p> <p>The law no: 8/1985 on society organization/Organisasi Masyarakat (Ormas) article 13-17 in terms of freezing and the dissolution of the organization</p> <p>b) Please explain how these legal or administrative provisions comply with your country's international human rights obligations regarding the right to freedom of association.</p> <p>Under the law no: 8/1985 the organization can be frozen by the government if the organization receives contribution without approval from the government or giving contribution to the foreign party which it will inflict the interest of nation and state.</p>
5	<p>a) Are there criminal or other legal or administrative sanctions for human rights defenders who undertake activities on an individual basis or while the association they are members of is unregistered?</p> <p>No sanctions under the legal system, but they cannot move forward to do such activities that need legal recognition</p> <p>b) If such a legal framework exists, does it restrict the type of activities that human rights defenders can undertake? If yes, please provide further details.</p> <p>No legal framework exists, but in reality it restricts the human rights defenders to open the account bank as part of accountability of their organization</p>
6	<p>Please indicate the measures taken, if any, to ensure that internal security and official secret-related laws are not used to deny freedom of information to human rights defenders and to prosecute them for their efforts to seek and disseminate information on the observance of human rights standards.</p> <p>Not any specific measures can be taken, except to review the Law.</p>

7	<p>a) Please indicate the measures taken, if any, to avoid the use of defamation, slander or blasphemy laws to unduly restrict the right to freedom of opinion and expression of human rights defenders.</p> <p>Not any specific measures, but there is a revision process to the Criminal Code where there is effort to revoke the article related defamation (this process has been 4 years and not finish yet)</p> <p>b) How is it ensured that such laws, as well as laws on printing, publication and censorship, comply with international human rights standards and do not target human rights defenders carrying out their legitimate work?</p>
8	<p>Please indicate if any other type of legislation is used to regulate the activities of human rights defenders in your country and how the application of the legislation mentioned affects the activities of human rights defenders. Please cite the names of any such legislation in full.</p> <p>Law No. 2/2002 on Police article 15:2a restrict the rights of expression and assembly</p> <p>Law No. 7/2004 on wáter resources in the article 62:5,6,7 restrict the rights of expression</p> <p>Law No. 27/2007 on Management of Coastal Areas and Small Islands in the article 44 restricts the rights of information</p> <p>Law No.4/2009 on Mineral and Coal Mining in the article 7:1K and i, article 8:1i and j, article 110 and article 111:1 restrict the rights of information; in the article 162 restrict the rights of Recognition as Human Rights Defenders</p> <p>Law No. 13/2003 on Employment in the article 140 and 146 restrict the rights of opinion, in the article102,119, 120,130 and 153 restrict the rights of organization</p> <p>Law No. 21/2000 on Trade or labor unions in the article 6:2, article 38:1b:2 and 3, article 39a restrict the rights of association or organization; in the article 31:1 restrict the rights of resources</p> <p>Law No. 11/2006 on Aceh administration in the article 227:1c restrict the rights of expression</p> <p>Presidential Decree No: 18/2005 on Attorney General Commission in the article 10:2 restrict the rights of information</p> <p>Governance degree (PP) No: 15/2007 on Procedures for Obtaining Information, Preparation, Implementation and Manpower Planning of employment in the article 10 restrict the rights of information, in the article</p>

39,41 and 42 restrict the rights to participate in the System Administration

Law No. 9/1998 on Independence Public expression in the article 15 restrict the rights of expression

Criminal Code (KUHP) in the article 160, 107 often is applied to criminalize human rights defenders who implement their rights of expression or opinion. In the article 207, 510, 310 KUHP restrict the rights of expression. In the article 510, 511 of KUHP restrict the rights of assembly. In the article 310 KUHP restricts the rights of publication. In the article 82:1d, article 7:1i, article 140:2 KUHP restrict the rights of reparation.

Law No: 11/2008 on Information and Electronic Transactions in the article 27:3 and article 45:1 restrict the rights of publication

Law No. 4/PNPS/1963 on Safeguarding Against Goods Matter What Can Interfere Public Order Contents in the article 1:1, article 1:3 and article 2:3 restrict the rights of publication

Law No. 10/ 2008 on Legislative elections in the article 89:5 restrict the rights of publication

Governance decree (PP) No: 8/1981 on Protection of wages in the article 29:3, article 33 restrict the rights of publication

Law No: 21/2001 on Special Autonomy for Papua Province in the article 46:2b restrict the rights of reparation

Governance decree (PP) No: 46/2008 on Amendment to government Regulation (PP) No: 8/2005 on Working Procedure and organizational structure Tripartite Cooperation in the article 50 restrict the rights to participate in the system administration. In the article 140:2, article 7:1i, article 140:2, article 140:2 restrict the rights of reparation

Law No. 8/1985 on society organization (Ormas) in the article 13-17 restrict the rights of assembly or organization

Law No: 39/2004 on Placement and Protection of Indonesian Workers in abroad. Overall in this Law do not regulate the rights of Indonesian workers' protection which can be conducted by the *human rights defender*.

Law No: 32/2002 on Broadcasting in the article 23:1 restrict the rights of resources

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