

URGENT ACTION

ACCUSED OF DEFAMATION FOR SOCIAL MEDIA POSTS Haris Azhar, Executive Coordinator of a leading human rights NGO in Indonesia, is being investigated for defamation for publishing on social media a witness testimony linking security and law enforcement officials to drug-trafficking and corruption.

On 28 July **Haris Azhar**, Executive Coordinator of the Commission for the Disappeared and Victims of Violence (KontraS), posted a testimony based on conversations he had in 2014 with a convicted drug-trafficker on death row. The testimony linked security and law enforcement officials to drug-smuggling and corruption in Indonesia. The document was posted and widely circulated 24 hours before the prisoner was executed on 29 July, together with 3 other prisoners for drug-related offences, on Nusakambangan Island, Central Java. Since the publication of the testimony, "The dark story of a bandit: testimony from a meeting with Freddy Budiman in Nusakambangan Prison (2014)", Haris Azhar has received threats from unknown persons and staff at KontraS believe they are under increased surveillance by undercover intelligence officials who have visited their office.

The Indonesian National Police (POLRI), the Indonesian Military (TNI) and the Indonesian National Narcotics Agency (BNN) filed a joint criminal defamation complaint against Haris Azhar on 2 August for violations against the 2008 Electronic Information and Transaction Law (ITE). They have also reported him to the Criminal Investigation Department of the National Police (BARESKRIM). If charged and convicted, Haris Azhar may face a maximum 6 years' imprisonment and a fine of up to IDR 1 billion (US\$82,610).

Please write immediately in Indonesian, English or your own language:

- Urging the authorities to ensure that all criminal defamation investigations against Haris Azhar are immediately halted, whether under the ITE law, the Indonesian Criminal Code or any other law;
- Urging authorities to take immediate steps to provide appropriate protection to Haris Azhar, his colleagues and his family, according to their wishes;
- Urging authorities to immediately conduct a prompt, independent and impartial investigation into the threats against Haris Azhar and bring suspected perpetrators to justice in accordance with international fair trial standards;
- Urging authorities to ensure human rights defenders are able to carry out their work without fear of intimidation or harassment.

PLEASE SEND APPEALS BEFORE 22 SEPTEMBER 2016 TO:

President of Indonesia
President Joko Widodo
C/o Presidential Staff Office
Gedung Bina Graha
Jalan Veteran No. 16
Jakarta Pusat, 10110
Indonesia
Fax: +62 21 345 0009
Email: webmaster@ksp.go.id
Twitter: @jokowi

Salutation: Your Excellency
Head of National Police
General Pol. Drs. H.M. Tito Karnavian,
National Police Headquarters
Jl. Trunojoyo No. 3
Kebayoran Baru
Jakarta Selatan 12110
Indonesia
Fax: +62 21 7220 669/+62 21 7218741
Email: mabes@polri.go.id

Twitter: @DivHumasPolri
Salutation: Dear General
And copies to:
Chairperson of the National Human Rights Commission (Komnas HAM)
Mr. Imdadun Rahmat
Jl. Latuharhary No. 4
Menteng
Jakarta Pusat 10310
Indonesia
Fax: +62 21 392 5227
Email: info@komnasham.go.id

Also send copies to diplomatic representatives accredited to your country. HIS EXCELLENCY DR RIZAL SUKMA, Embassy of the Republic of Indonesia, 38 Grosvenor Square W1K 2HW, 02074997661, Fax 02074914993, kbri@btconnect.com, www.indonesianembassy.org.uk, Salutation: Your Excellency

Please check with your section office if sending appeals after the above date.

**AMNESTY
INTERNATIONAL**



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ADDITIONAL INFORMATION

In 2014, Haris Azhar visited Nusakambangan Island, Central Java, to meet two death row inmates. While there he spoke to Freddy Budiman who had been sentenced to death by the West Jakarta District Court in 2012 for drug-related offences. He also met the Chief Prison Officer who told him that the National Narcotics Agency had ordered him to remove closed-circuit cameras in Freddy Budiman's cell several times. Following the visit, KontraS set up a team to investigate the allegations he had made. The KontraS investigations are ongoing. Haris Azhar attempted to submit the testimony as evidence to the authorities on 24 July but was advised not to publicise the document.

The 2008 Electronic Information and Transaction Law (ITE), which governs information on the internet, contains vague language which has been used to broadly interpret defamation and blasphemy to criminalize protected expression in Indonesia. Article 28(2) of this law speaks of information "aimed to inflict hatred or hostility [against] individuals," and has been used in practice to prosecute individuals who have been accused of defaming or insulting a religion online. On 31 March 2015, the Bandung District Court sentenced Wisni Yetty, a 47 year old woman from Bandung, West Java province, to five months' imprisonment and a fine of 100 million rupiah (US\$7,670). She was convicted under Article 27(1) of the ITE Law for "transmitting electronic content that violated decency" after she accused her ex-husband of abusing her in a private chat with a friend on Facebook. Her husband had accessed her account, printed the chat conversation and reported her to the police. In a separate case on the same day, the Yogyakarta District Court sentenced Florence Sihombing, a student, to six months' probation or two months' imprisonment and a fine of 10 million rupiah (US\$767). She was convicted for criminal defamation under Article 27(3) of the ITE Law, after she posted on her 'Path' social media account that "Jogja is poor, stupid and uncivilized. Friends in Jakarta and Bandung should never live in Jogja". According to the Chief Judge, her post contained "insults" and had created "restlessness" among residents of Yogyakarta.

In 2012, Alexander An was fined IDR100 million (US\$11,000) and sentenced to 6 months' imprisonment by Sijunjung District Court in West Sumatra for Facebook posts deemed 'insulting' to Islam and the Prophet Muhammed. In another case, Sebastian Joe was sentenced to 5 years' imprisonment for a Facebook post considered insulting to Islam. He was originally sentenced to 4 years under Article 156(a) of the Criminal Code by the Ciamis District Court but the Bandung High Court in West Java increased the sentence by a year using Article 28(2) of the ITE law.

Article 27(3) of the ITE Law is mostly used to prosecute defamation generally and applies to "Any person who deliberately and without right distributes and/or transmits and/or makes electronic information and/or documents accessible that contains insulting and/or defaming content". In 2014 Abraham Sujoko was sentenced to 2 years by Dompu District Court in West Nusa Tenggara for insulting Islam on a Youtube post under Article 27(3) of the ITE law.

The use of criminal defamation violates Indonesia's legal obligation to respect and protect the right to freedom of expression under the International Covenant on Civil and Political Rights (ICCPR) to which it is state party. The UN Human Rights Committee has encouraged states to consider decriminalizing defamation and underlined that defamation laws must be: crafted with precision to ensure that they comply with states' international human rights obligations and do not in practice stifle freedom of expression; a public interest in the subject matter of the criticism should be recognised as a defence; and, states should take care to avoid excessively punitive penalties.