

22 August 2016, Bangkok, Thailand

To:
His Excellency
President Joko Widodo
Istana Merdeka
Jakarta 10110
Republic of Indonesia

CC:
Chief of National Police of Republic Indonesia
Markas Besar Polisi Republik Indonesia (Polri)
Jakarta

National Military Forces Commander of Republic Indonesia
Markas Besar Tentara Republik Indonesia (TNI)
Jakarta

National Narcotics Agency of Republic Indonesia
Badan Narkotika Nasional (BNN)
Jakarta

Re: Indonesian Government Should Respect the Right to Freedom of Expression and Opinion and Stop the Criminalisation of Mr. Haris Azhar

Dear Sir,

We, the Asian Forum for Human Rights and Development (FORUM-ASIA), a regional human rights organisation along with our 58 members from 19 countries across Asia, express our dismay at the defamation complaints against a prominent human rights defender, Mr. Haris Azhar, who exposed alleged corruption and collusion between high-level law enforcement officials and groups linked to drug trafficking in Indonesia.

Mr. Haris Azhar, Executive Coordinator of *Komisi untuk Orang Hilang dan Korban Tindak Kekerasan (KontraS)*, was reported by the National Police (Polri), National Military Forces (TNI) and National Narcotics Agency (BNN) on 3 August 2016 for a social media post, which was written based on the 2014 testimony of executed death row inmate, Mr. Freddy Budiman. The writing disclosed how high-ranking officials of Polri, BNN, and TNI have been profiting from drug trafficking in Indonesia.

We deeply regret the action taken by the three law enforcement institutions. Instead of pro-actively initiating fact-finding efforts based on Mr. Azhar's writing, they lodged defamation complaints against him using the notorious Article 27 paragraph (3) of Law No. 11 of 2008 on Electronic Information and Transaction Law (EIT Law), which has been repeatedly used to restrict the right to freedom of expression and opinion. This goes entirely against the spirit of the 1945 Constitution of the Republic of Indonesia, which was founded on the values of democracy and human rights.

What Mr. Azhar did should be seen as a means of promoting accountability and the rule of law. Disclosing information in the public interest is something that the Government should encourage. Public participation

is a key factor in the success of the Government's effort to combat drug trafficking in Indonesia. Protection against retaliation for such a disclosure should be strengthened.

International human rights treaties ratified by the Government of Indonesia, in particular the International Covenant on Civil and Political Rights, which guarantees the right to freedom of expression and opinion, bind on State and its agents, including law enforcement officials. Polri, TNI and BNN, as key actors in law enforcement in Indonesia, should respect the right to freedom of expression and opinion as a basic human right. They should be on the same side as human rights defenders who are exposing possible crime committed by law enforcement officials, as well as conduct thorough investigations of their respective institutions. The Government should ensure that the current on-going internal investigations done by Polri, TNI and BNN are transparent, accountable, and independent.

We understand that Polri, TNI and BNN have currently put the complaints against Mr. Azhar on hold, awaiting the results of their internal investigations. However, what has conspired so far, and what might still follow, still constitute a further step in the shrinking of civic space and curtailing of the right to freedom of expression and opinion. The three law enforcement institutions can pull the "trigger" at any time to continue the criminalisation of human rights defenders, as well as shackling the space for criticising the Government or state officials.

Therefore, we would like to urge you, President Joko Widodo, to take the following steps:

1. Request Polri, TNI, and BNN to withdraw the defamation complaints against Mr. Azhar, and ensure and maintain the transparency, accountability, and independency of the on-going internal investigations of Polri, TNI and BNN.
2. Encourage the House of Representative, which is currently discussing the amendments to EIT Law, to reconsider the existence of Article 27 paragraph (3) given its potential to severely restrict the right to freedom of expression and opinion in Indonesia.
3. Ensure the strengthening of protection mechanism for witnesses and whistle-blowers as the pivotal parties in upholding the rule of law in Indonesia from any acts of retaliation, especially defamation charges.
4. Ensure the safety and protection of human rights defenders with regards to their legitimate human rights work in order to establish an enabling environment for the rule of law and human rights in Indonesia.

Thank you for your attention. Your commitment to the protection of human rights is highly appreciated.

Sincerely,

Mukunda Kattel
Director, FORUM-ASIA

On behalf of the following member organisations of FORUM-ASIA:

Afghanistan

- CSHRN – Civil Society and Human Rights Network

Bangladesh

- ASK – Ain O Salish Kendra (Law and Mediation Center)
- MLAA – Madaripur Legal Aid Association
- Odhikar
- RIC – Resource Integration Center
- RMMRU – Refugee and Migratory Movements Research Unit

Burma

- Equality Myanmar

India

- ADHIKAR – Center for Social Action Documentation Research & Training
- Dalit Foundation
- FARR – Friends’ Association for Rural Reconstruction
- MASUM – Banglar Manabadhikar Suraksha Mancha
- PW – People’s Watch
- PVCHR – People’s Vigilance Committee on Human Rights
- RDS-LRSA – Rural Development Society
- SICHREM – South India Cell for Human Rights Education and Monitoring
- HRA – Human Rights Alert

Indonesia

- AJI – The Alliance of Independent Journalists Indonesia
- HRWG – Indonesia’s NGO Coalition for International Human Rights Advocacy – Human Rights Working Group
- IMPARSIAL – Inisiatif Masyarakat Partisipatif untuk Transisi Berkeadilan
- KontraS – The Federation of Commission for the Disappeared and Victims of Violence
- PBHI – Indonesian Legal Aid and Human Rights Association
- SAMIN – Yayasan Sekretariat Anak Merdeka Indonesia
- YLBHI – Indonesia Legal Aid Foundation

Malaysia

- ERA Consumers – Education and Research Association for Consumers
- SUARAM – Suara Rakyat Malaysia
- KOMAS – Pusat Komunikasi Masyarakat

The Maldives

- MDN – Maldivian Democracy Network

Mongolia

- CHRD – Center for Human Rights and Development
- GI – Globe International

Nepal

- CSRC – Community Self Reliance Centre
- INSEC – Informal Sector Service Center
- WWS – Women’s Welfare Society

Pakistan

- B4A – Bytes for All (ICTs for development, democracy and social justice)
- HRCP – Human Rights Commission of Pakistan
- NCJP – National Commission for Justice and Peace
- PODA – Potahar Organization for Development Advocacy
- SPARC – Society for the Protection of the Rights of the Child
- AWAZCDS – AWAZ Foundation Pakistan: Centre for Development Services
- AWAM – Association of Women for Awareness & Motivation

The Philippines

- PAHRA – Philippine Alliance of Human Rights Advocates
- PLRC – PILIPINA Legal Resources Center
- TFDP – Task Force Detainees of the Philippines
- TK – Tanggol-Kalikasan – Public Interest Environmental Law Office

Singapore

- Think Centre

South Korea

- KHIS – Korean House for International Solidarity
- PSPD – People’s Solidarity for Participatory

Sri Lanka

- INFORM – Human Rights Documentation Centre
- LST – Law and Society Trust

Taiwan

- TAHR – Taiwan Association for Human Rights
- CW – Covenants Watch