

Indonesia – Court should release environmental human rights defender

(31 January 2018, Bangkok) – The Asian Forum for Human Rights and Development (FORUM-ASIA) and its member, the Indonesian Legal Aid Foundation (YLBHI), strongly denounce the decision made by the District Court of Banyuwangi, East Java, to convict Heri Budiawan, also known as Budi Pego, for spreading communism. He was charged with violating article 107(a) of Law No. 27 Year 1999 on Crimes against National Security. Budi Pego is an environmental rights defender, who opposed the development of Gold Mine in Tumpang Pitu, East Java. The District Court sentenced him to 10 months imprisonment, deviating from the seven years sentence that was originally sought by the Prosecutor. The Government has falsely accused Budi Pego of promoting communism and having failed to submit a written notification to hold a protest.¹ An appeal in his case has been submitted by YLBHI on 29 January 2018.

Tumpang Pitu had been designated as a conservation forest. However, former Forestry Ministry, Zulkifli Hasan, issued a decree to change its status to become a production forest in 2013. The local community has been opposing mining activities in the area since 1997.

Budi Pego was arrested on 4 September 2017 for allegedly displaying a banner with a hammer-and-sickle logo during a protest against gold mining activities in the Gold Mine in Tumpang Pitu on 4 April 2017. The accusation was fabricated as none of the witnesses recount the existence of such images when the banners were made and displayed.²

What happened to Budi Pego represents a massive oppression of human rights defenders. It sets a bad precedent for the protection of human rights defenders who are doing their legitimate work. Similar judicial harassment of other environmental rights defenders happened in different areas in Indonesia, such as what was experienced by Joko Priatno in his struggle to oppose mining activities in Kendeng Mountains, Central Java.

YLBHI recorded 61 incidents of criminalisation cases against human rights defenders, who were fighting for the right to the protection of the environment or for land rights in their territories throughout 2017 in Indonesia alone.

The oppression of Budi Pego and other human rights defenders is clearly an attempt to silence people's participation in development projects and their criticism on issues of public interest. It also violates people's right to freedom of peaceful assembly in Indonesia. Such restrictions are often used as a tool to silence opposition to the Government, mainly against communities that include human rights defenders, notably environmental rights defenders.

¹ <https://www.mongabay.co.id/2018/01/26/budi-pegno-aktivis-penolak-tambang-tumpang-pitu-itu-kena-10-bulan-penjara/>.

² <http://www.ylbhi.or.id/2018/01/vonis-bersalah-pejuang-lingkungan-tolak-tambang-emas-tumpang-pitu-adalah-ancaman-nyata-bagi-pembela-ham/>.

In regard to the exercise of the right to freedom of peaceful assembly, the joint report of the United Nations Special Rapporteur on the rights to freedom of peaceful assembly and of association and the

Special Rapporteur on extrajudicial, summary or arbitrary executions on the proper management of assemblies states that: *'States should not require organisers to obtain prior authorisation to hold an assembly, in law or practice. Where a notification system is in place, it must facilitate peaceful assembly, and must not operate as a de facto requirement for prior authorisation'*.³ As a signatory to the International Covenant on Civil and Political Rights (ICCPR), the Government of Indonesia failed to live up to its international obligations to protect the right of its people to peacefully assemble and express their opinion.

FORUM-ASIA and YLBHI remind the Government of Indonesia of its endorsement of the UN Declaration on Human Rights Defenders (A/RES/53/144), specifically of the rights and responsibilities of individuals, groups and organs of society to promote and protect universally recognised human rights and fundamental freedoms.

FORUM-ASIA and YLBHI strongly denounce the conviction of Budi Pego, which is perpetuating the criminalisation of human rights defenders, and urge the Government to release him immediately. We stand in solidarity with fellow human rights defender, Budi Pego and all others who are facing harassment and persecution for defending their and the community's rights.

About FORUM-ASIA:

FORUM-ASIA is a regional human rights group with 58 member organisations in 19 countries across Asia. FORUM-ASIA has offices in Bangkok, Jakarta, Geneva and Kathmandu. FORUM-ASIA addresses key areas of human rights violations in the region, including freedoms of expression, assembly and association, human rights defenders, and democratisation.

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³ UNGA. 'Joint Compilation Report of the Special Rapporteur on the Rights to Freedom of Peaceful Assembly and of Association and the Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions on the Proper Management of Assemblies'. A.HRC.31.66_E