



Refusing Silence: A joint analysis on the situation of Human Rights Defenders

Introduction

This joint analysis in documenting cases of violations against human rights defenders (HRDs) in Asia, with a focus on Indonesia, is a collaboration started in 2020 between the Asian Forum for Human Rights and Development (FORUM-ASIA) and the Commission for Disappeared and Victims of Violence (KontraS).

**It is important to note that throughout this report, there are differences in numbers of cases and numbers of HRDs affected, especially with data collected before 2020, due to differences in documentation methodology. This analysis intends to present and examine the pattern of violations against HRDs and might not reflect the actual numbers of violations happening on the ground, which is likely higher than the cases documented here.*

The Asian Forum for Human Rights and Development (FORUM-ASIA) is a network of 82 member organisations across 23 countries, mainly in Asia. Founded in 1991, FORUM-ASIA works to strengthen movements for human rights and sustainable development through research, advocacy, capacity development and solidarity actions in Asia and beyond. It has consultative status with the United Nations Economic and Social Council, and consultative relationship with the ASEAN Intergovernmental Commission on Human Rights. The FORUM-ASIA Secretariat is based in Bangkok, with offices in Jakarta, Geneva and Kathmandu. www.forum-asia.org

Komisi untuk Orang Hilang dan Korban Tindak Kekerasan (KontraS), which was established on March 20, 1998, is a task force formed by a number of civil society organizations and community leaders. KontraS reaffirmed its vision and mission to participate in the defend for democracy and human rights together with other civil society movement entities. More specifically, all the potential and energy possessed by KontraS are directed to encourage the development of the characteristics of a system and state life that is civil and political away from the violence approaches. Both approaches to violence are born from the principles of militarism as a political system, behavior, and culture. www.kontras.org

Regional Analysis of the situation of human rights defenders in Asia (January 2019 – December 2020)

Over the past two years, human rights defenders (HRDs) have faced unprecedented challenges in Asia, where existing risks were exacerbated, while new threats have emerged. Governments enacted and used repressive laws, online harassment became widespread, and Asian HRDs have seen their families and loved ones increasingly subjected to harassment and threats. The COVID-19 pandemic has also significantly increased violations against defenders, and created new challenges for them to safely conduct their work.

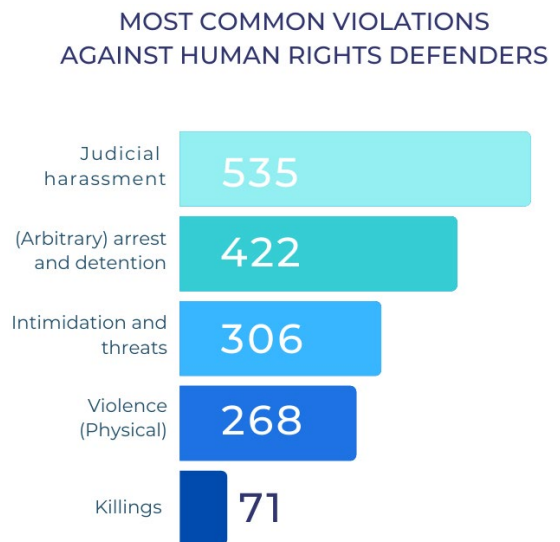
From 1 January 2019 to 31 December 2020, FORUM-ASIA documented 1,073 cases of violations committed against HRDs in 21 countries in Asia.¹ At least 3,046 people including HRDs, their family members, NGOs, and communities were affected. Indonesia was ranked fifth in Asia, with 85 cases documented and at least 255 HRDs affected. Nevertheless, this data does not represent all the violations that occurred in the region, and is only based on FORUM-ASIA's data. The total number of violations is likely higher as many cases may have been unreported.

Most common violations against Human Rights Defenders

During this review period, there were 535 cases of judicial harassment, proving to be the most common violation. This was followed by 422 cases of arrests and detention, many of which were conducted arbitrarily. Governments often commit these two types of violations to silence and criminalise HRDs for expressing their dissent. Intimidation and threats remained prevalent with 306 cases recorded, including at least 29 cases of death threats.

In several cases, threats were made against family members of the HRD. Moreover, there were 268 documented cases of physical violence, resulting in the death of the HRDs in 71 cases, and claiming the lives of 82 individuals across 10 countries. FORUM-ASIA also recorded the deaths of four HRDs while serving a jail term, or in police custody.

Other violations such as vilification (79 cases), administrative harassment (72 cases), and online attacks and harassment (48 cases) were recorded frequently during this review period. Violations taking place online have particularly risen in the past two years, as HRDs increasingly turn to online spaces to conduct their work, especially in light of the pandemic. Online attacks and harassment often target HRDs' social media accounts, while media outlets and NGO websites face temporary shutdowns.



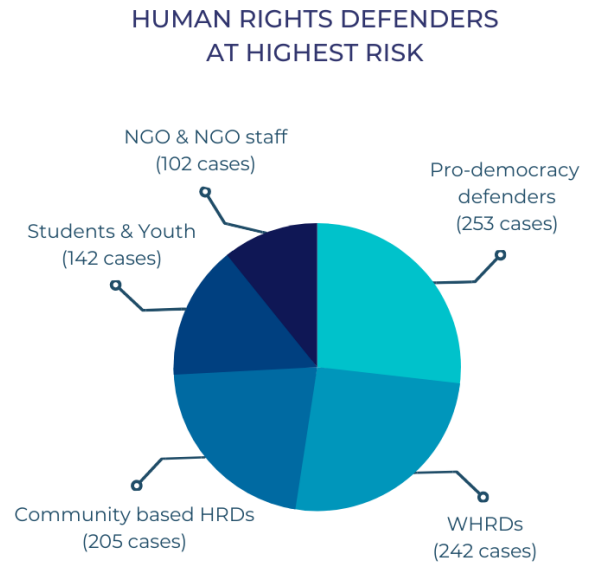
¹ FORUM-ASIA regularly monitors and documents the violations committed against HRDs in Asia through the Asian HRD Portal, a dedicated online open database. The portal can be visited at: <https://asianhrds.forum-asia.org/>

Human Rights Defenders at highest risk

FORUM-ASIA documented as many as 18 categories of HRDs being victims of violations. Among the most targeted groups were pro-democracy defenders, with 253 cases documented. Pro-democracy defenders played a leading role in calling for democratic reforms, with youth and students being at the head of movements in many countries in the region.

Following closely with 242 cases recorded were women human rights defenders (WHRDs), commonly targeted not only for their work but for their gender identity.

As many as 205 cases were documented against land and environmental rights defenders. Corporations were the perpetrator of violations against this group of HRDs in an increasing number of cases, oftentimes in collusion with state actors. Other groups of HRDs highly targeted included students and youth (142 cases), and NGOs and their staff (102 cases).



The Impact of COVID-19

The COVID-19 pandemic constituted an additional challenge for HRDs in the region in 2020. Between February and December, FORUM-ASIA documented 119 cases of violations constituting nearly 20 per cent of the total cases recorded in 2020 — affecting 415 HRDs including family members, communities, and NGOs.

Judicial harassment was the most common violation, mostly used to silence defenders speaking out against governments' handling of the outbreak. Cases of intimidation and physical violence were likewise common, while authorities abused emergency laws and other COVID-19 related measures to impose arbitrary quarantine periods and surveil HRDs, limiting their right to freedom of movement.

With 34 cases documented, media workers were the most targeted group of HRDs due to their reporting on COVID-19, where they called out irregularities and corruption in aid distribution, shared unofficial figures related to the outbreak and challenged the poor transparency of governments in managing the pandemic.

State actors remain responsible for most violations

In 2019 and 2020, state actors remained the main perpetrator of harassment and attacks against HRDs. They were responsible for 847 cases of violations, translating to almost 80 per cent of the cases documented. The police alone accounted for 585 violations, totaling 55 per cent of all the violations recorded. Further, non-state actors such as business actors and extremist groups were the perpetrators in a rising number of cases documented. Alarming, state and non-state actors oftentimes collude in committing violations against HRDs.

In at least 71 cases of violations recorded in the region, the perpetrator was unknown, undermining efforts to ensure accountability for the violation and fostering a climate of impunity.

This culture of impunity is further reflected by the fact that out of 71 cases of killings recorded in the region, the perpetrator was not identified in 49 cases – equivalent to 70 per cent of the total. An emblematic case is that of Zara Alvarez, a WHRD and NGO worker from the Philippines, who was shot dead on 17 August 2020 by unknown assailants.² Prior to her killing, Zara had been the target of repeated harassment and intimidation for a long time. To date, the perpetrators have not been identified.

Positive developments

Despite these challenges, some progress has been seen across the region over these past two years. For example, the Mongolian Parliament enacted a national law to protect HRDs in April 2021. Despite some problematic provisions, the law is the first of its kind in Asia and marks a crucial step towards the protection of HRDs in the country.

There were also several good developments in the context of the national human rights institutions (NHRIs) in supporting defenders in the region. In February 2021, the Asia Pacific Forum (APF), a regional network of NHRIs across the Asia-Pacific, launched the Regional Action Plan on Human Rights Defenders, providing an agenda for action for the NHRIs who are members of the APF.

The Regional Action Plan includes a series of regional and national actions that the APF and its members plan to implement by 2025 to improve respect for the rights of defenders in the region.³

The past two years have also witnessed the strengthening of solidarity initiatives among HRDs, through cross-regional alliances that challenge repression and authoritarianism. In particular, youth and student-led movements demonstrated their resilience by adapting their work to the challenges brought by increasingly restricted spaces. Innovative methods were adopted to continue their human rights work, including using online spaces and social media to mobilise larger crowds and effectively disseminate key information and messages.

Challenges continue in 2021

Despite some progress, the violations against HRDs have persisted coming into 2021. From January to May alone, FORUM-ASIA has documented 360 cases of violations across 18 countries. With 26 violations documented, Indonesia is ranked fifth (highest number of cases) among monitored Asian countries.

The regional trends seen from January to May in 2021, bear similarity from the patterns seen throughout the previous years. Judicial harassment (191 cases) remained prevalent, accounting for over half of the total violations recorded. It is oftentimes coupled with the arrest and detention of HRDs (166 cases). Physical violence followed with 92 cases documented, 34 of whom resulted in killings of HRDs - in large part due to the military repression of the anti-coup movement in Myanmar. Intimidation and threats (70 cases) included recurrent cases of death threats, vilification, and online harassment and attacks.

Pro-democracy defenders (131 cases) were the most targeted groups of HRDs, followed by WHRDs (93 cases) and media workers (83 cases). In line with the data collected in the past years, other groups of defenders particularly affected included students and youth (67 cases), and land and environmental defenders (49 cases).

² <https://asianhrds.forum-asia.org/en/entity/49bx3a5gnq2>

³ <https://www.asiapacificforum.net/resources/regional-action-plan-human-rights-defenders>

Situation of human rights defenders in Indonesia (January 2019 – May 2021)

In line with the regional context, the situation in Indonesia for the past two years has remained stagnant. Those working in the defense of human rights are still vulnerable from receiving harassment, threats, and are continuously terrorised.

The state management of COVID-19 has exacerbated violations against HRDs, especially those who criticise the government. HRDs are often arbitrarily arrested under the pretext of health protocol enforcement. From January 2019 to May 2021, KontraS recorded at least 329 violations against HRDs. These violations have impacted 2,705 victims, who were either arrested, injured or lost their lives.

Currently, the existing laws in Indonesia are not optimal in protecting the advocacy work of HRDs. The Law that assertively ensures the protection of defenders against criminalisation by the state apparatus is Article 66 of the Law on Environmental Protection and Management – which stipulates that anyone who defends their right to a healthy and safe environment cannot be sued either under criminal or civil law.

However, KontraS sees significant differences between what is perceived and the actual situation on the ground. Environmental defenders are still not free from the shadow of criminalisation and intimidation, as can be seen in the case of Effendi Buhing, a Kinipan indigenous figure from Central Kalimantan Province.

Effendi was accused of stealing a chainsaw and arbitrarily arrested by the Central Kalimantan Local Police on 26 October 2020. The arbitrary arrest and false accusation were related to a land dispute between the Kinipan indigenous group and PT Sawit Lestari Mandiri (a palm oil plantation). Other HRDs also have suffered the same fate.

Ravio Patra, an NGO worker, was arrested on 22 April 2020 for allegedly spreading news to incite violence and hate via WhatsApp.⁴ Before his arrest, Ravio's mobile phone was hacked, which shows that the hacking and spreading of provocative messages were attempts to criminalise him.⁵

HRDs under threat

Based on monitoring done by KontraS in 2019, there were at least 157 cases of violations recorded against HRDs, including forced dispersal of protest, arbitrary arrest and detention, torture, criminalisation, as well as intimidation. The dominant perpetrators of these harassments were the police with 121 cases recorded, followed by the private sector (such as agribusiness corporations) and the government with 21 cases each, and 6 cases perpetrated by the military.

These harassments have resulted in an immense number of victims, with as many as 557 individuals injured, 26 dead, and 713 others arrested. Students made up the largest number of victims in documented cases of violations against HRDs.

⁴ <https://megapolitan.kompas.com/read/2020/04/28/07332961/kronologi-penangkapan-aktivis-ravio-patra-versi-polisi-dan-klarifikasi?page=all> (Bahasa Indonesia)

⁵ <https://tirto.id/dugaan-rekayasa-kasus-ravio-patra-cara-baru-kriminalisasi-aktivis-eRXB> (Bahasa Indonesia)

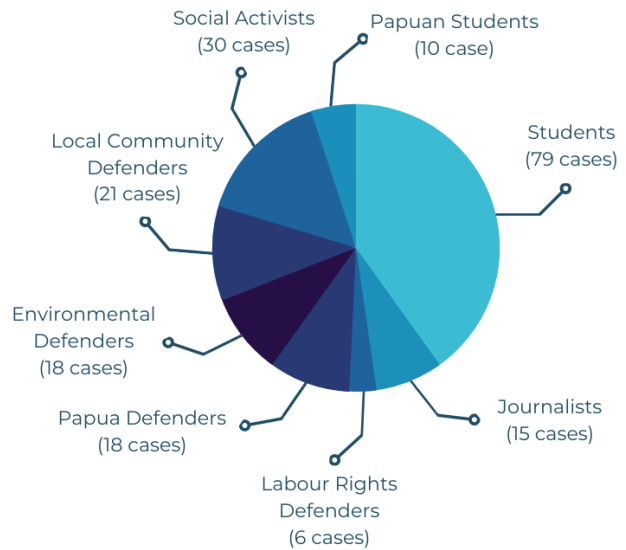
Students targeted for their activism

A clear pattern emerged in 2019 showing students who joined protests were later stigmatised, arbitrarily dispersed with violence, and then arrested without complying with the provisions stipulated under the Criminal Procedural Code.

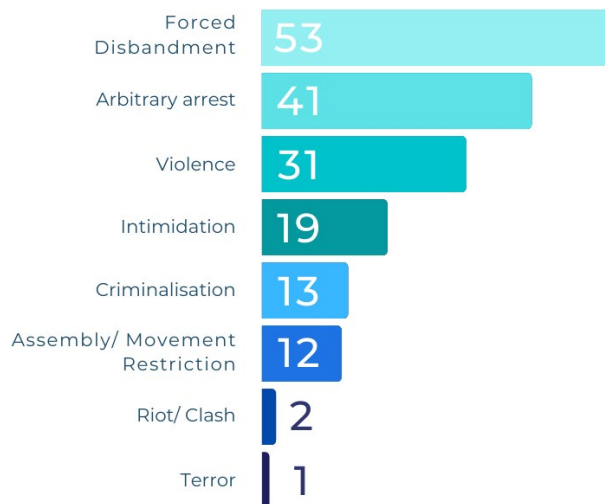
The high number of harassments against HRDs continued in 2020. Based on monitoring by KontraS, at least 129 cases of violations took place. The predominant forms of harassment were forced dispersal of protests, with 53 cases documented, and 41 cases of arbitrary arrests. The recorded 129 cases resulted in the arrests of 699 individuals while 238 were injured, and 2 dead.

KontraS has highlighted that the number of arbitrary arrests has not reduced, and to further exacerbate the issue, these actions were conducted in the midst of the COVID-19 outbreak in 2020. Similar with 2019, the largest group of victims subjected to arbitrary arrests comprised of hundreds of students – defining a form of widespread repression against protesters. The continued repression has had a chilling effect on the general public, especially students themselves, who have become fearful of sharing their opinion publicly.

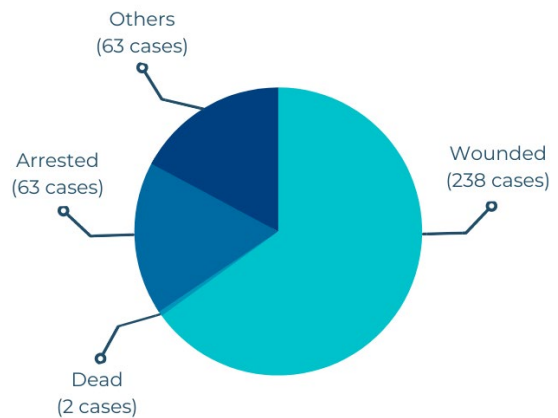
VICTIMS OF VIOLATIONS
JANUARY - DECEMBER 2019



VIOLATIONS AGAINST HRDS IN 2020



IMPACT OF VIOLATIONS
AGAINST HRDS IN 2020



Papua remains the epicenter of human rights violations

Looking at the distribution of cases from across 2019 and 2020 in its monitoring, KontraS found that harassment against HRDs in Papua has always occupied the top two provinces with the most violations⁶. This indicates that the State is accustomed to using securitised approaches in handling human rights and humanitarian issues in Papua.

KontraS also found incidences of violence against Papuan activists and students in other regions in Indonesia, where they were often arbitrarily arrested for rejecting the special autonomy of the Papua region. Most recently, in March 2021, there was the baseless arrests of Ruland and Kelvin, students and members of the Papuan Students Alliance (*Aliansi Mahasiswa Papua - AMP*).

They were arrested for allegedly beating and robbing an individual. However, there were anomalies on this case, such as the evidence collected that were not related to the allegations, and the absence of an arrest warrant. KontraS presumes that the arrest of the two student activists was fabricated in order to weaken their activities in rejecting the Papua special autonomy extension and the new autonomous area, as well as in raising human rights issues of Papuans.⁷

State remains the dominant perpetrator

The State remains the main perpetrator of violations against HRDs. From January 2019 to May 2021, the police have consistently been the most involved actor in committing violations against HRDs, through forced dispersal of gatherings and arbitrary arrests and detentions.

KontraS also notes that the private sector is increasingly becoming perpetrators of violations against HRDs, and this is strongly connected to the government's agenda of prioritising investments and business interests. Moreover, impunity is still strongly rooted - violence committed is not usually followed with a just and accountable law enforcement. Perpetrators are often able to escape punishment or at the most, face weak internal mechanisms, such as ethics and disciplinary trials.

Violence against journalists

Journalism remains a profession that is prone to harassment in Indonesia. KontraS recorded at least 60 cases of journalists being harassed by intimidation, threat, expulsion, confiscation of tools, and physical harassment and violence.

The violation against Nurhadi, a journalist from Tempo, is an emblematic case.⁸ He was subjected to harassment when he was investigating a tax bribery against a Supreme Court official on 27 March 2021. Nurhadi was physically assaulted, slapped, clamped, and punched in several parts of his body by two police officers.

⁶ KontraS recorded Jakarta as the region with most violation in 2019 and West Java in 2020.

⁷ <https://kontras.org/2021/03/05/segera-bebaskan-2-aktivis-mahasiswa-papua/> (Bahasa Indonesia)

⁸ <https://nasional.tempo.co/read/1461021/pengacara-sebut-2-polisi-jadi-tersangka-penganiayaan-jurnalis-tempo-nurhadi/full&view=ok> (Bahasa Indonesia)

To ensure that Nurhadi does not report his findings, he was detained for two hours in a hotel in Surabaya. This is an example of the State's failure to protect the work of journalists guaranteed under Law No 44 of 2009 on Press.

Massive digital attacks against Human Rights Defenders

Based on the monitoring in the past two years, KontraS also found that digital attacks against HRDs is a new form of violation. One prominent example is the attack against the organiser of the Constitutional Law Society (CLS) of Gadjah Mada University's student discussion on 29 May 2020.

The organiser was accused of inciting hate against the government due to the discussion that was titled 'Dismissing the President in the Midst of a Pandemic, Viewed from the State Administration System.' The students organising the discussion were forced to cancel the event following threats, including death threats from unknown assailants.

A similar case was also recorded involving Tantowi Anwari, a speaker at a public discussion titled 'Racial Discrimination against Papua, #PapuanLivesMatter,' held in UKPM Teknokra University of Lampung, on 11 June 2020. Tantowi first received a threat on 10 June 2020, a day before the discussion. An unknown WhatsApp number then sent him images of his national identification card, and threats through voice and text messages.

This type of harassment is known as doxing. Doxing is an act of spreading an individual's private information on the internet to harass and silence them. Another activist, Ernawati, and other two HRDs who were actively protesting against the Omnibus Law in Yogyakarta were also subjected to doxing. They were falsely accused of rioting through a fake social media account, and held responsible for allegedly committing arson at a restaurant next to the Provincial Parliament building.

The cases highlighted above have not seen a just settlement process. Their perpetrators have been allowed to walk free without having to bear any responsibility. Such practice of impunity only serves to perpetuate violations against HRDs. The conditions faced by HRDs further demonstrates how the State continues to fail in providing protection for them.

The situation of Human Rights Defenders in 2021

In 2021, the situation has not improved. In the first five months of the year, KontraS has recorded 43 cases of violations against HRDs. Forced dispersal of protest was the most common form of violation with 19 cases documented, followed by 8 cases of torture, and 7 cases of intimidation. The number of cases in 2021 inevitably have the potential to increase, as KontraS' monitoring is only until May 2021 at the time of publication.

The violations mostly occurred in Indonesia's capital, Jakarta, where 12 cases were recorded. Meanwhile, the majority of physical violence took place under the pretext of the pandemic and the enforcement of health protocols.

KontraS has also identified a new pattern of harassment committed by authorities in 2021. Since January, KontraS documented at least 11 cases of harassment in the form of tracking social media content creators and intimidation to delete online posts, as well as removal of murals and persecution against artists and content creators.

Response from the international community

The situation of HRDs in Indonesia has been highlighted by the international community. On 3 May 2017, during the Universal Periodic Review (UPR) under the United Nations Human Rights Council, Indonesia received 225 recommendations from 101 States.

At least four recommendations were related to HRDs, namely: (1) Adopt legislative measures to prevent and combat intimidation, repression or violence against HRDs, journalists and civil society organisations; (2) Continue to strengthen national and regional efforts to promote and protect human rights defenders; (3) Facilitate the work of HRDs and journalists throughout the country; and (4) Step up efforts to ensure the protection of journalists and HRDs.

However, more than three years on, KontraS has yet to see any commitment from the Indonesian Government to implement any of the recommendations.

Challenges and Hopes

Youth and students have played a key role over the past two years in promoting the protection and fulfillment of human rights. They have raised serious attention on issues of corruption, human rights, and repressive laws. This is proven with the sheer number of students protesting in many areas across Indonesia. However, students are also the most targeted group when it comes to forceful dispersals and arbitrary arrests, with 202 individuals affected in the past 2 years.

Despite the challenges faced, it is hopeful to note that public discussions to raise the attention of students on social and human rights issues are being organised more frequently across many universities.