



## Interview

# Criminalisation of Activists and Impunity Will Continue after the 2024 Election

© KontraS

*In Haris Azhar's YouTube video broadcast uploaded on August 21 two years ago, Fatia Maulidiyanti highlighted the involvement of Luhut Pandjaitan, the Coordinating Minister for Maritime Affairs and Investment, in economic-political relations and military deployment in Papua. As a consequence of this broadcast, both Fatia, in her capacity as KONTRAS Coordinator, and Haris Azhar were reported by Luhut Pandjaitan for defamation.*

*"Criminalisation aims to create chilling effects among society to prevent further critical attitudes towards the authorities," Fatia told Kartika Manurung, an interviewer from Watch Indonesia, during a Zoom session on 10th November 2023. She highlighted how the criminalisation of dissent poses one of the challenges in human rights advocacy and the human rights landscape in the context of the 2024 elections.*

\*\*\*

**The criminalisation of civil society activists and actors is on the rise in Indonesia, which includes your own experience. As a victim of this criminalisation, what, in your opinion, are the challenges currently faced by human rights activists in Indonesia?**

The challenges faced by human rights activists in Indonesia today involve the escalating regulations that conflict with the public interest and constraints on freedom of expression. These restrictions encompass criminalization, intimidation against activists, and the systematic propagation of fear by the government, police, State Intelligence Agency, and military. One way this occurs is through legitimising fear via the creation of legal provisions.

Human rights activists are often perceived as adversaries of the state, subjected to threats of punishment and repression. The Information and Electronic Transactions (ITE) Law serves as an instrument for implementing criminalisation, particularly through its defamation clauses, exacerbated by the surge in digital activity and public unrest during the COVID-19 era.

The government passed the Omnibus Law, now known as the Job Creation Law, in 2020 amidst the pandemic when people were mandated to stay at home to comply

with health protocols. The enactment of the Omnibus Law, even signed in the dead of night, appeared coercive. Additionally, in 2022, the Draft Criminal Code was passed into law, incorporating more provisions that pose threats to press freedom and expression.

The ratification of the Omnibus Law and its process occurred without involving recommendations from civil society. We were used merely as accessories to imply that the government had consulted with us, even though our recommendations were not followed up. Despite facing the brutality of the authorities and numerous arrests, significant demonstrations against the Omnibus Law continued. Protests against this law were extensive due to its severe impact on societal interests, especially those of workers.

Several waves of action were significant enough to be used as benchmarks as they incorporated a substantial number of public voices. The issue has grown in importance because it pertains to broad public interest. The Papua issue is also significant in Indonesia as it involves many significant challenges from military and political perspectives. In Papua, racism oppresses the local people, and there are business practices that involve militarism.

Economically, Papua is one of the country's major resources related to the mining sector. The rich land was transformed into a food estate project. In this process, military operations are evident, collaborating with several companies and national strategic projects. This pattern is also widespread in other areas where there are business and military operations.

The involvement of entrepreneurs in government policies is a significant problem and challenge for human rights activists. Many projects and policies do not engage communities and ultimately lead to forced evictions, criminalisation, and other human rights violations. Those who are criminalised are often outspoken individuals seen as representing societal criticism.

Criminalisation affected not only me but also Haris Azhar, Rocky Gerung, and, most troublingly, three Pakel farmers who were sentenced to 5 years and 6 months in prison. Criminalisation aims to create chilling effects among society to prevent further critical attitudes towards the authorities. The results of a recent SAFENET survey revealed that around 62 percent of Indonesian people are afraid to express their opinions.

Polarisation within society leads to conflicts between groups supporting and opposing human rights activists. Consequently, this creates friction and tension in endeavours to advocate for human rights. The horizontal conflicts arising from this situation even lead to clashes among affected communities themselves, as observed in the land dispute in Wadas. Additionally, anti-human rights mass organisations are deliberately mobilised to counter people's efforts in advocating for their human rights.

**Do you see any figures, political parties and/or movements in the 2024 election horizon that firmly side with and advocate for human rights and ending impunity? How might the upcoming 2024 elections, particularly in campaigning, be influenced by issues of press freedom, freedom of expression, and freedom of assembly?**

Of the three existing pairs of candidates and vice presidents, none have been progressive advocates for human rights or have effectively addressed serious human rights violations. Prabowo has a controversial record, and the other candidates equally have inadequate track records on human rights.

Although candidates like Anies and Ganjar have mentioned several programs related to human rights, there are still shortcomings that do not demonstrate a strong commitment to addressing impunity and human rights violations. Concerns arise that these mentions might solely aim at gaining political support, with minimal implementation, similar to what occurred with Nawa Cita during the Joko Widodo era.

Regarding the context of the 2024 elections, issues such as freedom of the press, freedom of speech, and freedom of assembly can influence the direction of campaigns and fundamental freedoms. Social polarisation and sensitive topics like intolerance towards religious minorities, LGBTIQ+ rights, and anti-communist stances are often exploited to garner political support.

This exploitation may lead to stigmatisation, inter-community conflicts, and constraints on freedom of expression. Additionally, candidates might seek to co-opt activists working on specific issues, causing divisions among the activists themselves. Regarding the role of civil society organisations, despite their potential to foster progress in addressing impunity and uncovering truths about past human rights violations, they are often disregarded or overlooked by political candidates and parties. No political party or candidate actively seeks input or ideas from civil society organisations regarding their vision and mission.

In Indonesia, there is no clear political opposition with distinct ideological differences as seen in the US or Europe, where parties are categorised as right or left. Presently, three candidates compete against each other, but they may form alliances in the future, perhaps joining the government as ministers under the elected president, erasing any opposition within political parties.



© Forum Asia

Overall, in the 2024 election horizon, no figure, political party, or movement firmly supports and advocates for human rights and ending impunity. Nonetheless, civil society and human rights activists remain actively engaged in advocating for human rights and ensuring these issues stay prominent on the political agenda.

**Your involvement in extensively documenting past gross human rights violations has revealed that there are many unresolved cases of human rights violations. However, up to this point, the Jokowi government has shown commitment only to non-judicial mechanisms through Presidential Decree Number 17 of 2022. What is your view of this approach and its impact in achieving justice for cases of serious human rights violations, especially the most famous case, the mass murder of 1965?**



In my view, the Jokowi government's approach, solely prioritising non-judicial mechanisms in handling cases of serious human rights violations, as stated in Presidential Decree no. 17/2022, is insufficient in achieving justice in these cases.

This Presidential decision may align with promises made by Jokowi during the previous election campaign. However, this approach does not meet existing legal standards, as regulated in Law No. 26 of 2000, which emphasises the need for judicial mechanisms to resolve cases of serious human rights violations.

The non-judicial approach adopted by the Jokowi government absolves the state's obligation to prosecute perpetrators of human rights violations and seek accountability for their actions. This results in injustice for victims, as there is no truth disclosure, compensation, rehabilitation, or legal accountability to break the chain of impunity and guarantee non-repetition for them. This approach also gives the impression that the resolution of cases of gross human rights violations focuses solely on material recovery, neglecting aspects of justice and truth disclosure.

In the case of the 1965 mass murder, this non-judicial approach failed to deliver the justice that was due. Victims and their families still seek truth disclosure, compensation, and accountability in accordance with judicial mechanisms. Presidential Decree Number 17 of 2022 does not fulfil their expectations and does not pave the way for achieving true justice.

To achieve justice, I believe that candidates in the next elections must offer a more comprehensive approach and commit to resolving cases of gross human rights violations. They must recognise the need for judicial mechanisms, acknowledge the truth, provide appropriate compensation, and ensure accountability for perpetrators of serious human rights violations.

Moreover, they must commit to ratifying international conventions related to human rights and strengthening the role of civil society organisations in the policy process. This way, we can anticipate more significant progress in achieving justice for victims of serious human rights violations in Indonesia.

**There are various demands from survivors of gross human rights violations and community organisations regarding gross human rights violations. In your view, what actions do you think candidates in the next election should offer to achieve justice for survivors?**

Some of the demands put forward by survivors and civil society organisations, such as recognition, compensation and the establishment of human rights courts, should be the main focus of their agenda.

Firstly, candidates must commit to acknowledging the truth about past human rights violations. This involves thoroughly and transparently revealing the facts, identifying the perpetrators, including those at the highest level of command, and exposing the state's role in the violations.

Secondly, candidates must provide adequate compensation to survivors. This compensation should encompass both material and non-material aspects, such as restitution, rehabilitation, psychological support, and social recovery for victims. It is crucial for candidates to adopt a holistic approach and address the needs of affected individuals and groups.

Thirdly, candidates must pledge to support an independent and impartial human rights court. This court should possess the authority to prosecute perpetrators of serious human rights violations and ensure their accountability. Establishing human rights courts will offer victims a pathway to attain justice and prevent human rights violations from occurring with impunity.

Additionally, candidates must address other issues associated with human rights violations, such as impunity, corruption, and truth denial. They should propose concrete measures to tackle these problems, including reinforcing law enforcement institutions, reforming the legal system, and promoting transparency and accountability.

**Personally, do you have hopes for the candidates in overcoming impunity, corruption and denial of the truth of past human rights violations?**

I foresee that conditions will persist or potentially worsen as long as individuals suspected of involvement in human rights violations remain in power. Evaluating the commitment of candidates and the country overall, Law no. 26/2000, which represents the minimum standard, can currently be applied, although future revisions are still necessary.

Regardless of the number and quality of policies established at the legal level, without political will, these policies will not have a significant impact. We require governmental leaders who possess the courage to, at the very least, adhere to the Human Rights Court Law.

The DPR (People's Representative Council) has also received recommendations from the Universal Periodic Review to ratify the Rome Statute. If there was genuine intent, ratification would have taken place, but this hasn't occurred. Furthermore,

the Convention against Enforced Disappearances remains unratified to date, despite earlier promises for ratification based on the Indonesian government's commitment at the Universal Periodic Review Session since 2012.

In the absence of a human rights court, which might prove challenging to convene, the most basic policy step that could be taken was the revelation of truth, yet this has not transpired. Addressing corruption necessitates a revision of the Corruption Eradication Committee Law to earnestly reform the entire Corruption Eradication Committee structure and bolster its institutions.

**In your opinion, in the upcoming 2024 elections, can civil society organisations play a role in pushing for more achievements in overcoming the problem of impunity and revealing the truth about past human rights violations?**

I am pessimistic, witnessing the observed trends over the last five years. Despite our efforts to engage in policy, ultimately, this participation isn't executed with complete



© Forum Asia



Coordinating Ministry for Maritime and Investment Affairs, Jakarta © Watch Indonesia!

awareness, and civil society's involvement tends to remain on the periphery, with limited listening. Civil society's role primarily lies in defending against anti-human rights state policies and has yet to actively press for the implementation of human rights policies as expected.

### **Our Interview Partner**

**Fatia Maulidiyanti** served as the Coordinator of the Commission for Missing Persons and Victims of Violence (KontraS) from 2020 to 2023. Her goal is to empower individuals, particularly the younger generation, to take the lead in Indonesia's human rights movement. Presently, she holds the position of Vice President at the International Federation for Human Rights (FIDH) and serves as a member of the UN Advisory Committee in Indonesia. She has been campaigning for human rights and freedom of expression since her youth. In 2023, she received the Tasrif Award from the Alliance of Independent Journalists (AJI) for her commitment to upholding human rights and promoting freedom of expression in Indonesia.

### **Our Interviewer**

**Kartika Manurung**, a member of Watch Indonesia e.V., is completing her doctoral studies at the Rheinische Friedrich-Wilhelms-Universität Bonn focusing on the issue of organising strategies of Indonesian workers and women.