



AMBASSADOR / PERMANENT REPRESENTATIVE
OF THE REPUBLIC OF INDONESIA TO THE UNITED NATIONS,
WORLD TRADE ORGANIZATION AND OTHER INTERNATIONAL ORGANIZATIONS
IN GENEVA

No. 078/POL-II/V/2017

Geneva, 21st May 2017

Dear Special Procedure Mandate Holders (SPMHs),

Through this letter, I wish to respond to your Joint Urgent Appeal No.UA IDN 2/2017 dated 19 May 2017 regarding the case of Mr. Basuki Tjahaja Purnama. As your Joint Urgent Appeal was the first letter that we received on the issue of Mr. Purnama in late afternoon on 19 May, it is deeply regrettable that SPMHs had already drafted a joint press release on the same day, ready to be published on 22nd May, at the early stage of your consultation with the state concerned. I hope the clarifications made in this letter could prevent the public from further misperceptions or making inaccurate judgments from the joint press release before SPMHs have the chance to hear from the Government of Indonesia (GoI).

Considering such circumstance, on behalf of the Government of Indonesia, allow me to make a number of clarifications on the issue.

First, the blasphemy law as encapsulated in article 156 and 156(a) of Indonesia's Criminal Law (KUHP) which was applied to Mr. Purnama's case is a crucial law and throughout Indonesia's history has been proven to be an effective tool in protecting, mostly the minority, in a multicultural, multi ethnic, and multi religious society like Indonesia. It has helped Indonesia from being fragmented or plunged into religious conflict which ultimately threatens Indonesia's unity. It is worth emphasizing that the blasphemy law applies not to just one particular religion but to all 6 official religions acknowledged by the State.

Second, the process for amending or revoking the blasphemy law has also been brought up all the way to the Constitutional Court of the Republic of Indonesia, as the highest and final national judicial authority. Through Constitutional Court decisions No.140/PU/2009 and No.88/PU/2012, the Court decided that the blasphemy law is constitutional and to revoke the law would instead create a vacuum in Indonesia's law on guaranteeing religious harmony. Exempting Mr. Purnama from the law would also create legal uncertainty within the implementation of Indonesia's positive law after a number of individuals, including those belonging to the majority, proven guilty have all been charged and penalized.

1. *Mr. David Kaye, Special Rapporteur on the Promotion and Protection of the Rights to Freedom of Opinion and Expression*
2. *Mr. Alfred De Zayas, Independent Expert on the Promotion of a Democratic and Equitable International Order*
3. *Mr. Ahmed Shaheed, Special Rapporteur on Freedom of Religion or Belief*

Third, in an open and democratic country like Indonesia, Mr. Purnama's case has been decided by competent court without the intervention of any parties including the government. Such verdict has also been passed through an open and transparent process where public and media can cover the whole procession from the beginning until the passing of the verdict. Mr. Purnama and his lawyers are currently preparing for an appeal which is a testimony of Indonesia's constitutional guarantee of the equality of Mr. Purnama's rights before the law in Indonesia. Thus the decision of the court of the Republic of Indonesia must be respected to ensure legal certainty in Indonesia.

Fourth, Indonesia is a party to the UDHR, the ICCPR and also a co-sponsor of the Human Rights Council resolution on freedom of religion. It is also worth reiterating that Indonesia's Constitution fully guarantees the right to freedom of expression and freedom of religion for Indonesian citizen. However, like in UDHR article 29 (2), ICCPR article 10 (3) and its 1945 Constitution article 28 (j) , Indonesia acknowledges that there are agreed limitation to such exercise of freedom of expression and freedom of religion and that the limitation occurs only if such rights begin contravening with public order, morality, interest and peace and security. In line with its constitution and the commitment to also promote Human Rights Council resolution on "combatting intolerance, negative stereotyping, and stigmatization of, and discrimination, incitement to violence and violence against persons based on religion or belief", blasphemous act is criminalized in Indonesia precisely because of such reasons and due to Indonesia's social fabric in which most of the populations are adherents to a certain religion. Thus to slander a religion is considered an offence in Indonesia, which is also a common practice in other countries.

Fifth, the large scale peaceful demonstrations of Muslims on a number of occasions were carried out in an orderly fashion despite of the media's and the complainant's version and there were no cases of hate speech or incitement of violence reported to the police to be followed up. In fact, such demonstration is a clear indication that the rights of the people regarding the freedom of expression are fully guaranteed. The same treatment is also applicable to Mr. Purnama's supporters who have staged demonstrations all over Indonesia in refuting the court decision almost at the same intensity. As long as these demonstrations are carried out in a peaceful and orderly manner, then as citizens of Indonesia, they have all the rights to do so.

Lastly, I deeply regret that the SPMH's doubting of Indonesia's judicial process on Mr. Purnama, especially in guaranteeing fundamental rights and SPMH's stating that criminalization of blasphemy may be "used for political reasons" without addressing the proper context of the issue at hand. These remarks should be avoided as the SPMH usage of the language must be made more neutral and less tendentious. The SPMH is also not in a position to ask any sovereign governments to halt certain policies, especially before the SPMH have properly consulted the relevant government and grasped the full spectrum of the issue at hand.

I would also like to remind the SPMH that such action is against the spirit of mandate and the principle of Human Rights Council which should have prioritized on

engagement and dialogue as stipulated in UNGA resolution 60/251 as well as HRC resolution 5/1 rather than publicizing to the public.

I hope my clarification will suffice the need to respond to all allegations stated in the SPMH's joint communication and particularly in relation with your intention to issue the joint press release. I look forward to a more constructive engagement with you.

Please accept, Sirs, the assurances of my highest consideration.

Sincerely Yours,

A handwritten signature in blue ink, appearing to read 'Hasan Kleib', with a long horizontal flourish extending to the right.

Hasan Kleib
Ambassador/Permanent Representative
of the Republic of Indonesia to the United
Nations, WTO and Other International
Organisations in Geneva