

Mandates of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Independent Expert on the promotion of a democratic and equitable international order; and the Special Rapporteur on freedom of religion or belief

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Excellency,

We have the honour to address you in our capacity as Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; Independent Expert on the promotion of a democratic and equitable international order; and Special Rapporteur on freedom of religion or belief, pursuant to Human Rights Council resolutions 34/18, 33/3 and 31/16.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the recent blasphemy conviction and imprisonment of Mr. **Basuki Tjahaja Purnama**.

Mr. Basuki Tjahaja Purnama, also widely known as "Ahok", an ethnic Chinese and a Christian, was inaugurated to be the Governor of Jakarta by the president of Indonesia on 19 November 2014. He also ran for the 2017 Jakarta gubernatorial election.

According to the information received:

On 27 September 2016, Mr. Purnama referred to a Qur'anic verse (Verse 51 of Al Maidah) in a speech he made during a working visit to Thousand Islands at the time of his gubernatorial election campaign. Some groups objected to the reference he made. A video of his statement was posted online. The video, however, seemed to have been edited to omit a word that led to a misinterpretation of his speech. The edited video went viral on social media and many criticized him for having insulted the Qur'an. The Islamic Defenders Front (Front Pembela Islam), a local chapter of the Indonesian Ulema Council (MUI) and a few other organizations reported Mr. Purnama to the police and accused him of having committed "blasphemy".

On 10 October 2016, Mr. Purnama made a public apology to those who felt offended by his statement and clarified that it was not his intention to do so. Nonetheless, the MUI issued a fatwa on 11 October 2016, demanding the authorities to charge and prosecute Mr. Purnama for insulting the Qur'an. Although the fatwa also urged for calm during the judicial process, Islamic Defenders Front and Hizbut Tahrir Indonesia formed an alliance to create the

National Movement to Guard the MUI Fatwa (GNPF-MUI), under the guise of which they launched an aggressive anti-Ahok media campaign.

On 4 November 2016, GNPF-MUI organized a protest in Jakarta, which was attended by approximately 150,000 Muslims, pressing for Mr. Purnama to step down and to be charged with blasphemy. Following the call by the government, the police completed an investigation within a week and on 17 November 2016 officially charged Mr. Purnama with blasphemy. It took the prosecution team only three days to declare the case ready for trial and scheduled the trial for late December 2016.

On 2 December 2016, another protest gathered about 300,000 to 750,000 people in central Jakarta. During this, the leaders of the protests allegedly delivered messages inciting hatred and intolerance, calling Mr. Purnama a “kafir” or “infidel”. These protests were claimed to be politically motivated to defeat Mr. Purnama in the gubernatorial election.

While Mr. Purnama’s defence team presented evidence of various procedural errors in the police investigation, the court denied their motion to dismiss the case. On 9 May 2017, Mr. Purnama was found guilty of “blasphemy” and of inciting violence by the North Jakarta District Court. He was sentenced to two years in prison. Mr. Purnama’s defence team is preparing an appeal.

Indonesian Criminal Code includes blasphemy provisions in Articles 156 and 156(a) penalizing “any person who in public deliberately expresses his/her feelings or engages in actions that in principle are hostile and considered as abuse or defamation of a religion embraced in Indonesia” with up to five years imprisonment. Reports indicate that from 2005 to 2014, at least 106 individuals have been prosecuted and convicted under blasphemy law in Indonesia. The blasphemy law has also been used to target three former leaders of the Gafatar religious community following the forced eviction of more than seven thousand members of the group from their homes in Kalimantan Island last year. Besides, a June 2008 government decree on the basis of that blasphemy law ordered the members of Ahmadiyya religious community to cease all public religious activities on the grounds that they deviate from the principal teachings of Islam.

We express our serious concerns about the conviction and imprisonment of Mr. Basuki Tjahaja Purnama (Ahok) for “blasphemy”. We also express serious concern that Articles 156 and 156 (a) of the Indonesian Criminal Code provide a legal basis for the criminal prosecution of persons that is incompatible with Indonesia’s commitment under international human rights law, in particular the ICCPR. We are equally concerned that such provisions are used, or may be used to legitimize government regulations that are discriminatory on religious grounds.

Furthermore, we are concerned that the criminalization of blasphemy may be used, for religious or political reasons, to encourage negative social mobilization leading to expression of intolerance and incitement to hatred or violence. Our concerns extend to the lack of appropriate response by your Excellency's Government to the hate speeches delivered by the leaders of the protests. Further, it would appear that the judicial proceedings against Mr. Purnama fall short of ensuring the fundamental right to due process, that he is entitled to, and guaranteed under ICCPR.

While we do not wish to prejudge the accuracy of the information which this communication is based upon, we find the allegation sufficiently credible to appeal to your Excellency's Government to look into the case and ensure that the right to freedom of thought, conscience and religion or belief is effectively guaranteed to Mr. Purnama, in accordance with article 18 of the International Covenant on Civil and Political Rights (ICCPR), that Indonesia ratified on 23 February 2006. We are also referring to the resolution 6/37, in which the Human Rights Council urges States "to take all necessary and appropriate action, in conformity with international standards of human rights, to combat hatred, intolerance and acts of violence, intimidation and coercion motivated by intolerance based on religion or belief, as well as incitement to hostility and violence, with particular regard to religious minorities".

The rights to freedom of opinion and of expression are essential for every democratic society and an indispensable condition for the full development of a person. Freedom of expression is guaranteed by article 19 of the ICCPR. This article provides that "everyone shall have the right to hold opinions without interference"; that "everyone shall have the right to freedom of expression; and that this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice." This right includes not only the exchange of information that is favorable, but also that which may shock or offend. Any prohibition on freedom of expression must comply with the strict requirements of article 19 (3) ICCPR, interpreted in accordance with articles 2, 5, 17, 18 and 26. It would not be permissible for such prohibitions to be used to prevent or punish criticism of religious leaders or commentary on religious doctrine and tenets of faith.

The full texts of the human rights instruments and standards recalled above are available on www.ohchr.org or can be provided upon request.

In view of the importance of the matter, we would appreciate a response on the initial steps taken by your Excellency's Government to safeguard the rights of the above-mentioned person in compliance with Indonesia's international legal human rights obligations.

As it is our responsibility, under the mandates provided to us by the Human Rights Council, we would be grateful for your collaboration to help clarify the following aspects:

1. Please provide any additional information or comments you may have on the aforementioned allegations.
2. Please also provide details of the police investigation into Mr. Purnama's alleged "blasphemy", including the video of his statement that was allegedly edited intentionally to lead to the misinterpretation of his speech.
3. Please provide information on the steps taken by the Government to prevent, investigate and stop hate speech, in particular incitement to violence, including by religious or political leaders. Please also provide information on the number of persons held accountable for hate speech and incitement to violence and intolerance during the protests led by some hardline Islamist groups.
4. Please provide detailed information about the measures taken to effectively protect the freedom of individuals, in particular religious minorities, who publicly manifest their views or dissenting opinions in a peaceful manner on religious or other matters according to international human rights standards.
5. Please provide information on steps taken to repeal blasphemy law in Indonesia.

While awaiting a reply, we urge that all necessary interim measures be taken to halt the alleged violations and prevent their re-occurrence and in the event that the investigations support or suggest the allegations to be correct, to ensure the accountability of any person responsible of the alleged violations. These interim measures should include the abrogation of the blasphemy law in its entirety, which contravenes international norms.

Given the seriousness of the allegation, we are considering publicly expressing our concerns in this matter, since in our view, the information received appears to sufficiently reliable to indicate a matter warranting serious attention. We also believe that the wider public should be alerted to the potential implications of these allegations and their implications. Should we express our views and concerns publicly, this will indicate that we have been in contact with your Excellency's Government's to seek clarification the issues in question.

Your Excellency's Government's response will be made available in a report to be presented to the Human Rights Council for its consideration.

Please accept, Excellency, the assurances of our highest consideration.

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