

## Indonesian Human Rights: Questions Secretary Kerry Should Pose

With President Obama canceling his Indonesia trip due to the government shutdown, it now falls to Secretary of State John Kerry to lead the American delegation's visit to this important ally. President Obama declared before the United Nations last week that, "The United States will at times work with governments that do not meet, at least in our view, the highest international expectations, but who work with us on our core interests. Nevertheless, we will not stop asserting principles that are consistent with our ideals, whether that means opposing the use of violence as a means of suppressing dissent, or supporting the principles embodied in the Universal Declaration of Human Rights."

When Secretary Kerry attends the Asia Pacific Economic Cooperation (APEC) Summit in Bali, he will carry with him the responsibility of putting these words into action. Kerry's trip to Indonesia offers the chance to reaffirm the commitment made in Obama's U.N. address: that the United States will not sideline tough human rights issues with our allies, and economic interests will not trump American values.

Indonesia is one of the United States' strongest allies in the Asia-Pacific region, and Secretary Kerry is expected to assume President Obama's place in a meeting with Indonesian President Susilo Bambang Yudhoyono to reaffirm the close bilateral ties between the two countries and to celebrate the third year of the U.S.-Indonesian Comprehensive Partnership.

Though Indonesia has undergone a major overhaul following its transition to democracy in the 1990s, there is still much progress to be made on human rights. Indonesia's military and police retain a sense of impunity in some parts of the country, most notably in the eastern provinces of Papua and West Papua. A well-documented rise in religious intolerance has also manifested itself in intimidation and violence toward some religious groups, including the Ahmadiya community and Christians in the West Java province.

The State Department's 2012 Indonesia Country Report on Human Rights Practices reported instances of unlawful killings, arbitrary arrests and detention, numerous reports of torture between July 2011 and June 2012, and limitations on freedom of expression.

In March 2013, the Tom Lantos Human Rights Commission held a hearing on Indonesia during which Deputy Assistant Secretary for the Bureau of Democracy, Human Rights, and Labor, Dan Baer spoke extensively about an "increase in societal attacks by extremist groups and violence towards members of religious minorities, along with ineffective government responses" as well as "blasphemy laws [being] used to restrict freedoms of religion and expression." With regard to human rights violations committed by the Indonesian military and police, Baer stated that "professionalization and accountability are improving but not complete, and backsliding is a real possibility."

During his trip to Indonesia, Human Rights First urges Secretary Kerry to raise ongoing human rights concerns in Indonesia during his meeting with President Yudhoyono. He should use this trip to focus on three primary areas of concern, including:

- Impunity and lack of accountability for harassment and violence against human rights activists, including in the emblematic case of the assassination of leading human rights defender Munir Said Thalib;
- Violence against religious minorities and human rights violations stemming from blasphemy laws;
- Lack of accountability and oversight for the U.S.-trained and funded elite anti-terror police unit, Densus 88 and the special forces, Kopassus.

### Protection and Justice for Human Rights Defenders

Indonesian human rights defenders often face harassment and violence for the crucial work that they do in fighting for freedom and the rule of law and against government corruption. As President Obama argued in his 2012 speech before the U.N. General Assembly, “True democracy demands that citizens cannot be thrown in jail because of what they believe... those in power have to resist the temptation to crack down on dissidents.”

Perhaps no case in Indonesia is more emblematic of the danger that dissidents face than the 2004 assassination of leading human rights defender Munir Said Thalib. Secretary Kerry should use his meeting with President Yudhoyono to demonstrate the United States’ support for the work that human rights defenders do by urging a full investigation into the Munir case.

Munir was poisoned en route to Holland on an Indonesian state-owned Garuda airlines flight. Although President Yudhoyono quickly convened an independent investigation into the murder, support and resources for the investigation became scarce. The president has yet to release the report or its findings. Two low-level players were convicted for their involvement in the crime. Pollycarpus Budihari Priyanto was convicted in 2005 and sentenced to 20 years. The other convict, a former president of Garuda airline, has already served his one-

year prison sentence.

In 2008, charges were brought against a former deputy of the state intelligence agency, Muchdi Purwoprandjono, for ordering Munir’s murder. His trial was widely criticized because the court failed to compel witnesses to attend, and those who did appear recanted their sworn statements or forgot them all together. Purwoprandjono was acquitted and released.

A coalition of human rights organizations continues to pressure the attorney general’s office to provide judicial review in Purwoprandjono’s trial, though the government has not answered that request. Additionally, in 2011 the coalition submitted an information request to the intelligence office to compel the release of evidence, including phone records, that points to Purwoprandjono’s guilt.

The U.S. State Department released Human Rights Defenders Guidelines in March 2013 outlining strategies for protecting and supporting human rights defenders. In accordance with these guidelines, the United States should encourage host governments to engage constructively with human rights defenders and seriously consider their information and concerns as well as attend hearings and observe trials.

### Recommendation:

- ☑ To achieve justice and accountability in Munir’s murder, Secretary Kerry should pressure the Indonesian government to conduct an independent investigation that would lead to recommendations for prosecution of those who planned and ordered his assassination and a case review of past criminal proceedings.

## **Violence Against Religious Minorities and Human Rights Violations Stemming from Blasphemy Laws**

President Obama, in his 2012 speech at the U.N. noted that “in a diverse society, efforts to restrict speech can quickly become a tool to silence critics and oppress minorities.” He also noted that religious intolerance often enables the extremism that threatens democratic progress and stable societies.

The stability, prosperity, and democracy that Indonesia has worked hard to attain have also come while mob violence against religious minorities has become a growing concern. Indonesia’s blasphemy laws have contributed to an atmosphere of intolerance by providing a context in which government can restrict freedom of expression, thought, and religion.

Addressing the issue of freedom of religion and belief was among the recommendations made by countries participating in the U.N. Human Rights Council discussion on the 2012 Universal Periodic Review process for Indonesia.

Longstanding impunity for religious violence in Indonesia has contributed to larger and more brutal attacks by Islamist militants against religious minorities, particularly against Christians and the Ahmadiyah. Short prison terms for a handful of offenders did nothing to dissuade mob violence.

Human rights abuses and violent attacks on religious minorities can be linked to the abuse of Indonesia’s blasphemy and related laws, including Articles 156 and 156 (a) of Indonesia’s Criminal Code. Article. 156 (a) of the Indonesian penal code targets those who deliberately express “feelings of hostility, hatred, or contempt” against religions. The penalty for violating Article 156(a) is a maximum of five years’ imprisonment.

The loose and unclear language of article 156 (a) empowers extremists.

Application of this law can result in devastating consequences for those holding religious views that differ from the majority religions recognized in Indonesia, as well as adherents to minority faiths that are deemed heretical or blasphemous by the majority, or by state-backed religious establishments.

In many instances, officials have failed to condemn abuses or follow through with holding the perpetrators of violence accountable. The police have failed to prevent and stop violence against religious minorities and to protect and secure all those whose lives have been threatened and endangered on account of such laws. The judiciary has failed to sufficiently punish the perpetrators of violence. The lack of meaningful response has fostered a climate of hostility and fear in which discrimination and violent incidents occur.

Occasionally, mobs have targeted government officials for not being strict enough in their application of the blasphemy law but the violence is most frequently directed toward religious minority communities where the practice of their religion has been deemed blasphemous.

Violence does not end at the courthouse doors. Mobs have descended on towns, burning places of worship, looting homes and killing or injuring residents.

The government has largely failed in its obligations to protect people from extrajudicial mob violence and to protect freedom of religion. In fact, there are instances when the authorities have been complicit in these incidents.

### **Case examples of human rights abuses linked to allegations of blasphemy in Indonesia:**

#### **2013**

- On April 23, 2013, five Indonesian teenagers were accused of blasphemy after making a video in which they mixed Islamic prayer with a pop song. They were suspended from school and may face over two years in juvenile detention. The school brought the video, to the attention of police who questioned the girls.

## 2012

- On July 12, 2012, the Shia leader Tajul Muluk was sentenced to two years in prison on blasphemy charges. Muluk was accused of encouraging Muslims to pray three times rather than five times a day and allegedly stating that the Koran was no longer authentic and that believers need not make the Hajj pilgrimage to Mecca. Prior to his sentencing, on December 29, 2011, Muluk and his Shia followers were attacked and threatened by a mob of Sunni Muslims, none of whom were arrested and their houses, a place of worship, and Muluk's school were burned down in the attack. On August 26, 2012 Muluk's village was attacked again, this time by a mob of 500 persons, several of whom were detained. Two Shia men were killed, dozens were injured, and many Shia houses were burned down. Following an appeal before the East Java High court in September 2012, Muluk's sentence was extended to four years in prison.
- On March 14, 2012, Andreas Guntur, the leader of the spiritual group Amanat Keagungan Ilahi (AKI), was sentenced to four years in prison for blasphemy. A fatwa (religious decree) was issued against AKI by the Indonesia Council of Ulema in 2009, claiming that they rejected conventional Islamic rituals.
- On January 18, 2012, Alex Aan, an atheist man, was arrested for allegedly stating on his Facebook account that God did not exist. Before he was arrested by the authorities, Aan was severely beaten by an angry mob that called for his beheading. While in police custody, he was later beaten by a group of inmates who knew about the accusations against him. After being transferred to another prison, Aan was sentenced to over two years in prison. He is currently appealing his sentence to the country's Supreme Court.

## 2011

- On August 14, 2011, in response to the sentencing of individuals involved in a fatal attack on an Ahmadiyya house of worship in February 2011, hundreds of members of Islamic Defender's Front members, armed with machetes and bamboo sticks, stormed another Ahmadi mosque while ten Ahmadi were praying inside in Makassar, South Sulawesi. One victim suffered serious head injuries.
- On February 8, 2011, more than one thousand protestors stormed the District Court in Temanggung after Antonius Richmond Bawengen, a Christian from Jakarta, received what extremists believed to be too lenient a sentence for blasphemy. The mob attacked prosecutors, judges, and the defendant, injuring nine people; destroyed three churches; and torched vehicles. Bawengen was sentenced to five years in prison
- On February 6, 2011, while 18 members of the Ahmadiyya sect assembled at the home of their leader, a mob of more than 1,000 villagers stormed the house of worship, killing three and wounding six others. Graphic video footage of the brutal and allegedly unprovoked attack shows the attackers stoning their victims to death and then beating the corpses, some naked, as police officers and villagers watched and did nothing to stop the bloodshed. According to a spokesperson for the Ahmadiyya Muslim Community in the United States, police were warned of the attack days before the event. Despite the police presence and a video documenting the attack, only 12 villagers were charged and received sentences ranging from three to six months in prison for their role in the attack. None were charged with murder. The court handed down lighter sentences than what prosecutors had recommended, stating that the Ahmadi were the true culprits instigating the violence.

**Recommendations:**

Secretary Kerry should urge President Yudhoyono to:

- ☑ Encourage the Indonesian Supreme Court to review blasphemy laws to make sure they comply with Indonesia's 1945 constitution and international human rights standards and that any laws and regulations that are directly or indirectly discriminating certain religious groups are repealed or amended.
- ☑ Amend the existing law to limit abuses, or targeting of religious minorities, by strengthening the requirements for proof of intent and evidence.
- ☑ Strengthen efforts to ensure that any assaults against people from religious minorities are properly investigated and that those responsible are brought to justice; ensure that police receive adequate training on conflict resolution and community policing, including how to prevent and respond to mob violence.
- ☑ Urge government officials to speak out against human rights abuses against religious minorities or those whose lives have been threatened and endangered on account of blasphemy whenever such acts occur, and that there is rapid and appropriate response from both law enforcement and criminal justice authorities.
- ☑ Engage with and support Indonesian civil society, human rights organizations and activists who are actively promoting international standards of freedom of expression and freedom of religion, tolerance, and the peaceful co-existence of different ethnic and religious communities.
- ☑ Recommend that the U.N. Special Rapporteur for freedom of religion or belief be invited to visit Indonesia.

**Impunity and lack of accountability for U.S.-trained and funded elite anti-terror police squad Densus 88 and special forces, Kopassus**

The United States, along with the Australian government, fund Detachment 88 (commonly known as Densus 88), an elite anti-terror police squad that has been accused of conducting operations that violate human rights regularly over the past few years. Additionally, Densus 88's high kill-to-capture ratio (one suspect killed for every four arrested) has raised concerns, as have reports of extrajudicial executions of suspected terrorists.

As the United States is jointly funding this unit, Secretary Kerry should prioritize the issue when he meets with President Yudhoyono. When the U.S. government cut off all aid to the Indonesian military in 1999 due to widespread human rights violations in East Timor, the rate of human rights abuses decreased, and the United States gained credibility and trust among Indonesians. The U.S. government re-engaged with Kopassus in 2010 after the Obama Administration concluded that the unit had cleaned up its ranks and was sufficiently committed to human rights. The United States has already established a successful precedent in Indonesia and should apply pressure on Densus 88 to improve its human rights record.

During the Indonesia's Universal Periodic Review in 2012, the country accepted a recommendation reaffirming its commitment to combat impunity and encouraging the country to continue efforts in this regard. Despite significant reforms to the military in recent years, Densus 88 and the special forces, Kopassus – continue to engage in serious abuses with near-total impunity.

The State Department's 2012 Indonesia Country Report on Human Rights Practices revealed a pattern of arbitrary detention and ill-treatment—particularly in the provinces of Papua—and the failure of military courts to investigate allegations adequately or to prosecute alleged serious human rights abuses by military personnel. In the few military trials for which information is publicly available, military prosecutors brought relatively insignificant charges, and any sentences handed down by military judges have been extremely lenient.

For example, in March 2013 four detainees at Cebongan prison in Yogyakarta were murdered in their cell, allegedly killed by eleven members of Kopassus .

Military investigators say that the Kopassus suspects, disguised with ski masks and carrying AK-47 assault rifles, forced their way into the prison, beat two guards who subsequently required hospitalization, and executed the four detainees. Investigators said the motive for the murders was revenge for the killing three days earlier of their Kopassus colleague.

The killings sparked a public outcry and evoked dark memories of the three-decade dictatorship of Suharto, when the army often acted with impunity. On April 5, President Yudhoyono delivered a speech criticizing the soldiers for taking the law into their own hands, calling the killings an act of “brutality.”

In a positive development, a military court convicted the eleven members of Kopassus in the Cebongan prison incident. A three-judge panel found one of the members guilty of premeditated murder and sentenced him to 11 years. Two others were given six and eight years in prison, and five more sentenced to a year and nine months. Lawyers for the accused said they would appeal.

Human rights organizations in Indonesia are concerned that these verdicts might be reversed on appeal while some activists say the tribunal should have gone further as the verdict did not extend to the failure to protect the four civilians in the prison by the commanders and the local police. This situation seriously undermines the credibility of the military and Kopassus.

The issue of impunity is likely to surface again during the 2014 presidential election. Prabowo Subianto is one of the main candidates leading in the polls even though human rights activists say he isn't fit to head the country. During the Suharto era, he was allegedly involved in violent crackdowns on protesters, and he has been banned from traveling to both the United States and Australia.

Certain limitations mandated by Congress on providing training to foreign military forces, also known as the Leahy Law, bar the United States from providing training, in the absence of corrective steps to military units that are credibly alleged to have committed gross violations of human rights. Both Densus 88 and Kopassus security units should have appropriate vetting mechanisms applied to them in order to ensure accountability and oversight. Otherwise, the United States may be accused of enabling human rights violations in Indonesia through its support of these forces.

The United States should adhere to the Leahy Law vetting procedure for these specific units within the Indonesian security sector to ensure that impunity for human rights violations are addressed and perpetrators brought to justice.

#### Recommendations:

- ☑ Secretary Kerry should encourage President Yudhoyono to prioritize security sector reform and greater accountability as a vital component in any effort to increase respect towards human rights values and the rule of law.
- ☑ Leverage important U.S. funding of the Indonesian military and anti-terror police units implicated in serious human rights violations—including those involving command responsibility—are credibly and impartially investigated and disciplined or prosecuted as appropriate;
- ☑ Apply Leahy vetting procedures so that necessary oversight mechanisms are utilized;
- ☑ Remove restrictions on access to all regions of Papua for foreign journalists and nongovernmental organizations.