



**Statement in support of the Indonesian Legal Aid Foundation  
Yayasan Lembaga Bantuan Hukum Indonesia and the Jakarta  
Legal Aid Institute, Lembaga Bantuan Hukum**

1. The International Commission of Jurists expresses its concern over recent actions by Jakarta police and also Indonesian non-state mass organisations that served to intimidate and stigmatise the Indonesian Legal Aid Foundation Yayasan Lembaga Bantuan Hukum Indonesia ('YLBHI') and the Jakarta Legal Aid Institute, Lembaga Bantuan Hukum ('LBH') in Central Jakarta, Indonesia.
2. ICJ reminds the Government of Indonesia and its security forces of state obligations affirmed in the *Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms*<sup>1</sup> and entrenched in the *International Covenant on Civil and Political Rights*<sup>2</sup> ('ICCPR') and the *Universal Declaration of Human Rights*.<sup>3</sup>

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<sup>1</sup> GA Res 53/144, UN GAOR, 53<sup>rd</sup> Sess, Agenda Item 110(b), UN Doc A/RES/53/144, (8 March 1999). ('The Declaration')

<sup>2</sup> GA Res 2200A (XXI) annex, UN GAOR, 21<sup>st</sup> Sess, Agenda Item 68, 1496<sup>th</sup> plen mtg, UN Doc A/RES/21/2200 (16 December 1966, entered into force 23 March 1976). ('ICCPR')

<sup>3</sup> GA Res 217A (III) UN GAOR, 3<sup>rd</sup> Sess, 183<sup>rd</sup> plen mtg, UN Doc A/810 (10 December 1948).

3. Legal aid organisations are essential to the rule of law and to the successful implementation of human rights treaty obligations.<sup>4</sup> Legal aid ensures access to justice for all members of society, and guarantees fundamental principles such as equality before the law, equal protection under the law, and the right to an effective remedy.
4. The International Commission of Jurists also refers to the *United Nations Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems*<sup>5</sup> unanimously adopted by the UN General Assembly; and paragraph 14 of the *Declaration of the High-level Meeting of the General Assembly on the Rule of Law at the National and International Levels*, emphasising the right of equal access to justice for all, including members of vulnerable groups, and the duty of States to take all necessary steps to provide fair, transparent, effective, non-discriminatory and accountable services that promote access to justice for all, including legal aid.<sup>6</sup>
5. Finally, ICJ affirms that measures taken by the Government of Indonesia to protect the fundamental principles of democracy and rule of law must be in accordance with Constitutional principles and universal human rights.

## **Facts**

6. Lembaga Bantuan Hukum is a well-established legal aid organization founded in 1969 with the support of the Indonesian Bar Association and the Provincial Government of Jakarta. Its mandate extends to the

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<sup>4</sup> See, eg, Committee for the Elimination of Discrimination Against Women, *General Recommendation No 33: General Recommendation on Women's Access to Justice*, UN Doc CEDAW/C/GC/33 (23 July 2015), [1] as authority for the proposition that access to justice is a fundamental element of the rule of law.

<sup>5</sup> GA Res 67/187, UN GAOR, 67<sup>th</sup> Sess, Agenda Item 103, 60<sup>th</sup> plen mtg, UN Doc A/RES/67/187 (28 March 2013, adopted 20 December 2012).

<sup>6</sup> GA Res 67/1, UN GAOR, 67<sup>th</sup> Sess, Agenda Item 83, 3<sup>rd</sup> plen mtg, UN Doc A/RES/67/1 (30 November 2012, adopted 24 September 2012).

provision of traditional legal assistance to those unable to afford representation, as well as advocacy and strategic litigation to ensure that domestic laws are in compliance with the 1945 Constitution and international human rights obligations.

7. Yayasan Lembaga Bantuan Hukum Indonesia is an umbrella organization composed of 15 member organisations that provide legal support and conduct advocacy relating to all manner of human rights issues, including refugee/asylum-seeker rights, labour rights, minority rights and fair trial rights in urban and rural areas. The YLBHI headquarters is based in Jakarta and the building is often used by marginalized civil society groups, interest groups and human rights groups as a space to gather and freely exchange ideas.
8. On 16-17 September 2017, LBH were to host a two-day academic workshop at the YLBHI premises entitled "Unveiling the Truth of History in 1965/1966" and was to address the historical events known as the 1965/6 Massacre when an estimate 500,000 – 1 million people alleged to be sympathetic to the Communist Party were killed. The workshop was to be attended by human rights activists, academics and survivors of the 1965/6 massacre. However, the workshop did not take place.
9. LBH had consulted with and received approval from the Jakarta police on the 15<sup>th</sup> of September and had obtained guarantees that the organisation would receive police protection in case of any popular opposition to the workshop. However, on the Saturday, 16<sup>th</sup> September, an estimated 100 police officers blockaded the building, denying the right of participants to enter the building and conduct the workshop.
10. Later in the afternoon, a group of participants who were victims of the 65/6 massacre successfully managed to enter the premises. However, their meeting was forcibly broken up by approximately 30 police officers who raided the building, tore down banners that had been put

up in preparation for the workshop, and subjected the participants to intimidation and harassment until they were forced to disperse. Lawyers from LBH were told that the workshop was unlawful as the group did not have a required permit.<sup>7</sup> The Director of Amnesty International Indonesia, who was present at the time, was told by a member of the police that the police were facing pressure from the military to disband the workshop on account of the subject matter.

11. The following day, on Sunday, 17 September, police officers were seen monitoring the entrance of the YLBHI building in the early hours of the morning. Despite this, a gathering of human rights activists and defenders held a vigil in acknowledgment of the violation of the organisation's freedom of assembly the day before.
12. Over the course of the day, a crowd of protestors was gathering outside the YLBHI building. By 9:30 PM, a mob of protestors, including leaders of anti-communist organisations and hardline Islamic organisations, were seen mobilising the general public through speeches and social media. At its peak, there were estimated to be over a thousand protestors outside the building.
13. Participants of the vigil inside the YLBHI building were forced to remain inside the building as protests outside became violent. Protestors threw rocks through the windows of the building and damaged property. Five police officers were injured and brought to hospital. By 2:00 AM, approximately 200 participants were evacuated from the YLBHI building to the National Commission of Human Rights ('NCHR'). Fifty to 100 protestors followed the participants to the NCHR, and did not disperse until 5:00 AM on Monday, 18 September.

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<sup>7</sup> The excuse of not having a permit is frequently used by police when disbanding public gatherings that are otherwise lawful as per Law No 9 of 1998, Freedom to Express Opinions in Public, 26 October 1998 (*Id.*; *Undang-undang Republik Indonesia Nomor 9 Tahun 1998 Tentang Kemerdekaan Menyampaikan Pendapat di Muka Umum*). See, eg, Amnesty International, *Indonesia: Stop inflammatory and discriminatory statements that put the LGBTI community at risk*, ASA 21/3648/2016 (18 March 2016), p 2.

14. Subsequent to these events, a police officer attended LBH and demanded possession of all information and documents relating to the workshop. Amongst these documents was information detailing the identities of participants of the workshop and members of an organisation composed of survivors of the 1965/6 Massacre.
15. On Friday 29 September 2017, a mass rally, attended by 5000-7000 people, was held in Jakarta. The rally was organised by Group 212—a collective of hardline Islamic and anti-communist organisations. This rally was widely publicised using posters that named LBH specifically and falsely alleged LBH to be affiliated with the PKI (erstwhile Communist Party of Indonesia) and to support an anti-Islamic agenda.
16. LBH was repeatedly named in speeches given at the mass rally on 29 September, and falsely identified as “communist” and thus politically subversive. During the rally, lists were distributed by social media which named a variety of other civil society organisation such as labour organisations, women’s organisations, legal aid organisations and organisations for victims of the 1965 massacres. Individual members of these groups were also named.

### ***Analysis***

17. ICJ recognises the important role that civil society organisations have played in the development of Indonesian democracy, and that they are a cornerstone of the rule of law. ICJ reminds the Indonesian government of its obligations under international law to respect and protect the rights of human rights defenders, including organisations like LBH and other organisations under the umbrella of YLBHI that provide legal aid and engage in human rights advocacy and strategic litigation.
18. The police blockade and raid on the offices of LBH and YLBHI on 16<sup>th</sup> September were a direct attack on a human rights organisation by state security forces, and amounted to violations of the principles of

freedom of association and assembly, and of verbal and written expression, as entrenched in art 28 of the 1945 Constitution. This conduct is also in breach of Indonesian state's obligation to respect the rights to assembly, association and freedom of expression, as protected in arts 19(2), 21 and 22 of the ICCPR.<sup>8</sup>

19. Further, the police committed these violations against an organisation dedicated to upholding the human rights of others, contrary to art 9(3)(c) of the *Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms* ('the Declaration'):<sup>9</sup>

everyone has the right, individually and in association with others, *inter alia*: To offer and provide professionally qualified legal assistance or other relevant advice and assistance in defending human rights and fundamental freedoms.

20. Further, the rationale for the police raid was to prevent an academic workshop on historical human rights violations, to which members of the police, military and political groups were invited to attend and participate in. This is in breach of art 5(a) of the Declaration:

For the purpose of promoting and protecting human rights and fundamental freedoms, everyone has the right, individually and in association with others, at the national and international levels to meet or assemble peacefully;

And art 6(3) the Declaration, whereby

Everyone has the right, individually and in association with others: To study, discuss, form and hold opinions on the observance, both in law and in practice, of all human rights and fundamental freedoms and, through these and other

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<sup>8</sup> ICCPR, above n 2.

<sup>9</sup> The Declaration, above n 1.

appropriate means, to draw public attention to those matters.

21. In addition to being in contravention of obligations and principles protected under international law and essential to a functional democracy, such conduct by security forces feeds populist anxiety against an alleged communist threat, and stigmatises an organisation, its employees and stakeholders. Such stigma paves the way for populist reprisals by non-state actors, as seen against LBH on 17 September and 29 September.

22. Stigmatisation of human rights defenders by state actors is of particular concern because it creates an impression that human rights defenders and the causes, organisations and individuals they represent are legitimate targets for abuse.<sup>10</sup> As stated by the former Special Rapporteur for Human Rights Defenders, "States should refrain from portraying human rights defenders and their activities as dangerous, illegal or a threat to the security of the State. Their important role and efforts in the promotion, protection and the full enjoyment of human rights by all should instead be praised."<sup>11</sup>

23. When a legal aid organisation such as LBH is stigmatised and threatened, so too are those who rely on their services to access justice. Clients of the legal aid organisation are either dissuaded from attempting to rely on their services, and thus forgo access to the justice system that is meant to protect their rights; or they run the risk of themselves being stigmatised and targeted, if not by police then by other members of the public. Access to justice is thereby undermined, and the rule of law compromised.

24. ICJ reminds the government of Indonesia of the importance of the principle embodied in art 12 of the Declaration, providing for the right

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<sup>10</sup> Margaret Sekaggya, Special Rapporteur, *Report of the Special Rapporteur on the Situation of Human Rights Defenders*, 13<sup>th</sup> Sess, Agenda Item 3, UN Doc A/HRC/13/22 (30 December 2009), [27].

<sup>11</sup> Ibid, [29].

of human rights defenders to be protected by the State, and the duty of State's to:

take all necessary measures to ensure the protection by the competent authorities of everyone, individually and in association with others, against any violence, threats, retaliation, de facto or de jure adverse discrimination, pressure or any other arbitrary action as a consequence of his or her legitimate exercise of the rights referred to in the present Declaration.

25. Any measures taken in pursuit of the government's duty to respect and protect the rights of civil society organisations whose mission is to protect and enable the exercise of Constitutional and legal rights must themselves adhere to international human rights principles and Indonesian Constitutional law.

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