

Report Launch
Arrest and Criminalization of Public Defenders
Indonesian Legal Aid Foundation (YLBHI)

JAKARTA. Tuesday, April 27, 2021. The Indonesian Legal Aid Foundation has launched a report virtually on the criminalization of public defenders including advocates and broadcast live on the YouTube channel of the LBH Indonesia Foundation. Present as speakers were Asfinawati (Chairperson of YLBHI), Arif Maulana (Director of LBH Jakarta), Etik Okta (Director of LBH Semarang), and Frank T. Kahiking (Director of LBH Manado). This event was moderated by Muhammad Isnur (Co-Chair of the Advocacy Division of YLBHI).

The first resource person, Arif Maulana, explained about the criminalization experienced by legal aid staff who are carrying out their duties as public aid providers. Arif said that during 2015-2021 as many as 9 public defenders of LBH Jakarta were arrested and criminalized by the police.

"Not only arrested, but also brought to court, with the articles which are making it up. Even though they have shown their identity and explained that they are carrying out their duties and obligations as advocates and providers of legal assistance. Up to the level of cassation (Supreme Court) we have succeeded in proving that police action is an act of criminalization. " Said Arif Maulana.

Etik Okta, Director of LBH Semarang, continued that what happened in Jakarta was also experienced by public defenders in Semarang. LBH Semarang noted that there were 5 of them who were arrested and criminalized by the police in the Central Java region.

"They were arrested and criminalized while doing their job of providing legal aid and assisting the actions of fellow Papuan students, Etik Okta said.

"Apart from that, our lawyers were also arrested while doing non-litigational work, the term is known in the Legal Aid Law, for environmental pollution cases committed by PT RUM, was also arrested by the police at Sukoharjo. Apart from being arrested, our members also experienced violence, Etik continued.

The patterns of criminalization and violence against lawyers in various regions are almost the same, especially in relation to the right to freedom of expression in public. For example, what happened several times in Manado, North Sulawesi. This was experienced by public defenders from LBH Manado. Frank T Kahiking, as the Director of LBH Manado said that during 2018-2021 there were at least the arrest and criminalization of 5 of them.

"Not only they were arrested and criminalized, they also experienced violence and intimidation," said Frank T. Kahiking

"For example, recently, public defender and assistance of public defender of LBH Manado were arrested while providing legal assistance to accompany protesters of the Kamisan action," he

continued. Kamisan Action was started at Jakarta with demand for an end of impunity on gross violence of human rights in the past and after that spread all over Indonesia.

The next speaker was Yogi Fadhli, Director of LBH Yogyakarta. Three days ago, on Friday, 24 April 2021, two public defender LBH Yogyakarta were arrested by the Purworejo Police officers while accompanying residents who rejected the Bener Dam project in Wadas Village, Purworejo. One of them is an advocate.

LBH Yogyakarta noted that at least 4 public defenders were arrested and criminalized during 2017-2021. The police also confiscated a cell phone illegally and forced a urine test on the two arrested public defenders.

"By carrying out urine tests, the police officers committed arbitrary acts, having no legal basis. The police only reasoned as discretion. Yogi Fadhli said

Meanwhile, Asfinawati said that from the facts about the arrest and criminalization above that occurred in various regions, there were similar modes.

First, the mode during arrest is accompanied by violence and or criminalization and the arrest happens because of carrying out legal aid duties, among others: 1) providing legal arguments, 2) breaking up the commotion and trying to calm down, 3) for taking pictures of violence by the police.

Second, in terms of issues that were assisting by the public defenders (1) Papua issue, particularly for accompanying and providing legal assistance to Papuan demonstration (2) Agrarian conflicts, including evictions and environmental pollution (3) Labor (4) Kamisan Action (5) Foreign Policy for instance for Myanmar. (6) Weakening of the Corruption Eradication Commission.

Third, after being arrested most of them are not allowed to contact lawyers, some are being examined, there have been attempts to check urine, and confiscation of cell phones without permission.

These actions done by Police violate several legal provisions, including:

- (1) Article 11 of the Legal Aid Law (Law number 16 of 2011) which states that Legal Aid Providers cannot be prosecuted civil or criminal in providing Legal Aid which is their responsibility, which is carried out in good faith, both inside and outside court proceedings according to Legal Aid Standards based on statutory regulations. and / or Advocate Code of Ethics.
- (2) Article 5 of the Advocate Law which confirms that Advocates have the status of law enforcers, are free and independent, guaranteed by laws and regulations.
- (3) violations against the Criminal Procedure Code, among others: First, summoned for clarification. Clarification not known in the Criminal Procedure Code. Second, being arrested without the status of a suspect and without minimum of 2 evidence, also not being caught in the act; third, illegal coercive measures, namely urine tests and confiscation of cell phones.

Appendix

I. Data on Arrest and Attempt of Criminalisation

	Arrest	Attempt of Criminalisation
LBH Jakarta	7 people, 2 of them brought to court	2 people
LBH Semarang	5 people	-
LBH Manado	2 people	-
LBH Yogyakarta	4 people	-
LBH Bali	-	3 people

II. Data on Arrest

	2015	2016	2017	2018	2019	2020	2021
LBH Jakarta	3	-	-	-	-	1	3
LBH Semarang	-	2	-	1	-	1	1
LBH Manado	-	-	-	2	-	-	2
LBH Yogyakarta	-	-	2	-	-	-	2
	3 people	2 people	2 people	3 people	-	2 people	8 people
Total	20 orang						

III. Data on Attempt of Criminalisation

	2018	2019	2020	2021
LBH Jakarta	1	1	-	-
LBH Bali	-	-	-	3
	1 people	1 people	-	3 people
Total	5 people			

IV. Data Criminalisation: 2015, LBH Jakarta, 2 people. Free by the Supreme Court