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Aleksis Jemadu
aleksius.jemadu@yahoo.com

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Problem of Human Rights in World Politics: Three Indonesian Case Studies

Aleksius Jemadu*

*Permasalahan hak azasi manusia (HAM) dalam perca-
turan politik global mewarnai interaksi antara aktor-
aktor baik negara maupun non-negara setelah berakhir-
nya perang dingin. Dalam tulisan ini, perspektif
internasional dan domestik digunakan untuk membahas
sejauhmana permasalahan HAM mempengaruhi peri-
laku aktor-aktor tersebut. Dalam perspektif inter-
nasional munculnya ancaman terorisme global sejak
peristiwa 11 September 2001 merupakan tantangan baru
bagi promosi HAM karena aktor negara yang dominan
tampaknya akan lebih mengutamakan keamanan
nasional dan internasional daripada penghormatan atas
HAM. Dalam hal tersebut, peran Amerika Serikat dan
sekutunya mendapat sorotan dalam tulisan ini. Dalam
perspektif domestik penulis mengambil tiga studi kasus
pengalaman Indonesia dalam konsolidasi demokrasi di
mana kemajuan dalam promosi HAM masih diper-
tanyakan. Disimpulkan bahwa promosi HAM harus
menjadi bagian integral dari proses konsolidasi
demokrasi.*

I. Introduction

After the end of the Cold War the issue of human rights has become a global concern in the interactions among different actors

* Ketua Jurusan Ilmu Hubungan Internasional FISIP UNPAR dan Ketua Program Pascasarjana Magister Ilmu Sosial UNPAR Bandung. Fokus penelitiannya saat ini termasuk resolusi konflik dan politik luar negeri RI.

of international relations. It is argued that human rights violations should become a universal concern regardless of where it happens and who perpetrates such violations. There are different ways of categorizing human rights problems. A distinction can be made between a complete denial of human rights or their gross and massive violation with a systemic or systematic character and individual violations of human rights which are mainly due to ordinary shortcomings or imperfections of human nature¹. A large proportion of human rights violations of human rights in developing countries fall into the first category. According to Cecilia Medina Quiroga, gross, systematic violations of human rights are:

"those violations, instrumental to the achievement of governmental policies, perpetrated in such a quantity and in such a manner as to create a situation in which the right to life, to personal integrity or to personal liberty of the population as a whole or of one or more sectors of the population of a country are continuously infringed or threatened".²

However, today's violation of human rights is not only committed by the governments of developing countries. In the actual implementation of the war on terror, Western industrial states also develop security and intelligence policies that bring tremendous consequences not only on their own citizens but also those of other states. The most well-known examples include the violations of human rights committed by the United States in the Abu Ghraib prison in Iraq and the extra-judicial detention of the so-called "enemy combatants" in Guantanamo Bay. The primacy of the state's hard power in dealing with the terrorist threat may bring serious implications on the promotion of civil liberties and human rights in the developed and developing world.

¹ See Rein Mullerson, *Human Rights Diplomacy* (London: Routledge, 1997) p. 2.

² See her book *The Battle of Human Rights* (Dordrecht: Nijhoff, 1988) p. 16 quoted in Rein Mullerson, *Ibid.* pp. 184-185

Documents of human rights which are internationally accepted as universal values include, among other things, the Universal Declaration of Human Rights which was adopted by the United Nations General Assembly in 1948, the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights of 1966, the Convention on the Prevention and Punishment of the Crime of Genocide of 1948, the International Convention on the Elimination of All Forms of Racial Discrimination of 1965 and the International Convention on the Elimination of Discrimination Against Women of 1979. At the regional level we have the European Convention for the Protection of Human Rights and Fundamental Freedoms of 1950, the American Convention on Human Rights of 1969, the African Charter on Human and People's Rights of 1981 (the Banjul Charter). It is clear from this list that Asia is the only continent where the states have not formulated a concept of human rights that can be accepted by all parties. Although some individual state have ratified various international convention on human rights, the absence of a consensus on human rights at the regional level has created difficulties when governments have to deal with the challenge of human rights violations committed by individual states. For instance, ASEAN member countries have found difficulties in preventing further violations of human rights by the military regime in Myanmar because they do not have a regional mechanism to deal with such problem. On top of that, ASEAN member countries still stick to their principle of non-interference so much so that they are always constrained from resolving their common problems.

The type of violation of human rights in many undemocratic states is closely related to the phenomenon of "structural violence"³ in a political system. It refers to "social structures leading to an

³ The concept of "structural violence" is introduced by Johan Galtung. How structural violence took place and flourished in the Indonesian political system during the New Order political regime under President Soeharto can be read in Aleksius Jemadu, "Structural violence revisited", *The Jakarta Post*, 30 March 1997.

expectation of life less than the biological potential". The decline of one's life expectancy in this regard is linked to a structural deprivation occurring within political and economic systems. Structural violence is committed when a "political system unjustifiably favours the promotion of political and economic interests of the ruling elite to the effect that the grassroots are deprived of their basic rights as legitimate carriers of the demand for social and economic justice"⁴.

Another categorization of human rights problems is based on the spatial scope or magnitude of the violations. Problems of human rights exist at the global, state, and societal or local levels. Leaders of Western industrialized countries rarely, if ever, pay a sufficient attention to the violations of human rights of the poor and backward people in the Third World due to the unequal and unfair distribution of economic resources among nations. For instance, "the tyranny of the financial market" has forced millions of people in the crisis-stricken countries to live under the poverty line⁵. On top of that many poor people in developing countries are deprived of an opportunity to improve their living standard because a large proportion of the burden to pay back public and private foreign debt is unjustifiably put on their shoulders. As Rajiv Lall succinctly put it:

*"...those who typically gain the most in the boom years are not usually the same as those who lose the most in the bust – the distributional consequences of adjustments can be socially destabilizing"*⁶.

Thus, financial globalization is apparently biased against the interests and the basic rights of the poor people in the Third World.

⁴ See Aleksius Jemadu, *Ibid.*

⁵ See Barry Eichengreen, "The tyranny of the financial market", *Current History*, November 1997, pp. 377 – 382

⁶ See Rajiv Lall, "Taming capital flows", *Far Eastern Economic Review*, September 17, 1998.

Moreover, the way the global financial institutions like the IMF and the World Bank cured the economic crisis in Southeast Asia through their bailout package had generated huge human and social cost. Who was responsible for all these human sufferings? Thus, it is quite evident that as far as developing countries are concerned, we have to give equal attention to both the promotion of political rights and social and economic rights. Unfortunately, some developed states including the United States still refuses to ratify the UN Convention on Social and Economic Rights.

Industrialized countries which control the policy-making process within these financial institutions should be held responsible for any human or social cost incurred by their insistence to impose structural and institutional reforms upon Southeast Asian countries. I agree with Martin Feldstein, an economist from Harvard University, who suggested:

“The IMF should eschew the temptation to use currency crises as an opportunity to force fundamental structural and institutional reforms on countries, however useful they may be in the long term, unless they are absolutely necessary to revive access to international funds. It should strongly resist the pressure from the United States, Japan, and other major countries to make their trade and investment agenda part of the IMF funding conditions”⁷.

Violations of human rights at the state level normally take place when there is a concentration of power by an authoritarian leader. Such leader tends to justify all means including the use of military force to repress any political opposition against his or her power. This type of leadership is based on a paradigm which argues that a strong and effective leadership when a certain level of fear among the people can be maintained. Political stability is often used as a standard rationality for the institutionalization of security approach in dealing with the opposition groups. Correlation

⁷ See Thomas M. Callaghy, “Globalization and marginalization: debt and the international underclass”, *Current History*, November 1997, pp. 392-396

between types of political regime and the level of human rights violation is such that the more authoritarian a regime the more likely and frequent it will violate the political rights of its citizens. It was quite embarrassing for the Indonesian human rights diplomacy during Soeharto's New Order that many instances of human rights violations like the abductions and torture of students and political activists and victims of military operations in Aceh, Papua, and East Timor which used to be denied during Soeharto's rule were revealed to the public after the collapse of the authoritarian regime.

Ethnic and religious conflicts in the Southeast Asia have become a major source of human rights violations. Horizontal conflicts among social members tend to increase during the economic crisis. Sometimes political elite try to manipulate social conflicts to advance their sectarian political interests. Racial discrimination, gang rapes, the burning of religious buildings, looting, and mysterious killings are just instances of violations of human rights at the societal level. In order to deal with this problem a close cooperation between the government and religious leaders to develop a moral education which emphasizes solidarity instead of egoism, love instead of hatred, tolerance instead of sectarianism, and patience instead of anger. The diversity of ethnic and religious groups within Southeast Asian countries necessitates an attitude of open-mindedness to maintain national unity in each country and regional solidarity.

II. Tensions between the Universality of Human Rights and State Sovereignty

While violations of human rights have increasingly become a common phenomenon that can be found in all parts of the world, state remains the main political agency which is supposed to prevent the occurrence of such violations. At the same time, the state also has the obligations to promote the protection of human rights of its citizens. In many authoritarian states, the ruling power develops an argument that the citizens get their basic rights from the state. Therefore, for the sake of political stability and order the state

may revoke those rights and impose its will upon the citizenry. This is the irony of the agenda of human rights promotion worldwide. Since law enforcement which guarantees the protection of human rights is the exclusive domain of the state, building the capacity of state institutions in doing their job would be essential. It is true that civil society organizations both at the national and international level also pay serious attention to human rights promotion, without government's commitment no significant progress can be materialized. The problem arises when the promotion of human rights should go against state's interests and the privileges of the ruling elite. We should note that even the UN Charter through its Article 2 Section 7 stipulates that no intervention into the domestic affairs of the member states can be justified. It means that according to the UN Charter universal concern of human rights violations may not lead to the infringement of individual state's sovereignty. On the other hand, there is also a belief that human rights should come first before we care about the abstract notion of national interest. Thus, human rights protection is not just an internal affair of any sovereign state.⁸

The primacy of human rights over national interests has already been put forward in liberal political theories proposed by philosophers and political thinkers like Immanuel Kant, Thomas Hobbes, John Locke, Jean Jacques Rousseau and John Rawls. One thing is common in the theories of these philosophers is that they value individual human being above any political institution which is only means to achieve the wellbeing of humankind or society in general. On top of that, they all argue that the justification of the universality of human rights is to be based on secular thinking and not on religious systems. For instance, Immanuel Kant introduced the concept of "categorical imperatives" which basically refer to universally accepted principles of treating other people as ends in themselves, and not as just means to other ends. According to John Locke, human rights are inherently embedded in the nature of every

⁸ See Paul R. Viotti and Mark V. Kauppi, *International Relations and World Politics: Security, Economy, Identity* (Upper Saddle River: Prentice Hall), p. 308.

human being. Thus, their natural rights cannot be taken from them without their consent. Thus, the existence of a modern state with its coercive power is based on an assumption that the citizens have surrendered in the first place their rights to that sovereign entity. This is the foundation of social contract theory on which theories of modern democracy find their moral justification. Jean Jacques Rousseau gave more emphasis to the fact that human beings are part of a larger society and therefore it is imperative to put the general will in a higher place compared to any particular will of individual member of society. John Rawls develops a theory of social justice which is based on the idea of reasonableness or fairness in our social interaction with other people in society. According to Rawls, reciprocity of fairness and cooperativeness in societal interactions is important in order to ensure the creation of a just society.⁹

The state is the leading agency in the organization of response by the international community in dealing with the increasing threat of global terrorism. Since September 11, 2001 the state has become the main and dominant actor which takes initiatives in the promotion of war on terror. Under the leadership of the United States, the agenda of war on terror dominates the discussions among state leaders in various forms of international meetings and conferences. At the same time, the topic of national and international security becomes a great concern in international relations together with the economic agenda like free trade and the globalization of production and finance. The primacy of the state as an international actor indicates the domination of realism as the basis of foreign policy behaviour of many states. Realism puts high priority on national interests above the concern over the basic rights and civil liberties of individual citizens. It is often argued that the primacy of the state in organizing counter terrorist policies can bring serious consequences for the promotion of human rights and civil liberties especially in new democracies where the military always seeks its way back to politics.

⁹ The political theories of these political thinkers and philosophers are explained in Paul R. Viotti and Mark V. Kauppi, *Ibid.* pp. 315 – 316.

There are basically three types of response that a state can make in eliminating the terrorist threat. In each of this response we can see how the state plays a crucial role in mobilizing its resources in order to achieve its goals.¹⁰ The first response is to address the root causes of terrorism. It is argued that as a politically motivated violence terrorism is basically a resistance against all forms of political and economic injustice both at the national and global level. It is also a resistance against authoritarianism and military repression by a political regime. Thus, Osama bin Laden and his Al Qaeda want to destroy the autocratic monarchy of Saudi Arabia together with its protector the United States. In eradicating the root causes of terrorism the state appears to be the main actor which receives international financial assistance. For instance, Pakistan and Indonesia get much economic and military aid from the United States so that the two countries might be able to eradicate poverty and backwardness as the source of religious radicalism and terrorism.

The second response is the use of military attack to destroy the strongholds of terrorist networks. The United States and its allies have justified their attack of Afghanistan and Iraq in the name of a global war on terror. The United States under President George W. Bush even introduces the doctrine of pre-emptive strike against any terrorist group with or without the authorization of the UN Security Council. The US unilateralism in its war on terror puts the UN system in jeopardy as its European allies, except Great Britain, prefer to promote the multilateralism within the UN framework. Countries like Germany, France and Italy have strongly opposed American occupation in Iraq. Even Great Britain has asked the US to close the Guantanamo prison as it symbolizes blatant violation of human rights. Some states including Pakistan, Indonesia and the Philippines establish special military units within their respective armed forces with a special task of countering the terrorist groups. On top of that, in order to support the military approach each state strengthens its intelligence agency by introducing new laws which tend to violate human rights and civil liberties of the citizens.

¹⁰ See Paul R. Viotti and Mark V. Kauppi, *ibid.* pp. 170 – 171.

People are very much in doubt to what extent the use of military approach can eliminate the terrorist around the world. It may lead even more violence as the terrorists have absolute violence as the only means to achieve their political goals. Thus, the endless cycle of violence will continue to threaten national and human security.

The third response is law enforcement. At the international level, governments have strengthened their cooperation at all levels. In pursuant to paragraph 6 of the UN Security Council Resolution 1373 each member state is obliged to make regular report to the Counter Terrorism Committee (CTC) on the progress of their policies in eradicating terrorist networks. At the regional level, governments also establish close cooperation in an exchange of intelligence information and extradition. For instance, ASEAN countries have agreed to increase their cooperation in eliminating all forms of transnational crimes including terrorism. The littoral states around the Malaka Strait including Malaysia, Singapore and Indonesia have strengthen their cooperation in keeping the safe passage of vessels through the strait. Finally, there are also various forms of bilateral cooperation which emphasize the importance of state actors in dealing with the threat of terrorism. The importance of state's role will increase its bargaining position *vis a vis* the citizens whose basic rights might be jeopardized due to the primacy of national security and political stability. In some new democracies like Indonesia, Thailand and the Philippines law enforcement remains a big problem as the security authorities tend to abuse their power in order to secure economic appropriations. The security authorities also need to improve their professionalism so that they might be able to do their job without violating human rights of the citizens.

III. Global human rights concern: political morality or power politics?

Debates on human rights diplomacy in the post-Cold War international relations literature has been characterized by a clash between two main approaches: the post-colonial approach and the

neo-colonial approach. The first approach, which is proposed by Western industrialized countries emphasize certain liberal principles such as the universality of human rights, the primacy of civil and political rights, and the interdependence of states. With this approach in mind Western leaders often criticize the poor human rights record of governments in the Third World including Southeast Asia.

The second approach is proposed by Asian countries. According to this approach the way Western industrialized countries deal with the global human rights issues reflects a continuation from the colonial era to the present. They want to perpetuate their domination and exploitation at the expense of the interests and aspirations of the Third World countries. ASEAN leaders, for instance, defend this approach by using three important concepts, namely, cultural relativism, communitarianism, and developmentalism¹¹.

Cultural relativism can be defined as an argument in human rights debates which emphasizes the importance of the distinctive characteristics of each culture in analyzing and judging human rights issues. Thus, Western yardsticks cannot be used to understand and evaluate human rights conditions in non-Western cultures. Communitarianism stresses the idea that the fulfilment of individual rights in Asian societies cannot be separated from the interests of the community as a whole. There is a suspicion among Asian leaders that Western countries want to impose their individualistic approach to human rights. The idea of developmentalism in human rights debates emphasizes the equal importance of political and economic rights. According to Asian leaders there is no justification why civil and political rights should be more important than the rights or access of the people to economic development. Moreover, economic poverty or backwardness is seen as the main enemy of human rights.

¹¹ See James T. H. Tang, "Human rights in the Asia-Pacific region: competing perspectives, international discord, and the way ahead" in James T. H. Tang (ed.), *Human Rights and International Relations in the Asia Pacific* (London: Pinter, 1994), p. 5

It should be noted that both the post-colonial approach and the neo-colonial approach have their own shortcomings. These proponents of these approaches may have sound arguments to defend their positions but their real actions tell us whether they are genuinely committed to human rights or playing power politics. It is naïve to believe that human rights diplomacy is always guided by political morality. The advancement of political goals other than human rights concern often dominates nations' human rights diplomacy. The US security objectives during the Cold War were said to take precedence over human rights concerns. In fact the US government strongly supported the right-wing military regimes in Latin America which oppressed the human rights of their own citizens. The fact that some Western industrialized countries tend to be indifferent to human rights issues when their economic interests are at stake has led many in Asian capitals to regard their human rights diplomacy as at best "*power politics in disguise*".

Since early 1990s there have been a lot of discussions among academicians and policy makers about the new trend on international interventionism applied to countries who commit gross violations of human rights. After the referendum in East Timor, the Indonesian military was accused of perpetrating gross violations of human rights by supporting pro-integration groups in the massive killings of East Timor people. The application of humanitarian intervention has become a pattern since the end of the Cold War. Through the Resolution of the Security Council S/RES/1264 the United Nations gave authority to the International Force in East Timor (Interfet) led by Australia for the restoration peace and stability in that area. The Interfet was authorized to use any means in doing their job. It means that the intervention by the UN was more than just humanitarian intervention. The resolution says:

"....acting under the Chapter VII of the Charter of the United Nations, authorizes the establishment of a multinational force to take all necessary measures to fulfil this mandate".

The UN intervention in East Timor was a big blow to Indonesia's foreign policy and it tarnished the Indonesian image abroad. In his speech in front of the UN General Assembly the Minister of Foreign Affairs Ali Alatas stated that Indonesia in principle agreed that gross and systematic violations of human rights could not be tolerated by the civilized world. However, such intervention should be based on universal political morality and free from any intention of major powers which tended to misuse human rights rationality for their strategic interests.

It is undeniable that many cases of violations of human rights take place in developing countries where authoritarian regimes try to maintain their positions by military means. It is hard to expect that these regimes would support the doctrine of humanitarian intervention. Peter Wallensteen offers six solutions to this dilemma. First, there is the use of the principle of government consent in which the government makes a request to the United Nations to authorize a humanitarian intervention. This can be a solution to the situation where escalation of ethnic conflict, for instance, cannot be controlled. Second, the principle of international consensus should be used so that the intervention may have a strong legitimacy in the eyes of the international community. Third, the intervention should serve the best interest of the local population so that they can be freed from danger to their lives. Fourth, if there is an absence of government then international intervention can be proposed in order to restore public order and stability. Fifth, the principle of conflicts with spill-over and spin-in effects where neighbouring countries complaints about flow of refugees to their territories is also important. Sixth, the principle of preventing a civil war can be used so that more lives can be saved from an endless cycle of violence between warring parties. Foreign intervention should stay neutral in dealing with such situation; otherwise it may end up with an escalation of violence.¹²

¹² See Peter Wallensteen, "New Actors, New Issues, New Actions" in Peter Wallensteen (ed.), *International Intervention: New Norms in the Post-Cold War Era?* (Uppsala: Department of Peace and Conflict Research, 1997), pp. 7-9.

IV. Democratization key to a credible human rights diplomacy

The ongoing process of economic liberalization and political democratization in Southeast Asia is welcomed as an opportunity to establish more human rights friendly societies in this region. The promotion of human rights has a positive correlation with the process of democratization. The more democratic a political system the higher its capacity is to protect the political and economic rights of its citizens. No wonder if Western developed democracies seem to be more confident in conducting their human rights diplomacy compared to the performance of their counterparts in the Third World.

As far as the promotion of human rights is concerned new political dynamics in some crisis-stricken Southeast Asian countries like Indonesia, Malaysia, and Thailand has created mixed feelings. On the one hand people are enthusiastic with their newfound political freedom but on the other hand they begin to question the commitment and seriousness of the political leaders to undertake a genuine and total reform. It is a big irony that the current political reform in Indonesia and Malaysia has led to blatant violations of human rights. Violent and bloody riots which took tens of human casualties recently in Jakarta and the way the Indonesian and Malaysian government have dealt with their respective political opponents are real evidence of how precarious the ongoing political reform has turned out to be.

I subscribe to a view that a critical inquiry into the nature and direction of the present political dynamics should be made before any meaningful relationship between such dynamics and human rights diplomacy can be established. After all, many violations of human rights in this region stem from the fact that the state (government) has become so powerful and uncontrolled that the basic rights of the citizens can easily be repressed. Moreover, prior to the economic crisis most, if not all, Southeast Asian countries adopted a development model which gave a big role to the state. Unfortunately, the empowerment of the state was not accompanied or balanced by an effective mechanism of public control. When there is a long enduring coexistence of a powerful

state and weak or highly restricted public control frequent occurrences of human rights violations can be expected.

I would then argue that a successful political reform which is expected to produce a democratically elected government and good governance free from corruption, collusion, and nepotism is a key to effective and credible human rights diplomacy. As we live in the era of globalization increasingly characterized by a free flow of information, compatibility between our practice of democracy at home and what we announce abroad has become an unavoidable imperative. We cannot preach human rights abroad while at the same time repressing the civil and political rights of our citizens at home. Failure to address properly violations of human rights at the societal level will create a huge and unnecessary burden for the human rights diplomacy of Southeast Asian countries. According to David Beetham the promotion of human rights cannot be separated from democracy. We cannot have democracy without human rights and vice versa. In other words, "human rights constitute a necessary part of democracy".¹³

There are at least three case studies from Indonesian experience in which the adoption of a democratic political system has not led to the development of effective institutions of human rights protection. The first case study is Munir's assassination which stands out as an extraordinary case compared to other unresolved cases of human rights violations. There are at least three reasons why Munir's case stands out as the most controversial one not only at the domestic level but also at the international level. First, Munir was assassinated because of his ceaseless struggle in defending the basic rights of his fellow countrymen from the time of the Soeharto era. Munir's assassination was driven by a deep-rooted revenge in the hearts of those who committed gross human rights violations but were afraid of being brought to justice. Second, the fact that the trial over Munir's death has failed to identify and punish the real mastermind behind the tragedy is an indication of

¹³ See David Beetham, *Democracy and Human Rights*, London: Polity Press, 1999, p. 92.

the fragility of the prospect of human rights protection in this country. Indonesian democracy seems to be characterized by contradictions. On the one hand, the rhetoric of human rights is always on the lips of its leaders but on the other hand they remain indifferent about so many unresolved human rights violations inherited by the previous regime. Third, the Indonesia judicial system has lost its independence and credibility due to the fact that it is still subject to manipulation and tacit conspiracy by the ruling elite who are still under pressure to protect the violators of human rights no matter how substantive the evidence is of their crimes against humanity. The fact that until now the Indonesia judicial system has failed to bring his assassin to justice is a clear indication that human rights promotion is not yet an integral part of democratic consolidation.¹⁴

The second case study is related to the fact that until now Indonesia has not established a special law regulating the function of state intelligence service. The current function of the Indonesian intelligence service is based on a weak legal basis. The Indonesian government uses just presidential decree and instruction as the legal reference of the organization and function of the State Intelligence Agency (BIN). In March 2006 the government proposed a draft of an intelligence law in which we can find controversial articles with tremendous consequences for the protection of human rights and civil liberties. We are particularly concerned over article 12 of the draft which stipulates that BIN is authorized to detain and interrogate people in order to gain information. On top of that, BIN also has the authority to intercept and monitor communications among people whose activities are deemed a threat to national security and the safety of the people. The government is probably inspired by the experience of other countries especially the United States where the war on terrorism has been used as a justification for sacrificing civil liberties. The draft is suspiciously silent about the right of the detainees to demand responsibility from the intelligence officials if they violate human rights during the period

¹⁴ A major part of this section also appears in my article titled "Munir inspires us to continue his struggle", *The Jakarta Post*, September 7, 2006.

of detention. In article 14, reference to the principles of human rights and democracy is made but only in very general terms and it is flexible enough to create room for loose interpretations. Human rights activists who still believe that a balance between national security and human rights is still possible in a democratic state have expressed their concern over this draft and asked the government to abandon any article that may lead to the violation of human rights.

The third case study concerns the protection of the minority rights within the framework of democratic consolidation in Indonesia. As a multiethnic society, Indonesia is a home for different kinds of minority groups including religious and ethnic groups. In a genuine democratic state the minority rights are well guaranteed and protected by the constitution. Unfortunately the 1945 Constitution only provides general stipulations on the basic rights of the minority groups. The basic rights of the citizens such as freedom of speech, assembly and religion are only mentioned in general terms with the effect that there exists space for the politicization of the minority rights by the ruling elite. The marginalization of religious and ethnic minorities is a common phenomenon in various parts of Southeast Asia. For instance, the current intra-state conflicts in Southern Thailand, Southern Philippines and Myanmar are to some extent caused by the discriminatory and repressive policies of their respective governments. If the national government fails to protect the basic rights of these people, where else can these minority groups seek to find justice and security? The 1992 UN declaration on the rights of minorities clearly states that:

"Persons belonging to national or ethnic, religious and linguistic minorities have the right to enjoy their own culture, to profess and practice their own religion and to use their own language, in private and in public, freely and without interference or any form of discrimination".

Europe has always been a model for a wide-ranging regional human rights regime. Individual citizens of member states of the European Council of Human Rights have the right to appeal against

religious groups whose founding fathers made a pledge in 1928 to be one motherland, nation and language.

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