

# CAVEAT

INDONESIA'S MONTHLY HUMAN RIGHTS ANALYSIS

VOLUME 08/II, JANUARY 2010

## MAIN REPORT |

### The Lap of Luxury

A recent surprise inspection of Pondok Bambu penitentiary in East Jakarta by anti-judicial mafia task force, assigned by President Susilo Bambang Yudhoyono, has sparked off a nationwide inquiry into the luxuries available to well-connected and wealthy prisoners.

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## ADDITIONAL FEATURE |

### The Invisible Children

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## OPINION |

### End Overcrowding in Indonesian Prisons

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CAVEAT:

Let her or him be aware

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## THE EDITOR'S CUT

Happy 2010! We would like to wish you a very happy new year and beyond.

In the first edition of 2010, CAVEAT brings you three burning issues pertinent to Indonesia. In the main report we present you with an analysis of the scandalous yet predictable phenomenon that occurred early this year. An anti-judicial mafia task force, appointed by President Susilo Bambang Yudhoyono, conducted a surprise visit to a detention center in Jakarta and discovered wealthy prisoners living in luxury. While thousands of convicts languish in less than satisfactory conditions in Indonesia, others have been found to enjoy rooms equipped with spa products, LCD televisions, queen-sized beds and fitness equipment. Others have been awarded access to laser treatment for facials, hairdressers, massages and air conditioning. In the wake of the exposure of this scam, Artalyta Suryani — who was convicted of bribing a senior state prosecutor in relation to a corruption case in 2008 and was sentenced to five years of prison and received luxurious treatment inside the prison — has been moved to a regular cell; the warden of the penitentiary in question has been stood down; and audits of prisons are around the country are being conducted — the first month of 2010 bodes well for Indonesia, but can the country's judiciary be relied upon to continue this streak of transparency for the next 12 months?

In the additional feature, we would like to highlight the cases of murder and kidnapped children in Indonesia. Murder, in any context, is utterly repugnant. But the murder of a child takes revulsion and anger to a new level. Tragically, the recent case of a young boy has uncovered the murders of six other boys by the same perpetrator. Current reports from locals state that most of the children worked as buskers or in other jobs in the informal sector, just as thousands of other children do in this

country. Time is of the essence in a case such as this, to prevent other children from being exploited or abused. Where are the institutions to protect these underage workers? Which regulations does the Yudhoyono government have in place to protect the children and their rights?

Last but not least, in the opinion piece, Ricky Gunawan writes about the issue of overcrowding in correctional institutions from the perspective of decriminalizing drug use as one of the elements of this issue.

We hope this edition of CAVEAT provides you with fresh insight into Indonesia's current human rights issues and welcome, as always, your commentary and thoughts. We are presently in the process of implementing some brand new ideas to further develop CAVEAT. And of course, we look forward to publish these in the near future.

Thank you for your ongoing support!

**- The Editor**

## MAIN REPORT

# The Lap of Luxury

## INTRODUCTION

A recent surprise inspection of Pondok Bambu penitentiary in East Jakarta by anti-judicial mafia task force, assigned by President Susilo Bambang Yudhoyono, has sparked off a nation-wide inquiry into the luxuries available to well-connected and wealthy prisoners.

While thousands of convicts languish in sub-par conditions in Indonesia, others have been found to enjoy rooms equipped with spa products, LCD televisions, queen-sized beds and fitness equipment. Others have been awarded access to laser treatment for facials, hairdressers, massages and air conditioning.

The scam raised the public's ire when it was revealed that former businesswoman Artalyta Suryani—, who was convicted of bribing a senior state prosecutor in relation to a corruption case in 2008 and was sentenced to five years of prison — was privy to facial treatments, access to a karaoke room and other luxuries. After widespread uproar, Artalyta has been moved from her room at the penitentiary, which measured 64 square meters, to a standard cell of five square meters. Shockingly, she is just one of an unknown number of prisoners who have in the past, or are currently, enjoying the sort of privileges that money and privilege can buy.

There have also been reports of inmates pooling money with which to bribe prison guards to allow them greater privileges than would usually be afforded to them. Visitors to the prisoners have reportedly been encouraged to pay various "fees" to prison

guards, in order to allow them to visit the institution and bring luxury items to the inmates they are visiting. That the prison guards are so easily bribed, and that physical audits of penitentiaries in Indonesia are seemingly so infrequent is a major cause of concern, especially when compared to the sub-par conditions that so many of Indonesia's prisoners reside in.

As international watchdogs, such as Amnesty International and Human Rights Watch, condemn Indonesia's approach to its prisoners, citing severe abuse of human rights, torture and murder of the fairly and unfairly convicted, it seems that white-collar inmates have committed the exact crime for which a large proportion of them were sentenced: Corruption. Once again, graft has raised its ugly head once again in Indonesia, albeit from a quarter that has not been strictly monitored.

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Other prisoners who have in the past been accused of bribing prison officials for luxuries, day release and even conjugal visits while in confinement have included Hutomo "Tommy" Mandala Putra, youngest son of the late President Suharto; former Riau Governor Huzrin Hood allegedly had a personal bodyguard in jail; Australian drug smuggler Schappelle Corby has reportedly been allowed to leave the prison grounds for spa treatments; and even Bali bomber Ali Imron, who received controversial day release to visit a Starbucks in Jakarta with a top detective who had been assigned to investigate the terrorist. The diversity of the aforementioned is obvious; their commonality resides in their wealth and ability to wield influence.

In the wake of the exposure of this scam, Artalyta has been moved to a regular cell; the warden of the penitentiary in question has been stood down; and audits of prisons are around the country are being conducted — the first month of 2010 bodes well for Indonesia, but can the country's judiciary be relied upon to continue this streak of transparency for the next 12 months?

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### THE TRUTH

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For decades, Indonesia has featured on watchdog lists for its treatment of the incarcerated. Its approach toward political prisoners and "prisoners of conscience" in Papua and Aceh has seen untold numbers of those awaiting trial and/or convicted by a biased judicial system, deprived of their basic human rights and forced to live in cramped, unsanitary conditions.

This practice dates back to the Sukarno era, when political activists, authors, poets and dissidents protested the rule of the time. Indonesia's penal system has developed since that time — but the development has apparently been in favor of those with money and influence, once more depriving those belonging to the most marginalized sectors of society. As the police arrest and detain citizens over seemingly minor discrepancies — such as the sending an email of complaint to friends or picking fruit from a neighbor's tree — often, these people are unable to afford representation, struggle to understand the legalities with which they are being charged and, if they are unable to garner the public's attention, reside in one of the few prisons, all of which the Ministry of Law and Human Rights has admitted are overcrowded and poorly maintained.

The poorer and least educated sectors of our society are consistently suffering at the hands of Indonesia's judiciary. As the above cases have proven, access to money and influence awards prisoners a lifestyle they were accustomed to on the outside. According to the United Nations Development Program, there exists "the

right of every person — irrespective of race, religion, gender, disability and class — to utilize the legal systems, both formal and informal, to attain justice in a situation of inequity." Except that, for many of Indonesia's prisoners, they are stripped of their rights on the inside and on the outside and are consequently forced to live in filthy, unsanitary conditions; become subject to disease; are placed under severe levels of stress, due to overcrowding, which has reportedly resulted in prisoners committing suicide to escape their detention.

As always, the crux of this argument resides in an access to education and awareness. Only when an informed party is able to question corrupt actions can they be investigated and stopped. Those who have suffered the misfortune of a limited education are ill-equipped to tackle the sprawling and opaque state of Indonesia's bureaucracy.

It would be wise for President Susilo Bambang Yudhoyono to pay far greater attention to the treatment of those being held in Indonesia's prisons — both those whose rights are being abused, and those who are able to pay their way into a greater life of luxury.

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There are procedures in place for prisoners to complain about their treatment by guards in prison. The Indonesian Law number 12 year 1995 regarding Rehabilitation states that prisoners should report abusive guards to the warden. If, however, the warden himself is involved, the prisoner should take their complaint to their local office of the Ministry of Law and Human Rights.

However, the country's prisons suffer from severe overcrowding, resulting in very little action resulting from such procedures. Last year, Minister on Justice and Human Rights

Andi Matalatta acknowledged to local media the issues involved. "Nationwide, our prisons should only hold 80,000 prisoners, while the total number of inmates today is 130,000," he said.

Overcrowded prisons create the opportunity for a litany of problems, namely issues with security and sanitation. Recent attempts to address the overcrowding have seen prison sentences being cut for thousands of inmates — only to see the prison population replenished within months.

In 2009, the Ministry of Law and Human Rights increased prison capacity by 2.37 percent. However, this was unable to cope with the increase in prisoners, which saw a rise of 6.27 percent.

*Indonesia's rule of law is, once again, being threatened. This follows the concept that the law apply to all and that no one is above the law. For this to become possible and to be sustained, a transparent judiciary must enforce the law and prevent individuals and organizations from benefiting from impunity. If the government fails to demand respect for the rule of law, human rights and the ability of a nation to progress economically and democratically is threatened.*

What Yudhoyono's government has failed to recognize is that an increase in the number of places available in penal institutions will not address the issues of the country's burgeoning prison population. An unspoken policy within the police and its accompanying judicial system see thousands of individuals incarcerated for petty crimes every year; a focus on the distribution of fair and equal justice and a research into rehabilitation for one-time offenders would go far further in amending this issue.

Additionally, the cost to the state of detaining people over petty crimes outweighs the benefits gained from such action.

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#### WHAT CAN BE DONE?

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President Yudhoyono's administration must take a new approach to addressing the issues within its penal system; where to start? The police spend time and resources on addressing petty crime, as though to prove a point, while trillions of rupiah go missing in the white-collar sector of society.

Housewives and small business owners are detained and forced to attend court, while government officials and millionaire businessmen filch state money and go unscathed.

Were it not for the influence of social networking sites and digital media in harnessing ordinary citizens to take action against petty charges laid against ordinary people, many could potentially suffer. As always, the key to addressing the disparities within penal institutions lies in transparency. Local and foreign watchdogs are only able to tackle a limited number of problems; regular and frequent government audits of prison wardens and their organizations would go far further in amending the issues at hand.

It is unsurprising that lengthy prison sentences have not deterred the more senior members of business and government in Indonesia, as they continue to engage in highly corrupt and deceitful activities. Were they guaranteed to spend the duration of their sentences in the sort of conditions that the majority of inmates experience, perhaps this country would see a decrease in the prevalence of corruption in this country.

If, as it is alleged, the prisons of Indonesia contain some of the most corrupt and deceitful members of our society, President Yudhoyono should take a stand in denouncing their crimes and forcing them to undertake their sentence as it is intended: As punishment. The impunity enjoyed by these individuals makes a mockery of the judicial system and highlights again the inherent nature of corruption in Indonesia — from the boardrooms of corporations to the cells of penal institutions.

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the law apply to all and that no one is above the law. For this to become possible and to be sustained, a transparent judiciary must enforce the law and prevent individuals and organizations from benefiting from impunity. If the government fails to demand respect for the rule of law, human rights and the ability of a nation to progress economically and democratically is threatened.

If organizations or individuals, such as the aforementioned in the case study above, enjoy exemption from the law, or are protected from the law, then the judicial system has failed in its responsibilities to represent its citizens.

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### MOVING FORWARD

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Clearer and more astringent regulations must be applied to those who commit corporate crime. If President Yudhoyono's fight against corruption is to be taken seriously, a valid punishment must be enforced as a deterrent to government and business officials who insist on deceiving the system.

The ability of those with money and power to sustain their previous lives while undertaking a prison sentence only adds insult to injury for the majority of the prison population, who are so largely uneducated and underprivileged. Unfortunately, the majority of these cases are unable to grasp the public's attention. High profile cases such as those of Prita Mulyasari, imprisoned for a month under the Information and Technology Law for allegedly defaming a private hospital in an email to friends; the battle for compensation by the residents of Sidoarjo after their homes were destroyed by Lapindo mudflow; and that of Siti Hajar, who was abused for three years and suffered severe burns at the hands of her Malaysian employee; are exceptions to the rule, with thousands of cases going unreported and, therefore, unnoticed by the general public.

While public outrage, fueled by social media networks, has raised the profiles of these cases, a lack of legislation specifically

designed to protect prisoners indicates that disadvantaged groups will continue to suffer in Indonesia unless the House of Representatives focuses its attentions on expanding and facilitating a better path to justice and a stronger approach to corporate crime.

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## ADDITIONAL FEATURE

# The Invisible Children

Murder, in any context, is abhorrent. But the murder of a child takes revulsion and anger to a new level. Tragically, the recent case of a young boy has unveiled the murders of six other boys by the same perpetrator.

The body of nine-year-old Ardiansyah was found, mutilated and in pieces, wrapped in black plastic by the banks of the near the East Flood Canal (*Banjir Kanal Timur*) on Jalan Raya Bekasi, East Jakarta, on January 8, 2010. A witness tipped off police to investigate Bayquni, a nearby cigarette vendor. As the evidence mounted up, Bayquni confessed, at first, to the murder of two other boys, and later to an additional four, bringing the total to seven.

Bayquni has admitted to killing Aris, age unknown in Kuningan, West Java, in 1997. In 2005, he said he murdered Riki, aged between 9 and 12. His body was dumped near a bus station in East Jakarta. In April 2007, he said he killed Yusuf, age unknown, whose body was found in Kelapa Gading, East Jakarta. Bayquni allegedly mutilated and killed Adi, 12, in July 2007. His next alleged mutilation victim was Arif, 6, in May 2008. In January 2008, he allegedly killed Rio. The boy's mutilated body was found in a cardboard box in Bekasi. His last victim is believed to have been Ardiansyah.

Bayquni has confessed to killing the boys after they refused to allow him to sexually abuse them. Police have also received empirical evidence that corroborates that Bayquni is a pedophile. While some parents had submitted reports with police when their children went missing, the ease with which others disappeared is highly disturbing. Current reports from locals state that most of the children worked as buskers or in other jobs in the informal sector, just as thousands of other children do in this

country. Time is of the essence in a case such as this, to prevent other children from being exploited or abused. Where are the institutions to protect these underage workers? Which regulations does the Yudhoyono government have in place to protect the children and their rights?

Research by the National Commission for Child Protection (*Komnas Anak*) found that there were 1,736 cases of child abuse recorded in 2008, of which 62.7 percent were classified as sexual abuse. It is vital that these statistics be addressed before more children are abused, taken advantage of or trafficked. It is unacceptable for Indonesia's minors to be subject to the depravity of those who will wreak their abuse upon them; protection of the younger generation must be paramount in the government's plans for this current term so as to eliminate the daily fixture that is street children in Jakarta and other cities around the country.

According to Jakarta Governor Fauzi Bowo, there are only six social welfare homes available to homeless children, which are able to house only 1,200 of the estimated 4,000 minors living on the streets.

However, according to UNICEF, approximately 60 per cent of Indonesian children under the age of five do not have birth certificates and about half are completely unregistered. This failure to identify and register children increases the risk of exploitation later on in life. It is estimated that 3 million teenage children work in dangerous industries, usually in the informal sector. At least 30 percent of sex workers are under the age of 18 and an estimated 100,000 women and children are trafficked each year. Additionally, UNICEF estimates that 4,000 to 5,000 children are in detention centers, correction facilities and



prisons; 84 percent of those are detained in adult institutions.

While efforts are being made to register each child, how else can Indonesia address this issue and prevent children from being grossly overrepresented in penal institutions and in cases of abuse?

The education and health systems provide far more than their primary roles; the enrollment of students and regular health checks with community health agencies work to identify and monitor at-risk children and those struggling with their home life.

However, stronger regulations from President Yudhoyono's government could work toward ensuring that children in hazardous situations are accounted for; more often than is acceptable, children are unable to attend school due to the cost of uniforms and resources, an issue that the government should acknowledge and allocate funding for.

Additionally, Indonesia's ratification of the Convention on Child Rights indicates that its actions should be in accordance with the regulations and objectives outlined in this convention. The Convention sets out these rights for children: the right to survival; to develop to the fullest; to protection from harmful influences, abuse and exploitation; and to participate fully in family, cultural and social life. The four core principles of the Convention include; devotion to the best interests of the child; the right to life, survival and development; and respect for the views of the child. The Convention also states that the rights be administered and ensured through various government avenues: health care; education; and legal, civil and social services.

As Indonesia has agreed to undertake these responsibilities, the government has committed itself to protecting children's rights, and, consequently, are accountable for this commitment should the child's rights be abused.

The theory behind this is strong and saw

laws passed in support of the protection of child rights. The institutions were also able to effectively carry out their duties during natural disasters, such as the thousands of children who became orphans after the 2004 Aceh tsunami.

However, the daily hazards of living in a city such as Jakarta also take their toll on the youngest members of society and must be addressed before more children become victims. Cases such as the one outlined above are deplorable and mark Indonesia's record on its responsibilities to care for its children.

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## OPINION

# End Overcrowding in Indonesian Prisons

By: Ricky Gunawan\*

Jakarta, Indonesia — Up through 2009, Indonesia suffered a tremendous blow from the so-called "judicial mafia", the corrupt network that controls the criminal justice system. Every sector of Indonesia's legal system has been paralyzed by this judicial mafia. It is made up of middlemen who, for a fee, can broker deals between police, prosecutors and judges. In a late response to this dismal situation, in late 2009 [President Susilo Bambang Yudhoyono established a task force](#) to "eradicate the judicial mafia in the first 100 days" of his administration.

Last week, the task force conducted a surprise visit to Pondok Bambu Detention Facility, Jakarta. This visit revealed shocking - yet, to those in the know, all too predictable -- findings. Arthalyta Suryani, a high-class criminal convicted of bribery, is [imprisoned in luxurious conditions](#). Her "cell" is an 8x8 meter room with a refrigerator, flat TV with home theatre, air conditioner, and other facilities such as dining tables, maids and a Blackberry.

Compare the above utterly ridiculous situation with other cells in the same detention facility. There are normally two types of cells, small and large. A small cell, nine square meters, should be occupied by 1-2 persons. More often, though, there are 3-5 persons. In the large cells, approximately 8x8 meters, there should be a maximum of 10 persons, but those cells are occupied by 20-30 persons.

The total number of prisoners in this particular detention facility is 1,172 - though the prison has a capacity of 500. This is appalling, but it is also normal for all detention centers and correctional facilities

in Indonesia. As of 2008, the total numbers of prisoners/detainees are 130,420 persons while Indonesia's prison capacity is only 81,384 persons. A large percentage of those detained are charged with the crime of using drugs.

Responding to the overcapacity problem, President Yudhoyono has [ordered an increase](#) in the capacity of detention and correctional facilities. That means, building more detention/correctional facilities. However, if one looks at the numbers of criminal charges, building more facilities will not bring much improvement to the conditions inside. In order to reform Indonesia's correctional institutions, reduce overcapacity and make facilities more humane, there are a number of things we could do. One of these is to decriminalize drug use.

Criminalizing drug does not deter people from using drugs. Why do we make this sort of behavior a crime?

Drug addiction, like many other addictions, is an illness. People who use drugs need treatment instead of imprisonment. If someone who uses drug and is in addiction is detained by the police, her supply will be suddenly cut off. Detaining will not cure her; it will only make her condition worse. In Indonesia, the period of police detention is up to sixty days. And of course, sixty days in a police cell without a proper drug treatment does not result in a cure. Indonesia's lengthy legal process [prolongs the suffering](#).

The classic argument why we should criminalize drug use is that drug use is harmful and morally wrong behavior. And

that is understandable. What is more, in Indonesia, the public still see drug users as sinners. However, we have to end this kind of moral debate. Research has proven that criminalizing drug use does not lower the number of people using drugs. Drug addiction is a disease, and we should provide more public information about the risk of drug use, instead of depicting drug users as sinners or worse, as demons.

Let's take a look at one Asian country which has a similar experience to Indonesia in the criminalization of drug users and resulting overcrowded correctional institutes: South Korea. According to Muhammad Mustofa, an expert in criminology from University of Indonesia, South Korea experienced a drastic reduction in the number of inmates after the state decriminalized drug use. Subsequent to decriminalization, South Korean prisons were no longer overcrowded. More space inside the cell means more humane and more hygienic conditions. If it can work in South Korea, it is worth a try in Indonesia.

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*(Ricky Gunawan holds a law degree from the University of Indonesia. He is program director of the Community Legal Aid Institute, or LBH Masyarakat, based in Jakarta, Indonesia. The institute provides pro bono legal aid and human rights education for disadvantaged and marginalized people.)*

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<http://asiacatalyst.org/blog/2010/01/end-overcrowding-in-indonesian-prisons.html#more>

## About LBH Masyarakat

Born from the idea that all members of society have the potential to actively participate in forging a just and democratic nation, a group of human rights lawyers, scholars and democrats established a non-profit civil society organization named the Community Legal Aid Institute (LBH Masyarakat)

LBH Masyarakat is an open-membership organisation seeking to recruit those wanting to play a key role in contributing to the empowerment of society. The members of LBH Masyarakat believe in the values of democracy and ethical human rights principals that strive against discrimination, corruption and violence against women, among others.

LBH Masyarakat aims for a future where everyone in society has access to legal assistance through participating in and defending *probono* legal aid, upholding justice and fulfilling human rights. Additionally, LBH Masyarakat strives to empower people to independently run a legal aid movement as well as build social awareness about the rights of an individual within, from and for their society.

LBH Masyarakat runs a number of programs, the main three of which are as follows: (1) Community legal empowerment through legal counselling, legal education, legal clinics, human rights education, awareness building in regard to basic rights, and providing legal information and legal aid for social programs; (2) Public case and public policy advocacy; (3) Conducting research concerning public predicaments, international human rights campaigns and advocacy.

These programs are conducted entirely in cooperation with society itself. LBH Masyarakat strongly believes that by enhancing legal and human rights awareness among social groups, an independent advocacy approach can be adopted by individuals within their local areas.

By providing a wide range of opportunities, LBH Masyarakat is able to join forces with those concerned about upholding justice and human rights to collectively participate and contribute to the overall improvement of human rights in Indonesia.

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