

AMNESTY INTERNATIONAL PUBLIC STATEMENT

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Indonesia: Stop blasphemy case against Jakarta governor and incitement charges against university lecturer

Amnesty International calls on the Indonesian authorities to immediately drop the criminal cases against the Governor of Jakarta for alleged blasphemy and a university lecturer, Buni Yani, for alleged religious-based incitement.

On 16 November the police announced an investigation into comments made by the Governor of Jakarta, Basuki Tjahaja Purnama, popularly known as “Ahok”, who is a Christian, in a video posted on the internet that appeared to “insult” Quran verses. He is charged with blasphemy under Articles 156 and 156(a) of Indonesia’s Criminal Code and could face up to five years’ imprisonment.

This video was harshly criticized by many Islamist groups and generated nationwide mass demonstrations on 4 November calling for him to be charged with defamation of Islam. On 13 December the first trial was started by the North Jakarta District Court.

Supporters of Ahok reported to the police that the video had been edited in a manner that distorted what he had said. On 23 November, Indonesian police named Buni Yani as a suspect in a criminal investigation for allegedly uploading the video to the internet. Police stated that they had collected evidence that Buni Yani had incited religious hatred by intentionally removing key words from the video and its transcript. Buni Yani is charged under Article 28(2) of Law No. 11/2008 on Electronic Information and Transactions (ITE).

Article 28(2) of the ITE Law, under which Buni Yani has been charged, carries a maximum sentence of six years’ imprisonment and a fine of up to one billion rupiah (US\$73,700) for “*Any person who deliberately and without right disseminates information aimed to inflict hatred or hostility on individuals and/or certain groups of community based on ethnic groups, religions, races and inter-groups (antargolongan).*” While this provision refers to incitement against individuals, in practice, it has often been used to prosecute individuals who have been accused of defaming or insulting a religion through online activities.

In both cases these prosecutions are inconsistent with Indonesia’s obligations to respect and protect freedom of expression and of thought, conscience and religion or belief.

International human rights law requires states to prohibit advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence, as

provided in Article 20(2) of the International Covenant on Civil and Political Rights (ICCPR), to which Indonesia is a state party. The prohibition relates to incitement against persons belonging to particular groups, including religious groups; it does not cover insult to religions or beliefs as such. In order to comply with the ICCPR, any such prohibition must be very precisely formulated to cover only forms of expression which contain both the element of advocacy of national, racial or religious hatred and the element of incitement against the people concerned; moreover, such acts may only be criminally prosecuted if there is evidence of intent with regard to both elements.

The blasphemy provisions in Articles 156 and 156(a) of the Criminal Code criminalise “any person who in public deliberately expresses his/her feelings or engages in actions that in principle is hostile and considered as abuse or defamation of a religion embraced in Indonesia”. While states are permitted under international human rights law to impose certain restrictions on the exercise of freedom of expression where this is demonstrably necessary for protection of the rights of others, this cannot be used to protect belief systems from criticism. The right to freedom of religion or belief protects the rights of individuals and groups, but does not protect religions as such, and does not include the right to have a religion or a belief that is free from criticism or ridicule. Accordingly, laws which prohibit expression on this basis, such as blasphemy or religious insult laws, are incompatible with the right to freedom of expression, and such provisions should be repealed.

Amnesty International calls on the Indonesian authorities to stop the proceedings against Ahok and Buni Yani. It also calls the Indonesian authorities to repeal Articles 156 and 156(a) of the Criminal Code, and to amend Article 28(2) of the ITE Law to bring it into conformity with Indonesia’s obligations under international law and ensure that it is not used to violate the right to freedom of expression.