

Interview 9: INDONESIA: Putri Kanesia

Ms. Putri Kanesia is a human rights lawyer who lives in Jakarta, Indonesia. She has spent the past four years working on human rights issues as a staff member at The Commission of The Disappeared and Victims of Violence (KontraS) after she joining the Jakarta Legal Aid Institute (LBH Jakarta).

What do you think of the policing system in Indonesia?

The policing system in Indonesia is much better than it was in previous years. This can be attributed to the fact that the Chief of Indonesian National Police, Mr. Bambang Hendarso Danuri, enacted Police Regulation No. 8 in 2009 regarding the implementation of human rights principles and standards in the discharge of duties of the Indonesian National Police. This should be appreciated because the substance of this regulation is very good. Unfortunately, this regulation still has not been fully implemented. Last year, I had an audience with Criminal Investigation Bureau of Indonesian Police Headquarters

and they admitted that it's still difficult to implement this regulation for budgetary reasons. There are so many police stations in Indonesia and it's difficult for them to disseminate this new information to everyone and work to make them accustomed to it. There are still a lot of police officers who don't even know that this regulation exists.

What do you think of the police's use of torture?

There is nothing good about the police's use of torture. It violates human rights. The right to not be tortured is an inherent right which cannot be demeaned under any circumstances. Indonesia has ratified the UN Convention Against Torture (CAT) by Law No. 5/1998 but unfortunately, the signing has not been followed up by police and governmental efforts to prevent torture. Torture, which is a very old-fashioned investigation method, is still used by police in Indonesia. It seems to me that the Indonesian police still think torture is the only way to get confessions from suspects, because torture creates such fear that the suspects will 'be honest.' Unfortunately, this is what happened in many cases which were fought by myself and KontraS. We had a number of cases where suspects 'confessed' to having committed crimes which they had not committed, under duress of torture.

However, there is one good example of an investigation method that I've found in Palembang police station in South Sumatra. Instead of using torture, police use lie detectors to get information from suspects. Regrettably, not all police stations have lie detector facilities, it is available only in some places. Without such facilities, police officers have said that there is no easier way to get information from suspects other than through the use of torture. I think it's because they want to get the information instantly.

Why do you think torture happens? Why do they think like that?

Even though the police in Indonesia are separated from the National Military, the military characteristic in police education is still very strong, as far as I know. They are still taught to use violence, which means that police officers use violence when they carry out their duties.

What is your idea of a good relationship between the police and citizens?

The motto of the Indonesian National Police is 'to serve and to protect,' and I think this is how it should be. Thus, when society needs police protection, the police should protect the people. I think this is what the ideal relationship between police-citizens would look like. However, this concept is not implemented these days. For example, instead of taking a thief to the police, many people these days will take justice into their own hands. People may beat the thief, undress, burn, and in some cases, even kill him. What does that mean? It means that society has very little trust in the police. So the reality of the situation and how it should be ideally does not match up.

If you have a problem, would you feel safe going to the police to complain?

I think it's important to remember that we can't say that all police officers are bad. There are bad police officers, but good police officers exist as well. The police did their job well in some cases advocated by KontraS while I was working with them. I have never had any legal problems myself, but as a human rights lawyer I often go to police stations and see the problems faced by people who are filing complaints with the police. There are times when people feel that the existence of police is useful; that is when the police take and follow up their complaints seriously. However, there are also times when the police are passive and do nothing to follow up the complaint. In some cases, the police impose the burden of proof on the complainant, even though it's the police's obligation to find evidence. This is a problem; if before someone files a complaint with the police, she has to find the evidence and witnesses by herself and has to prepare money if she wants her complaint to be followed up, she is less likely to go to all that trouble. This makes people think several times before finally they file a complaint with the police. But again we can't generalize it, this doesn't always happen.

Is there a law against domestic violence in your country? If yes, is it well implemented?

Indonesia has a specific law on domestic violence, called Law No. 23/2004 regarding the Elimination of Domestic Violence. I would say that this law is quite good because it has a deterrent effect. Punishment for this offence is more severe than for ordinary violence which is regulated in Indonesian Penal Code. Domestic Violence Law is the 'lex specials,' or 'specific law,' of the penal code.

However, in the implementation of this law against domestic violence, we encounter a number of obstacles. One of the obstacles is that if someone wants to file a domestic violence complaint with the police, she also has to make a statement that she wants to divorce her husband. Thus, if a woman files a domestic violence complaint to the police, she also must be ready to file for divorce. This has become a problem because it often happens that a woman files a complaint to the police but then she will withdraw it one week later because she doesn't want to divorce her husband. By filing a complaint to the police, they want to tell their husbands that violent behavior is unacceptable; they may not necessarily want to divorce them. This is one of the reasons why it can be a dilemma for women to file domestic violence cases. So the law itself actually is good, but because this divorce requirement exists, many people withdraw their complaints. Once I had the opportunity to speak with a police officer from the Women and Children Services Unit, and she said for that because women often withdraw complaints, usually the police won't process a domestic violence complaint swiftly. Generally, they will wait for one week and ask the complainant

again whether they really want to continue with the legal process or not before going ahead. So I think the obligation for complainants in domestic violence cases to divorce their spouses has prevented the Domestic Violence Law from being implemented effectively.

Do the police treat women differently from men? In what way?

In Indonesian police stations, there is a unit called the Women and Children Services Unit. It's not only for domestic violence cases but for any case where the victims or perpetrators are women. Within this unit, women victims and perpetrators will be investigated and questioned by policewomen. This is a good thing, but unfortunately not every police station has this special unit. They only have such units in district police and regional police stations, not in the sub-district police stations. In Jakarta itself, only the Kelapa Gading sub-district has a Women and Children Services Unit within their

office. Of course, this is a problem because if a female complainant files a complaint to a sub-district police station, which doesn't have such unit, she will be questioned by policemen whose gender perspective is often very bad. For example, in rape cases it often happens that police ask the rape victim: "So, you have been raped. How do you feel? Did it feel good?" For the rape victim, of course such questions make them feel like they are

being raped for the second time. So Women and Children Service Units are extremely important and effective, but unfortunately they are limited to District Police and Regional Police stations.

In what way do women suffer differently from police human rights violations, as compared to men?

Let's take the examples of narcotics cases. In narcotics cases, usually the male suspects will be tortured. But for female suspects, they will face sexual harassment as well. This is not just about men and women being treated differently, but the violence enacted against women because officers know they can compromise her dignity. Not only will women face sexual harassment, she might also become the object of torture. There was a case which was advocated by KontraS in Lampung: A woman was arrested for a crime committed by her husband. She didn't do anything related to the case, but because her husband escaped, the police arrested her. She was brought from Lampung in Sumatra Island, to Jakarta which is located in different island, Java Island. During her way from Lampung to Jakarta, the police didn't stop electrifying her. In some cases, women are used by the police as bait to catch the real perpetrator, when the perpetrator is the woman's husband. I see this as an indirect kind of violence. Also, in terrorism cases, the wives of terrorist members who wear the burqa are often arrested and named as terrorists. I think this is also a human rights violation faced by women.

Is it easier, more difficult or the same for a woman to file a complaint instead of a man?

Regarding the complaint mechanism, I think it's just the same for women and men. As I have mentioned before, the problem of the complaint mechanism in the Indonesian police system is that often the burden of proof is imposed on the complainant, regardless the gender of the complainant. So I think the problem faced by men or women in filing complaint to police are just the same.

Is there any more information you want to tell us?

Yes. Indonesia now has the Freedom of Information Law, which obligates every public institution to provide information to the public. Of all the public institutions in Indonesia, the Indonesian National Police gave the most positive response on the enactment of this law. In May this year, the Indonesian National Police enacted a Standard Operational Procedure on Freedom of Information which obligated them to share information with the public relating to police work. So with the existence of this standard operational procedure, information regarding cases, budgets etc are shared

with the public. There are some exceptions, of course. For example, information won't be shared if it has the potential to disrupt investigation processes. This is also one thing we have to appreciate. Currently, KontraS is conducting research with the Indonesian National Police on the internal mechanisms of the police. Until now, if there is a torture case, the perpetrator will be processed through the police's internal mechanisms. We don't know what actually happens there, what the mechanism is, and whether they will actually be punished or not. Through this research, we want to find out how the internal mechanisms of the police work. And so far, their response has been positive. So, instead of just criticizing the police, we want to understand the problems within the policing institution.

Have you or KontraS or you tried to use this standard operational procedure to get any information from the police?

Usually, the enactment of the standard operational procedure of police institutions will be followed by the enactment of a Chief of Indonesian National Police Regulation, which regulates same thing. The draft of the Chief of Indonesian National Police Regulation on Freedom of Information is there, but it has not been signed by the Chief of Police as yet. So we can't see whether it has been effectively implemented or not.