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Lawyers' Rights Watch Canada

*NGO in Special Consultative Status with the
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BY AIRMAIL

Governor of Jakarta Special Capital Region, Basuki
Tjahaja Purnama
Jl. Medan Merdeka Selatan 8-9 Blok F Lt 1
Gambir, Jakarta Pusat 10110
DKI JAKARTA
INDONESIA

Amsterdam, 7 April 2016

Subject: Maltreatment of Alldo Fellix Januarydy

Dear Sir,

Lawyers for Lawyers is an independent and non-political Dutch foundation that seeks to promote the proper functioning of the rule of law by pursuing freedom and independence of the legal profession. Lawyers' Rights Watch Canada is a committee of lawyers and others promoting international human rights through advocacy, legal research and education.

Lawyers for Lawyers and Lawyers' Rights Watch Canada are concerned about the maltreatment of Alldo Fellix Januarydy by members of the Civil Service Police Unit during a forced eviction in Bukit Duri, Tebet, South Jakarta on 12 January 2016. Alldo Fellix Januarydy is an independent public interest lawyer at the Legal Aid Institute (LBH) in Jakarta. He has represented numerous people in a great variety of public interest cases.

Alldo Fellix Januarydy was maltreated following his effort to negotiate a suspension of the plan to forcefully evict his clients. The Administrative District Court was still to issue a ruling on the legality of the eviction. Furthermore, the people of Bukit Duri were still awaiting the outcome of an audience with the Municipal Council. Alldo Fellix Januarydy requested the members of the Civil Service Police Unit and the Sub-District Head of Tebet to await the outcome of the legal process before taking any actions. Instead of accepting this legitimate request, members of the Civil Service Police Unit and the Sub-District Head of Tebet attacked Alldo Fellix Januarydy, resulting in wounds on his eyebrow and chin.

It is clear that Alldo Fellix Januarydy was maltreated while he was solely performing his legitimate work as a lawyer. This while both national laws and international standards require the Indonesian government and its representatives to protect lawyers in the execution of their profession.

Article 15 of Indonesian Law No. 18 / 2003 on Lawyers establishes that a lawyer shall be free to perform his professional task of defending a case that has become his responsibility while respecting the professional ethics code and prevailing laws and regulations. Furthermore, Article 18(2) of Indonesian Law No. 18 / 2003 on Lawyers establishes that a lawyer shall not be identified with his client when defending his client by authorised parties and/or the public.

Indonesia has international law obligations to ensure the equal enjoyment by all people within its territory of the personal and advocacy rights articulated by the *Universal Declaration of Human*

Rights (UDHR) and guaranteed by the *International Covenant on Civil and Political Rights* (ICCPR).¹ To discharge these obligations, Indonesia must ensure the right of all people to legal representation. It is widely accepted that states must adopt and maintain effective measures to ensure the safety and independence of lawyers and ensure their freedom to engage in advocacy without reprisals or interference from any sector including state agents.

Specific state duties necessary to ensuring the right to legal representation are identified by the United Nations *Basic Principles on the Role of Lawyers* (Basic Principles).² Compliance with the Basic Principles is a fundamental pre-condition to fulfilment of the requirement of every state to ensure effective access both to enforcement of rights and the legal representation required for the effective enforcement of rights and remediation of violations.

We draw your attention to the Basic Principles, more in particular Principles 16, 17 and 23, which read:

16. Governments shall ensure that lawyers (a) are able to perform all of their professional functions without intimidation, hindrance, harassment or improper interference (...) and (c) shall not suffer, or be threatened with, prosecution or administrative, economic or other sanctions for any action taken in accordance with recognized professional duties, standards and ethics.

17. Where the security of lawyers is threatened as a result of discharging their functions, they shall be adequately safeguarded by the authorities.

23. Lawyers like other citizens are entitled to freedom of expression, belief, association and assembly. In particular, they shall have the right to take part in public discussion of matters concerning the law, the administration of justice and the promotion and protection of human rights and to join or form local, national or international organizations and attend their meetings, without suffering professional restrictions by reason of their lawful action or their membership in a lawful organization. In exercising these rights, lawyers shall always conduct themselves in accordance with the law and the recognized standards and ethics of the legal profession.

On Indonesia, as a member of the United Nations, rests the obligation to ensure the protection of these rights and the observance of these principles.³

In view of the above, Lawyers for Lawyers and Lawyers' Rights Watch Canada respectfully urge you to:

- take all necessary measures to guarantee the safety of Alldo Fellix Januarydy;
- carry out an immediate, thorough and impartial investigation into the maltreatment of Alldo Fellix Januarydy and make sure that those responsible will be brought to justice in accordance with international standards
- ensure that all representatives of Jakarta Special Capital Region, including members of the Civil Service Police Unit, are made aware of the legitimate role of lawyers and their responsibility and that all representatives of Jakarta Special Capital Region have an

¹ Indonesia acceded to the ICCPR on 23 February 2006.

² The UN Basic Principles on the Role of Lawyers provide a concise description of international norms relating to the key aspects of the right to independent counsel. The Basic Principles were unanimously adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders in Havana, Cuba on 7 September 1990. Subsequently, the UN General Assembly "welcomed" the Basic Principles in their 'Human rights in the administration of justice' resolution, which was adopted without a vote on 18 December 1990 in both the session of the Third Committee and the plenary session of the General Assembly.

³ Please also refer to the principle to uphold international law with respect to human rights included in the ASEAN Charter, to which Indonesia is a party.

obligation to protect them instead of hindering them in the performance in good faith of professional duties;

- more generally, put an end to all forms of harassment against lawyers in Indonesia, and ensure in all circumstances respect for human rights and fundamental freedoms in accordance with international human rights standards and international instruments applicable to the Republic of Indonesia.

Thank you for your attention to this very important matter. We are confident of your good will and sense of justice and will continue to monitor this case closely.

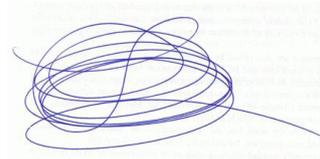
Yours sincerely,

Lawyers for Lawyers



Adrie van de Streek
Executive director

Lawyers' Rights Watch Canada



Gail Davidson
Executive director

Copies of this letter were sent to:

- The President of the Republic of Indonesia, his Excellency Ir. Joko Widodo
- The Head of Police Section Metropolitan Tebet, Police Commissioner Nurdin A. Rahman
- Sub-District Head of Tebet, Drs Mahludin
- Kepolisian Resor Jakarta Selatan (South Jakarta Police Resort)
- The Chairman of the National Ombudsman Commission, Mr Danang Girindra Wardana, SIP
- The Chairman of the Indonesian Bar Association (PERADI), Luhut MP Pangaribuan, Juniver Girsang and Fauzie Yusuf Hasibuan
- The Special Rapporteur on the Independence of Judges and Lawyers, Prof. Dr. Mónica Pinto