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Promoting Human Rights: National Human Rights Commissions in Indonesia and Malaysia

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Citation

Setiawan, K. M. P. (2013, December 12). *Promoting Human Rights: National Human Rights Commissions in Indonesia and Malaysia*. Meijers-reeks. Leiden University Pres, Leiden. Retrieved from <https://hdl.handle.net/1887/22838>

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Cover Page



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Author: Setiawan, Ken Marijtje Prahari

Title: Promoting human rights : National Human Rights Commissions in Indonesia and Malaysia

Issue Date: 2013-12-12

*Promoting Human Rights
National Human Rights Commissions in Indonesia and Malaysia*

Promoting Human Rights

National Human Rights Commissions in Indonesia and Malaysia

PROEFSCHRIFT

ter verkrijging van
de graad van Doctor aan de Universiteit Leiden,
op gezag van Rector Magnificus prof. mr. C.J.J.M. Stolker,
volgens besluit van het College voor Promoties
te verdedigen op donderdag 12 december 2013
klokke 11.15 uur

door

Ken Marijtje Prahari Setiawan

geboren te Jakarta
in 1981

Promotiecommissie:

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Amsterdam)
dr. A. Whiting (The University of Melbourne, Australia)

The research on which this book is based, and all associated publications, have been made possible through a grant from the Netherlands Organisation for Scientific Research (NWO).

Lay-out: Anne-Marie Krens – Tekstbeeld – Oegstgeest

ISBN 978 90 8728 203 5
e-isbn 978 94 0060 166 6 (pdf)
e-isbn 978 94 0060 167 3 (ePub)

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Acknowledgements

My first visit to Indonesia's National Human Rights Commission and the Women's Rights Commission was in 2002. This was a short visit during which I witnessed not only the tireless efforts of the people working there, but also a violent attack by *preman* (hoodlums) on the organisations and the people seeking refuge there. The image of an old woman fainting in front of me, while desperately asking why the attack happened, has been etched into my memory. Little did I know back then that a few years later, Indonesia's National Human Rights Commission, together with its Malaysian counterpart, would become central to my work. I gratefully acknowledge the generous grant from the Netherlands Organisation for Scientific Research (NWO), which made this research financially possible.

Writing this dissertation was a journey that took longer than expected, and was not without hurdles. However, it was an interesting voyage made easier and more pleasant by the many people I met along the way. I had the privilege of conducting this research within the Van Vollenhoven Institute (VVI). From the earliest until the final stages of this research, excellent practical assistance was provided by Marianne Moria, Jan van Olden, Dennis Janssen, Kari van Weeren and Kora Bentvelsen. Invaluable library assistance was provided by Sylvia Holverda and the late Albert Dekker, whose passing was a great loss for the institute. When I first started at the VVI, Julia Arnscheidt was an important mentor while I was finding my way in my research. During my fieldwork in Indonesia, Sandra Moniaga gave me valuable feedback, helping me to further shape my research. In the later stages of this research, I benefited from constructive discussions with Anton Cahyadi, Stijn van Huis and Herlambang Perdana Wiratraman, as well as from Tristram Moeliono's close reading of the theoretical framework. Gustaaf Reerink gave me moral support and practical advice. I am indebted to Jan Michiel Otto and Adriaan Bedner, who made me familiar with and enthusiastic for socio-legal research, and taught me many aspects of the scholarly profession. Adriaan deserves a special mention here, for sharing my fascination of the Indonesian Human Rights Commission, and for patiently providing feedback in what seemed an endless process of (re)writing - first of research proposals and later of this book. For that and your friendship; thank you.

My fieldwork in Jakarta was made much easier by Pak Nalih, who knows the city like the back of his hand, and patiently drove me through what seemed like endless traffic jams. At KOMNAS HAM, I was received with open arms

by Atikah Nuraini, Kurniasari Novita Dewi, Heru W. Susanto, Hilmy Rosyida and Roichatul Aswidah, who openly shared their experiences with me. Outside of KOMNAS HAM, I benefited from the insights and kindness of Agung Putri, Indria Fernida and Edisius Riyadi Terre. Throughout my research, I was struck by the willingness of both staff and commissioners to offer their insights to me: a stranger.

Whereas Jakarta was more or less familiar territory, Kuala Lumpur was a new experience for me. Selvi Supramaniam not only provided me with a roof over my head but also, and more importantly, with friendship. At SUHAKAM, I received kind assistance from Puan Zainap, who organised many interviews for me with current and former commissioners. During lunch breaks, it was a pleasure to be in the company of Zety Mazuwani, Abdul Rahman and Raiyan Abdul, who made it their mission to introduce me to the great food Kuala Lumpur has on offer. The sharp analysis of two very talented women, Nurul Hasanah Ahamed and Khoo Ying Hooi, enriched my understanding of the Commission. Outside of SUHAKAM, I was fortunate to learn from Sharmila Sekaran and Andrew Khoo, who never tired of answering my questions and whose commitment, hopes and efforts for a fairer Malaysia were nothing short of an inspiration.

During the course of this project, life brought me to Canberra. There, I was lucky to befriend Monika Winarnita, Angie Bexley, Ana Dragojlovic and Gaik Cheng Khoo. Gaik also kindly shared her insights of Malaysia with me, which was very useful during the course of my research. Paul Tickell, Prapti and Ross McLeod, as well as Inez Nimpuno and Amrih Widodo, and their daughter Anggi, made me feel welcome and helped me find my feet in a new environment.

No matter in which part of the world I was, I could always rely on the Mulder family, who have been a constant source of support. In more recent years, I was fortunate to become part of a warm family-in-law, and my parents-in-law have on many occasions helped with caring for my children while I was doing research. My stepmother Ita F. Nadia has provided me with invaluable help and guidance during my fieldwork in Indonesia and more importantly she, together with Dina, Nisa and Nur, has brought much cheerfulness to our family.

There are simply not enough words to thank my parents, Jitske Mulder and Hersri Setiawan, for their encouragement and unconditional love which made everything possible. I often hold them responsible for this research: they were my first teachers of human rights by raising me with stories of right and wrong. My parents taught me to meet challenges with resilience and optimism, valuable lessons which will always remain an inspiration to me.

Finally, a message from the heart to my little family. My children Setia and Raphael have known nothing but a mother working on her dissertation. Their interest in the process is perhaps best illustrated by their use of the flip sides of draft pages to draw on. They have distracted me from my disserta-

tion in every possible way, yet I always came back to my work with more enthusiasm and determination. My husband Edwin has been a loyal companion throughout this journey, and he - more than anyone else - knows it was far from easy. He patiently listened to complaints and was always the first to encourage me to persist and finish the work I had begun. Without Edwin's love and support, I would not have brought this project to a successful end. I dedicate this book to my three best friends: thank you for the life that we share and for making me smile every day.

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Glossary

Where relevant, the glossary includes a reference to the country or NHRC to which the term applies.

| | |
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| ABRI | Indonesian Armed Forces |
| <i>Aliansi Tolak PERDA Tibum</i> | Alliance Rejecting the Regional Regulation on Public Order (Indonesia) |
| APF | Asia Pacific Forum of NHRIs |
| BALITBANG | Office of Human Rights Research and Development (Indonesia) |
| <i>Barisan Alternatif (BA)</i> | Alternative Front, coalition of Malaysian opposition parties |
| <i>Barisan Nasional (BN)</i> | National Front, coalition of Malaysian government parties |
| <i>Bersih</i> | Coalition for Clean and Fair Elections (Malaysia) |
| BOP | Body of Principles for the Protection of All Persons under any Form of Detention or Imprisonment |
| <i>Bulubulu</i> | Fijian customary practice |
| <i>Bumiputera</i> | Malay and indigenous population (Malaysia) |
| <i>Bupati</i> | District Head (Indonesia) |
| CAT | Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment |
| CDC | Community Development Centre (Malaysia) |
| CEDAW | Convention on the Elimination of All Forms of Discrimination against Women |
| CERD | Convention on the Elimination of Racial Discrimination |
| CHU | Complaint Handling Unit (CHU) |
| CMW | Convention on the Rights of Migrant Workers and their Families |
| CPM | Communist Party of Malaya (Malaysia) |
| CRC | Convention on the Rights of the Child |
| DAP | Democratic Action Party (Malaysia) |
| <i>Defensor del Pueblo</i> | Type of NHRI, commonly found in Latin America |
| <i>Demokratisasi</i> | Democratisation |
| <i>Direktorat Jenderal Hak Asasi Manusia</i> | Directorate General for Human Rights (Indonesia) |
| DP3KK | Directorate for the Managing of the Development of the Kemayoran Complex |
| <i>Dwifungsi</i> | Dual role of the military (Indonesia) |
| ECHR | European Court of Human Rights |

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| ERA Consumer | Education and Research Association for Consumers (Malaysia) |
| FAKTA | Jakarta City Residents Forum |
| <i>Fatwa</i> | Religious opinion given by Islamic authorities |
| GANDI | Movement for the Struggle Against Discrimination (Indonesia) |
| <i>Garis Panduan Perancangan</i> | Universal Guidelines on Planning and Development <i>dan Pembangunan Sejahtera</i> (Malaysia) |
| GHR | Regulation on Mixed Marriages (Indonesia) |
| GMI | Abolish ISA Movement (Malaysia) |
| HAKAM | National Human Rights Society of Malaysia |
| <i>Hak asasi manusia</i> | Human rights |
| HINDRAF | Hindu Rights Action Front (Malaysia) |
| HRCL | Human Rights Courts Law (Indonesia) |
| HRCMA | Human Rights Commission of Malaysia Act |
| HRL | Human Rights Law (Indonesia) |
| ICC | International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights |
| ICCPR | International Covenant on Civil and Political Rights |
| ICESCR | International Covenant on Economic, Social and Cultural Rights |
| ICRMW | International Convention on the Rights of Migrant Workers and Members of their Families |
| ICRP | Indonesian Conference on Religion and Peace |
| ICRPD | International Convention on the Rights of Persons with Disabilities |
| IFC | Interfaith Commission (Malaysia) |
| IMF | International Monetary Fund |
| ISA | Internal Security Act (Malaysia) |
| ISJ | Jakarta Social Institute |
| <i>Isbat nikah</i> | Authority of courts to rule a marriage valid (Indonesia) |
| JAC | Judicial Appointments Commission (Malaysia) |
| JERIT | Oppressed People Network (Malaysia) |
| <i>Kampung</i> | Village, urban settlement |
| <i>Kantor Perwakilan</i> | Representative Office of KOMNAS HAM |
| KCS | Civil Registry Office (Indonesia) |
| <i>Kejaksaan Agung</i> | Attorney General's Office (Indonesia) |
| <i>Kepercayaan</i> | Mystic religion (Indonesia) |
| <i>Keputusan Presiden</i> or <i>Keppres</i> | Presidential Decree (Indonesia) |
| <i>Keterbukaan</i> | Openness (Indonesia) |
| <i>Ketertiban Umum</i> | Public Order |
| KHI | Compilation of Islamic Law (Indonesia) |
| KOMDA HAM Maluku | Regional Human Rights Commission of the Moluccas |
| <i>Komisi III DPR</i> | Third Parliamentary Commission (Indonesia) |

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| KOMNAS Anak | National Commission for the Protection of Children (Indonesia) |
| KOMNAS HAM | National Commission on Human Rights (Indonesia) |
| KOMNAS Perempuan | National Commission on Violence Against Women (Indonesia) |
| <i>Konsortium Catatan Sipil Nasional</i> | Consortium on the National Civil Registry (Indonesia) |
| KORPRI | Indonesian Civil Servants Corps |
| KK | Family Card (Indonesia) |
| KLCC | Kuala Lumpur Convention Centre |
| KTP | Identity Card (Indonesia) |
| KUA | Office of Religious Affairs (Indonesia) |
| KUHAP | Criminal Procedure Code (Indonesia) |
| <i>Kumpul kebo</i> | Cohabitation |
| KY | Judicial Commission (Indonesia) |
| LAA | Land Acquisition Act (Malaysia) |
| LBH | Legal Aid Institute (Indonesia) |
| LINMAS | Community Protectors (Indonesia) |
| MCA | Malaysian Chinese Association |
| MIC | Malaysian Indian Congress |
| MK | Constitutional Court (Indonesia) |
| MP | Member of Parliament |
| MUI | Indonesian Council of Ulama |
| <i>Musyawaharah mufakat</i> | Consultation and consensus-making (Indonesia) |
| NAM | Non-aligned Movement |
| NEP | New Economic Policy (Malaysia) |
| NGO | Non-governmental Organisation |
| NHRC | National Human Rights Commission |
| NHRI | National Human Rights Institution |
| NJOP | Sales Value of Tax Object (Indonesia) |
| NLC | National Land Code (Malaysia) |
| NRD | National Registration Department (Malaysia) |
| OHCHR | Office of the High Commissioner on Human Rights |
| OPM | Free Papua Movement (Indonesia) |
| <i>Operasi Lalang</i> | Mass arrest of dissidents (1987, Malaysia) |
| OSA | Official Secrets Act (Malaysia) |
| <i>Orang Asal</i> | Indigenous peoples of Sabah and Sarawak |
| <i>Orang Asli</i> | Indigenous peoples of the Malaysian Peninsula |
| <i>Pancasila</i> | Indonesian state ideology |
| PAS | Islamic Party of Malaysia |
| PAWANG | Alliance of Residents Against Evictions (Indonesia) |
| <i>Partai Hati Nurani Rakyat</i> | People's Conscience Party (Indonesia) |
| PDI | Indonesian Democratic Party |
| <i>Pegawai Negeri Sipil</i> | Civil servant (Indonesia) |
| <i>Pembangunan</i> | Development |
| <i>Pelatihan Hak Asasi Manusia Dasar</i> | Basic human rights training (KOMNAS HAM) |

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| <i>Pelecehan terhadap agama</i> | Insult to religion |
| <i>Penduduk Kekal</i> | Permanent residents (Malaysia) |
| <i>Pengadilan Negeri</i> | District Court (Indonesia) |
| <i>Penggusuran</i> | Eviction (Indonesia) |
| <i>Penghayat</i> | Followers of animistic religions (Indonesia) |
| <i>Peraturan Tata Tertib</i> | Rules of Procedure (KOMNAS HAM) |
| PERDA | Regional Regulation (Indonesia) |
| <i>Perkawinan campuran</i> | Mixed marriages |
| <i>Pernikahan beda agama</i> | Interreligious marriage |
| <i>Perwakilan</i> | Representation (form of regional office of KOMNAS HAM) |
| PKI | Indonesian Communist Party |
| PKN | National Justice Party (Malaysia) |
| PKR | People's Justice Party (Malaysia) |
| PPP | Unity and Development Party (Indonesia) |
| PPPA | Printing Presses and Publication Act (Malaysia) |
| PR | Pakatan Rakyat (Malaysia) |
| <i>Preman</i> | Hoodlums (Indonesia) |
| PRM | Malaysian People's Party |
| PROLEGNAS | National Legislation Program (Indonesia) |
| <i>Provedor</i> | Type of NHRI, commonly found in Latin America |
| PSM | Socialist Party of Malaysia |
| PTUN | Administrative Court (Indonesia) |
| PUSHAM | Human Rights Study Centre (Indonesia) |
| <i>Rancangan Undang-Undang Catatan</i> | Draft Law on the National Civil Registry (Indonesia) <i>Sipil Nasional</i> |
| RANHAM | National Action Plan on Human Rights (Indonesia) |
| <i>Reformasi</i> | 'Reform', motto of domestic opposition in Indonesia and Malaysia, particularly in 1998 |
| RELA | Association of Volunteers of the Malaysian People |
| RPJMN | Medium Term National Development Plan (Indonesia) |
| RPJPN | Long Term National Development Plan (Indonesia) |
| RSS | Very Simple House (Indonesia) |
| SATPOL PP | Municipal Police Unit (Indonesia) |
| SMR | Standard Minimum Rules for the Treatment of Prisoners |
| SNAP | Sarawak National Party (Malaysia) |
| <i>Staf Fungsional</i> | Functional staff (KOMNAS HAM) |
| <i>Staf Struktural</i> | Structural staff (KOMNAS HAM) |
| SUARAM | Voice of the Malaysian People |
| SUHAKAM | Human Rights Commission of Malaysia |
| <i>Surat Edaran Menteri Dalam Negeri</i> | Circular Letter of the Minister of Home Affairs |
| <i>Surat Tugas</i> | Task Letter, official document required to commence a task (KOMNAS HAM) |
| TRAMTIB | Police Unit for Peace and Order (Indonesia) |
| UDHR | Universal Declaration on Human Rights |

| | |
|---------------------|--|
| UMNO | United Malays National Organisation (Malaysia) |
| UN | United Nations |
| UNCHR | United Nations Commission on Human Rights |
| UNHRC | United Nations Human Rights Council |
| UPC | Urban Poor Consortium (Indonesia) |
| <i>Warung</i> | Shop on the side of the street (Indonesia) |
| <i>Wawasan 2020</i> | Vision 2020, Malaysian development policy |

