

## KONTRAS SAYS SC HAS FAILED IN IDENTIFYING ENGINEERED FACTS OF JIS CASE

<http://www.rmol.co/read/2016/03/04/238236/KontraS-Nilai-MA-Gagal-Lihat-Fakta-Rekayasa-Kasus-JIS->

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The translation of the above article is as follows:

RMOL. The Commission for the Disappeared and Victims of Violence (KontraS) lamented the Supreme Court's ruling on the appeal of DKI Jakarta's High Prosecutor's Office in the alleged sexual abuse committed by two Jakarta Intercultural School (JIS) teachers, Neil Bantleman and Ferdinand Tjiong, toward three former kindergarten students.

**KontraS Coordinator, Haris Azhar**, regarded the Supreme Court as having failed in pinpointing the fabricated facts that served as the base/ground on which the Public Prosecutor's convictions were made. This fact becomes even more disturbing when combined with the facts/allegations made against the six cleaning staff.

**"The esteemed Justices should have taken a more comprehensive look at the JIS case,"** he said in Jakarta, Thursday (4/3).

On February 24 2016, the SC decided to annul (overturn) the DKI Jakarta High Court's decision which had acquitted Neil and Ferdi; based on reports previously filed by parents of MAK, DA, and AL. According to the Supreme Court's panel of judges led by Artidjo Alkostar, there had been a false legal implementation in the High Court's decision to overturn the 10-year sentence from the South Jakarta District Court.

Meanwhile, (in August 2015) the High Court regarded the considerations of South Jakarta District Court's panel of judges as inaccurate because they were based on statements from underage victims and expert witness(es). Moreover, there were many irregularities in the JIS case. One of the concerns is the examination results that were used as one of the base charges of the Public Prosecutor (Prosecutor)

Irregularities were also found in JIS' other case with six cleaning staff as the defendants, namely Virgiawan Amin, Agun Iskandar, Zainal Abidin, Syahrial, (Alm.) Azwar, and Afrischa Setyani, who have been accused of sexually abusing MAK, the son of one of the plaintiffs. One of the irregularities was that Azwar had been found dead in the middle of an investigation by regional police Polda Metro Jaya, with facial contusions and a fractured lip. What was unusual was, police refused to do an autopsy on Azwar.

These engineered facts, Haris said, should've been taken into consideration by the Supreme Court. That is why Haris suggested that the attorney of the defendants file for a Judicial Review (JR). **"JR becomes an inevitable (path to tread),"** Haris said.

**Haris is not defending (making the case for) the JIS case defendants. He with KontraS have proven that the JIS case is rife with fabrications. Since June 2015, KontraS has conducted a joint examination with the Indonesian Judicial Watch Society (Masyarakat Pemantau Peradilan Indonesia (MaPPI)). The examination was undertaken because the families of the defendants filed a report of alleged torture and case fabrication throughout the investigation process involving the defendants. Based on the examination results, KontraS found three violations, among which is a breach of formal law, unfulfilled requirements of material law, and unprotected interests of the children.**

Since the arrest, the defendants have been subject to torture in order to obtain a confession and there was a procedural breach in declaring the suspect status. The determination of the suspect status also seemed forced as allegations against the two were fleeting. KontraS also said that the supporting evidence was weak and the reconstruction process was flawed because the minor – the said victim – had been directed by the mother and police.

KontraS said there was a violation of children's rights in the case. Because (children) were forced to be submissive to public pressure on the substance of a crime. The objective was to create an impression that child sexual abuse did take place at the school. "Actually, based on our examination, there are a many things that can be developed to support a JR, for example follow-up statements from the children," he explained.

From the examination, KontraS also found that the clause imposed against the defendants was shaky. Statements from the expert witness(es) and the examination results which were said to prove that a sexual abuse had taken place become presumptive because other facts emerged. These facts were never taken into consideration by the Prosecutor or the panel of judges.