

Impunity

Close gap between rhetoric and reality on 1965 mass human rights violations

Amnesty International Public Statement, in cooperation with Asia Justice and Rights (AJAR), East-Timor and Indonesia Action Network (ETAN), La'o Hamutuk, TAPOL, Watch Indonesia! and Yayasan HAK, 01-10-2016

Despite President Joko Widodo's repeated commitments to address human rights violations committed in 1965 – such as extrajudicial executions, enforced disappearances and torture – more than five decades later millions of victims and their families are still waiting for truth, justice and reparation. On the 51st anniversary of these violations, Amnesty International, Asia Justice and Rights (AJAR), East-Timor and Indonesia Action Network (ETAN), La'o Hamutuk, TAPOL, Watch Indonesia! and Yayasan HAK call on the Indonesian authorities to go beyond just rhetoric. We call on the authorities to take concrete steps that address ongoing impunity for these crimes in accordance with international law and standards.

In August 2015, President Widodo announced in his Independence Day speech that he would establish a non-judicial mechanism to 'resolve' all past human rights violations. This would be through a 'reconciliation committee', so that "future generations in Indonesia would not continue to bear the burden of history". However, victims and NGOs are concerned that this process may prioritize reconciliation to the detriment of truth and justice.

Our organisations believe that the establishment of a non-judicial mechanism to address past human rights violations does not preclude Indonesia's obligations under international law. These obligations are to investigate and, if sufficient admissible evidence exists, prosecute those suspected of human rights violations and crimes under international law in fair trials, with no recourse to the death penalty. The absence of such a process would leave victims without an effective remedy and could hinder their right to adequate reparations. Furthermore, it could weaken public confidence that the authorities are

serious about addressing the wider culture of impunity in Indonesia and send the wrong message that such acts can be committed without facing any consequences.

In April 2016, in a positive step, the government organized a symposium on the 1965 human rights violations. The event brought together survivors, scholars, human rights activists, artists, the Indonesian military and government officials to provide testimony about the events that happened across Indonesia at that time. Unfortunately, after the symposium the authorities failed to agree a way forward to end impunity for the 1965 mass human rights violations and even ruled out making a formal public apology for their role in these crimes.

Subsequently, there has been further scepticism of the government's commitment to address past human rights violations when President Widodo appointed General Wiranto to the post of Coordinating Minister for Political, Law and Security Affairs in July 2016. Wiranto was indicted for crimes against humanity by a UN sponsored tribunal in Timor-Leste and named as a suspect in the inquiry initiated in 1999 by Indonesia's National Commission on Human Rights (Komnas HAM) for gross violations of human rights in East Timor surrounding the 1999 referendum. To date, however, Indonesia has failed to charge him.

Amnesty International, Asia Justice and Rights (AJAR), East-Timor and Indonesia Action Network (ETAN), La'o Hamutuk, TAPOL, Watch Indonesia! and Yayasan HAK urge the Indonesian authorities to address the 1965 mass human rights violations by ensuring the rights to truth, justice and reparation. The effective prosecution of those responsible of human rights violations and crimes under international law will not only send a strong signal about Indonesia's commitment to justice and the rule of law but will also strengthen the efforts of all victims and their families who have, for several years, been fighting to ensure accountability for the serious crimes committed in different parts of the country.

An estimated 500,000 to one million people were unlawfully killed and hundreds of thousands were held without trial for periods ranging from a few days to more than 14 years when the Indonesian military launched a systematic attack against members of the Indonesian Communist Party (PKI) and suspected sympathizers. Investigations by the Indonesian National Human Rights Commission (Komnas HAM) and other human rights organizations have documented a range of human rights violations during this period

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including unlawful killings, torture, enforced disappearances, rape, sexual slavery and other crimes of sexual violence, slavery, arbitrary arrest and detention, forced displacement and forced labour. Many victims and their families also faced violations of their social, economic and cultural rights, and continue to this day to experience discrimination in both the law and in practice.

A three-year investigation into the human rights violations committed in 1965 was carried out by Komnas HAM and was completed in July 2012, concluded that the findings meet the criteria of gross human rights violations, and include crimes against humanity, as defined by the Indonesian Law No. 26/2000 on Human Rights Courts. To date, however, there has been no indication that the government will even launch a criminal investigation. Meanwhile, attempts to establish a truth commission on the national level have stalled due to a lack of political will.

The statement is also available in Indonesian language:

<https://www.amnesty.org/en/documents/asa21/4914/2016/en/>

Govt to Form Joint Task Force on Human Rights Abuses During 1965 Purge: Minister

The Jakarta Globe, 01-10-2016

The government will form a joint task force to address the gross human rights violations that followed the failed coup of 1965 by the 30 September Movement, or G30S. The task force will be comprised of the Attorney General's Office, National Commission on Human Rights (Komnas HAM), Indonesian Military, National Police, legal experts and public representatives.

The government has held extensive discussions to address various approaches, including to hear public aspirations related to the 1965 anticommunist purge, Chief Security Minister Wiranto said after attending the Pancasila Sanctity Day commemoration in Lubang Buaya, East Jakarta, on Saturday (01/10).

"From the judicial approach, there has been an in-depth investigation on the incident, as it is categorized as part of the principles of clear and present danger by legal standings,

which allowed the state to conduct 'salvage' actions related to the danger against national security," Wiranto said.

He added that the adage of *abnormala recht voor abnormale tijden*, or emergency action taken during an emergency situation, was legally justified and cannot be judged under current laws.

Komnas HAM and the AGO conducted a case study where they found judicial boundaries, especially those related to evidence beyond reasonable doubt. "[Investigators] have found difficulties to fulfill the manifestation standards of Law No. 26/2000 on Human Rights Courts," Wiranto said. As a result, the government directed the resolution of the issue through non-judicial measures based on national interests and unity. These non-judicial measures will consider certain phrases, including not to blame any parties, not inciting hate or vengeance, as well as justifying the government's decisions by law without causing any long-term negative excess.

Wiranto claimed that the government has been serious in resolving the tragedy by inviting all parties to turn it into a lesson for Indonesia to avoid similar events from occurring in the future.

The government has adopted three main approaches, Wiranto said. Firstly, there had been differences in political ideology that peaked with the attempted coup and that it led to a massive setback for Indonesia as a country. "Secondly, the government feels extremely concerned about the victims of the 1965 tragedy, as it has tried to resolve all allegations of gross human rights violations through a fair non-judicial process to avoid long-term excess," the minister said. Lastly, the government has called on and encouraged all Indonesians to accept the state ideology of Pancasila as the foundation for national reconciliation.

Expert calls on independent investigation into 1965 Tragedy

The Jakarta Globe, 01-10-2016

A researcher has proposed that President Joko "Jokowi" Widodo establishes an independent committee tasked with finding facts about the 1965 anticommunist purge, a move he says is imperative if the case is to be settled through reconciliation. The

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government is currently considering reconciliation to resolve what the National Commission on Human Rights (Komnas HAM) has declared gross human rights abuses. Many different versions of the events have emerged.

National reconciliation could not be achieved unless the truth about the massacre is revealed, Indonesian Institute of Sciences (LIPI) researcher Asvi Warman Adam said in Jakarta on Friday (30/09). "The facts must be presented as they are, in order to reveal the truth. And the president should establish an independent committee to reveal the truth," he said. According to the researcher, the committee may consist of members from various state human rights bodies, as well as nongovernment organizations. "The committee could comprise of those who have been actively dealing with human rights issues all these times. They should represent various elements, ranging from religion to ethnicity," he said.

The government has promised to settle the case with the latest move being the staging of a national symposium earlier this year on what some observers have called the worst mass killings of the 20th century. The government-sponsored and military-backed killings resulted in the deaths of hundreds of thousands of alleged sympathizers of the now-defunct Indonesian Communist Party (PKI). Millions more were imprisoned without trial.

Government officials have hinted that the case would be settled through reconciliation, with the symposium's recommendations having reportedly been submitted to Jokowi.

Freedom of Expression

POLITICAL ACTIVIST ESCAPED ABDUCTION ATTEMPT

Amnesty International Urgent Action, 27-09-2016

On 24 September, men in plain clothes attempted to abduct Papuan political activist Agustinus Aud at his home in Sorong, West Papua Province. He has been very active organising peaceful demonstrations to criticise Indonesian policies in Papua.

On 24 September at around 3am, the house of Agustinus Aud, the spokesperson of KNPB's (the West Papuan National Committee) Sorong branch, was surrounded by at least 10 plain clothed men whose faces were covered with scarves and claimed to be police

officers. They banged on his door and windows, shouting orders for him to come out. After some of the men had smashed some parts of his window, Agustinus Aud saw that two of the men were armed with rifles. He refused to come out and managed to make a phone call to his friends asking them to immediately come to his house. Agustinus Aud thought that he would be abducted and later be killed as happened to Martinus Yohame, another KNPB Sorong member, in August 2014.

At 4am, six of Agustinus Aud's friends arrived at his house and saw that there were at least 10 men with guns and rifles near his house with a minibus and three motorcycles. As soon as they arrived, the men left. In the last few months, Agustinus Aud had organised many press conferences and peaceful demonstrations to support a peaceful Papuan pro-independence umbrella group, the United Liberation Movement for West Papua (ULMWP) to be accepted as a full member of Melanesian Spearhead Group (MSG), a sub-Pacific intergovernmental organization. He has also raised concern about many human rights violations committed by the security forces in Papua.

The attempt to abduct Agustinus Aud highlights the unsafe environment faced by political activists in the Indonesian province of Papua and the ongoing impunity for human rights violations by security forces.

To take action: <https://www.amnesty.org/en/documents/asa21/4893/2016/en/>

Gay Rights

What's behind Indonesian authorities' desire to control LGBT sexuality?

The Conversation, by Dede Oetomo, 23-09-2016

Indonesia's LGBT community has been weathering "unprecedented attacks" through hateful public comments by top public officials since early this year. But the biggest threat yet has come recently in a legal move by a conservative group, the Family Love Alliance (AILA), to criminalise any sexual activity outside marriage. The Constitutional Court is deliberating the alliance's request to change the definitions of adultery, rape and sodomy in the Criminal Code. The police have joined the chorus of discrimination against LGBT

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people by urging the government to ban online gay dating applications. The Communication and Informatics Ministry has declared it will ban the apps. Both AILA and the police say their demands are based on a need to protect children from sexual abuse and child prostitution. In a recent police raid of a child prostitution ring, police found the gay dating apps on the suspect's iPad.

Sexual violence against children and child prostitution in Indonesia are serious problems which the government must tackle. Yet it begs the question of why, in doing so, the police are only interested in banning gay dating apps.

Numerous social media platforms such as Facebook also provide potential platforms for crimes, including child prostitution.

Amid the rhetoric of protecting children, AILA also seems to ignore Indonesian marriage law that allows child marriage.

Criminalising extramarital sex will greatly impact the wellbeing of LGBT people in Indonesia. Their lives are hard enough in the current legal landscape, where same-sex behaviour is not criminalised under national law. LGBT rights activism in the past four decades has slowly empowered some LGBT people to be comfortable expressing themselves, mostly in the bigger cities.

But even after decades of struggle many LGBT people in Indonesia who are born in conservative families or in highly religious communities feel they have no choice but to hide their sexual orientation and gender identity to avoid discrimination and social prejudice. This can be deeply alienating. If AILA succeeds in its request, state control over citizens' bodies will be repressive for both for trans and cisgender people interested in adult consensual sex with the opposite or same sex.

But while heterosexuals have the option of "lawful" sex under marriage, LGBT people, having no option to marry as marriage in Indonesia is defined as being between a man and a woman, would have no space at all for privacy in their sexual lives.

Read the full article, including the interesting link to the colonial "polisi susila" analysis:

<http://theconversation.com/whats-behind-indonesian-authorities-desire-to-control-lgbt-sexuality-65543>

Forced Evictions

Forced evictions in Bukit Duri, South Jakarta

The Jakarta Post, 28-09-2016

Desperate evictees of Bukit Duri in South Jakarta have criticized the public's lack of empathy in regard to their fates, who have just lost their homes of decades without any compensation.



Residents watch a backhoe topple a two-story building in Buki Duri, South Jakarta, during an eviction operation on Sept. 28.(JP/Dhoni Setiawan)

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They criticize Netizens specifically, who they claim just have accepted the information of government officials without observing the actual conditions of the evicted residents.

"They are in favor of eviction policy because they never have visited this place. They only speak without seeing us [the residents]. Just come and see us for yourself and you will think differently," Muklis, who has four children, said in Bukit Duri on Thursday.

He was among many residents who were previously pleased when President Joko "Jokowi" Widodo promised during his election campaign that he would develop a kampung deret (elevated village) in Bukit Duri and other places, instead of evicting current residents. But the 49-year-old man was among hundreds that were evicted from their houses on Wednesday. Muklis, who does odd jobs to meet his family's needs, now rents a house in a nearby area because the low-cost apartment in Rawa Babek, East Jakarta, is too far from his children's school. Dhyta Caturani, spokesperson of Gema Demokrasi, a movement initiated by activists from 70 civil organizations, said the impact of the eviction policy could not be solved by merely moving evictees to low-cost apartments. "The residents have their social, economic and cultural activities in this village. When they're forced to move away, their livelihoods are taken from them," she said.

See also: <http://www.thejakartapost.com/news/2016/09/29/forced-evictions-inhumane-against-the-law-activists.html>

Social and Economic Rights

How palm oil companies like IOI have set Indonesia on fire

Greenpeace Blog, 27-09-2016

This morning, while most of the Netherlands was still asleep, my colleague Nilus and I - along with dozens of Greenpeace activists - slipped into Rotterdam's port facilities. The temperature is just eight degrees celsius, my first time ever being this cold.

Our mission must not fail: we are blockading the entry of dirty palm oil to IOI's refineries. IOI is one of the largest palm oil companies in the world.

Thousands of kilometres away from Rotterdam, in our hometown, in West Kalimantan, Indonesia, forest fires occur every year. Fire has destroyed the peat forests and brought orangutans closer to extinction. IOI opens up palm oil plantations by drying out the peat, which makes it very flammable, leading to haze-making infernos.

Last year, peat fires created huge amounts of pollution - 43 million Indonesian people were exposed to smoke, including both Nilus and myself. I read a recent study from Harvard and Columbia universities that estimated there were over 100,000 premature deaths across South East Asia in 2015 due to smoke pollution from the fires. Over 91,000 of those deaths were in Indonesia.

Read the whole blog and see the photographs:

<http://www.greenpeace.org/international/en/news/Blogs/makingwaves/how-palm-oil-companies-IOI-forest-fires/blog/57603/>

See also (in Dutch): <http://zembla.vara.nl/nieuws/nederland-aan-kop-met-duurzame-palmolie>

Termination of Police Investigation Into Riau Wildfires Rife With Irregularities: House

The Jakarta Globe, 20-09-2016

The termination of a police investigation into last year's Riau wildfires was the result of several irregularities, the House of Representatives concluded on Tuesday (20/09).

Earlier this year, the Riau Police decided to end their investigation into 15 of the 18 plantation companies that were reportedly responsible for the 2015 forest and peatland fires. The companies allegedly practiced land burning.

The police's decision was only made public three months ago.

A special committee of the Riau Legislative Council has found that the companies had violated the law. These violations should have been followed up by police to strengthen the evidence, council member Hazmi Setiadi said.

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"They surely burnt the land intentionally, committed illegal poaching and disturbed river basins," Hazmi told the members of House of Representatives Commission III, which oversees legal affairs.

Facing at outcry by environmental activists, the police have defended their decision to terminate the investigation. They said the fires occurred on disputed lands and the matter of responsibility remained unclear.

However, Riau Legislative Council Deputy Speaker Noviwaldy Jusman said the reasons cited by the police for terminating the investigations make no sense. "Evidence is needed to name the suspects. If evidence was insufficient, how could they name them?" Noviwaldy said.

Wildfires in Sumatra and Kalimantan have been a recurring problem over the past decade. Described by observers as the worst on record, the fires last year destroyed vegetation on millions of hectares of land, afflicting more than half a million people with health problems and resulting in billions of dollars in economic losses.

Thousands of Indonesian sailors work as slaves in global waters: Minister

The Jakarta Post, 29-09-2016

Maritime Affairs and Fisheries Minister Susi Pudjiastuti has expressed concern over the fate of hundreds of thousands of Indonesian crewmen that she said lived in slave-like conditions in waters across the globe. "We predict there are around 300,000 Indonesian crewmen, who are not officially registered [as sailors]," she said on Thursday, as reported by news agency Antara.

Those unregistered crewmen were enslaved and forced to work hard in the global fishing industry, Susi said, adding that they faced threats of being thrown overboard if they refused to comply. Most of the Indonesian sailors are working in the Bering Sea of the Pacific Ocean and in African waters, according to the ministry.

Furthermore, ministry data showed that some 700,000 crewmen were involved in illegal fishing activities across the globe, Susi said, adding that she believed most of them came from Indonesia.

Susi has pledged to eradicate illegal employment or slavery in the fishing sector and has urged private companies to help prevent such practices. "This is dangerous for [the global image of] Indonesian fisheries. This issue receives worldwide attention [following] the slavery case in Benjina," she said, referring to a case of human trafficking and slavery in Benjina of Aru Islands in Maluku last year.

According to a report by the Associated Press, thousands of migrant fishermen, mostly from Myanmar, Cambodia and Laos, were recruited in Thailand and brought to Indonesia to work for now-closed fishing company Pusaka Benjina Resources. The fishermen were tortured and locked up in prison-like cells.

Universal Periodic Review

Indigenous peoples' organisations submit inputs on Indonesia for the UN Universal Periodic Review

27 September, 2016

The national indigenous peoples' alliance in Indonesia, the Aliansi Masyarakat Adat Nusantara (AMAN) and the Asia Indigenous Peoples Pact (AIPP) have submitted a critical update to the UN Human Council's Universal Periodic Review as the HRC prepares to review the human rights situation in Indonesia. Important threats to the security of indigenous peoples in the country are highlighted, as are recent legal changes in the country.

Read the full report:

<http://www.forestpeoples.org/sites/fpp/files/publication/2016/09/indonesiaamanaippupr3rdcyclefinal.pdf>

A coalition of human rights organizations has drafted and submitted a special report on human rights violations in Papua. The Coalition of Papua Itu Kita consist of Perkumpulan

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Belantara Papua, Jakarta Legal Aid Institute, Perkumpulan Jubi, Yayasan Pusaka and Yayasan Satu Keadilan.

<http://www.forestpeoples.org/sites/fpp/files/publication/2016/09/upr-indonesia-pik-joint-22092016.pdf>

Read on the UPR mechanism as such: <https://www.upr-info.org/en/upr-process/what-is-it>

Political developments

Govt to speed up drafting of legal reform

The Jakarta Post, 29-10-2016

The government is forming a team to begin a problem inventory list (DIM) to speed up the process of drafting legal reform packages that are expected to improve the justice system in the country, Law and Human Rights Minister Yasonna Laoly says.

The team, which includes the Attorney General's Office, the National Police, and the Law and Human Rights Ministry will be integrated under the Office of the Coordinating Political, Legal and Security Affairs Minister, and is expected to be completed in October, Yasonna said. "It will be followed by a set of legal reform packages. We haven't yet [decided on the number of packages] because right now we are focusing on the quick-win solutions," Yasonna said on Wednesday.

Meanwhile, National Police chief Gen. Tito Karnavian said the team formation should be sped up as comprehensive legal reform needed to consider all input from various stakeholders in the country's justice system, ranging from investigators and prosecutors to prison authorities, who faced different difficulties in their efforts to uphold justice and the law. Tito expected that the regulations presented in the legal reform packages should ideally present long-term solutions to improve the country's justice system.

The packages should also have immediate solutions to strengthen law enforcement against extraordinary crimes, including corruption and drug trafficking, Tito said. President Joko "Jokowi" Widodo mandated Coordinating Political, Legal, and Security Affairs Minister Wiranto to lead the legal system and law enforcement reform in July.