

### Impunity

AMNESTY INTERNATIONAL PUBLIC STATEMENT

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### Indonesia: Appointment of Aceh truth commission selection team a step closer to truth and reparation for victims

Amnesty International welcomes the creation of a selection team by the Aceh House of People's Representative (Dewan Perwakilan Rakyat Aceh, DPRA) to appoint commissioners for the Aceh Truth and Reconciliation Commission (TRC). We believe this development is a small but important step towards addressing impunity for past human rights abuses committed during the Aceh conflict.

On 21 November, the Aceh provincial parliament announced the appointment of five members of the selection team for the Aceh TRC, two men and three women, most who are prominent human rights activists. They include Ifdhal Kasim, Faisal Hadi, Samsidar, Surayya Kamaruzzaman and Nurjannah Nitura. The team has been mandated to propose 21 candidates as commissioners, within a period of a month, to the Aceh parliament who will eventually select seven commissioners. The Aceh TRC is expected to operate between 2016 and 2021. Amnesty International recommend the selection team and other authorities involved in the selection of members of a truth commission that the members should be chosen on the basis of their competence in human rights and other relevant fields, proven independence and recognized impartiality. The composition of a truth commission should also reflect a fair balance of women and men and be reflective of wider society.

The establishment of a truth commission is vital to understand the circumstances that led to past abuses, learn from the past to ensure that such crimes will not be committed again, and ensure that shared experiences are acknowledged and preserved. Amnesty International calls on the central government to extend its full support for the establishment the truth commission in line with international law and standards as well as other measures to ensure truth, justice and reparation for victims of the conflict and their families.

As it currently stands, some provisions in the Aceh TRC bylaw fall short of international law and standards and should be strengthened to ensure that the truth commission operates effectively. For example, the definition of human rights violations or abuses is currently limited to those rights guaranteed by Law No.39/ 1999 on Human Rights and should be expanded to expressly include violations of all human rights set out in the Universal Declaration of Human Rights and other human rights treaties that Indonesia has ratified.

Further, the definition of "serious human rights abuses" in the bylaw should not be limited to genocide, crimes against humanity and war crimes but should also include other crimes under international law: torture, extrajudicial executions and enforced disappearances. That the bylaw should also clarify that participation by perpetrators of crimes under international law, in non-judicial processes, cannot result in amnesty before national courts, which are prohibited by international law.

Establishing a truth commission in Aceh was a key element of the 2005 Helsinki peace agreement which ended the 29 year conflict in Aceh. There have been a number of initiatives by the authorities and the National Human Rights Commission (Komnas HAM) to investigate human rights abuses committed at different stages in the conflict and specific incidents. Although these investigations have been important in documenting the many human rights abuses committed during the conflict, they

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provide only a piecemeal approach to establishing the truth, and fail to provide a comprehensive record of the abuses committed by both sides between 1976 and 2005.

Victims and their families of the Aceh conflict have waited for almost two years for some progress following the passage of the Aceh TRC bylaw (Qanun No. 17/2013 tentang Komisi Kebenaran dan Rekonsiliasi, KKR) by the Aceh parliament on 27 December 2013. The authorities must ensure that that this renewed opportunity to deliver on truth and reparation is fully met so that that the hopes of victims and their families are not dashed again.

Indonesia has an obligation under international law to provide justice, truth and reparation to victims and their families. Addressing these past crimes in Aceh would not only contribute to healing the open wounds of the civilian population, it would also help strengthen the rule of law in the country, and help secure the peace process in the long-term.

Amnesty International also calls on EU and ASEAN states to support the establishment of the truth commission to implement fully the 2005 Helsinki MOU between the Indonesian government and the former Free Aceh Movement (Gerakan Aceh Merdeka, GAM).

The Aceh conflict between the armed pro-independence movement Free Aceh Movement (GAM) and the Indonesian government can be dated back to 1976, and peaked during military operations from 1989 until 2005. It took a brutal toll on the population in Aceh, leaving between 10,000 and 30,000 dead, many of them civilians.

An Amnesty International report published in April 2013 found that victims and survivors of abuses committed during 29-years of violence are still waiting for the government to establish the truth about what happened to them and continue to demand justice and reparation. Amnesty International and other human rights

groups have also documented a range of crimes committed by members of the security forces and their auxiliaries against the civilian population, including unlawful killings, enforced disappearances and torture. Human rights abuses by GAM included hostage taking and the targeted killings of those suspected of ties to the government. Many of both crimes committed by the Indonesia's forces and GAM's members have not been investigated and those suspected of committing them have not been prosecuted.

Many of the violations and abuses committed by both sides in the context of the non-international armed conflict may amount to war crimes. Many of the violations directed by Indonesia's forces and their auxiliaries against civilians as part of the policy of suppressing the independence movement appear to have formed part of a widespread or systematic attack and may amount to crimes against humanity.

### Timor-Leste: UN CEDAW Committee urges authorities to ensure comprehensive reparations for victims of conflict related sexual violence

Amnesty International JSMP Public Statement, 1 December 2015

An expert UN Committee has raised concerns about the on-going failure by the government of Timor-Leste to adopt laws to ensure comprehensive reparation for survivors of rape and other forms of sexual violence that occurred during the Indonesian occupation (1975-1999) and the 1999 independence referendum.

On 11 November 2015, the UN Committee on the Elimination of Discrimination against Women (CEDAW Committee), the body tasked with reviewing the implementation of the UN Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) brought a number of concerns to the attention of representatives from the Timor-Leste government during the

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consideration of its state report at the 62nd CEDAW session in Geneva. In its Concluding Observations, issued on 20 November 2015, the Committee expressed concern about a range of areas where Timor-Leste is failing to meet its obligations under the Convention.

Amnesty International and the Judicial System Monitoring Programme (JSMP) welcomes the CEDAW's findings and the constructive engagement by the Timor-Leste government during the review. It urges the Timor-Leste government to take forward all necessary steps to ensure the Committee's recommendations are implemented so that their laws, policies and practices are in line with their obligations under the Convention.

Amnesty International submitted a briefing to the CEDAW in January 2015<sup>1</sup>. It highlighted large-scale human rights violations and crimes under international law that were committed against women and girls during the Indonesian occupation and independence referendum, including rape, sexual slavery and other forms of sexual violence, by members of the Indonesian security forces and their auxiliaries, as well as by Timorese men.

The CEDAW recommended in their Concluding Observations that the Timor-Leste authorities ensure there will be no impunity for rape, sexual slavery and other forms of sexual violence committed during the Indonesian occupation. Further it called on the government to "implement the recommendations of the reports of the Commission for Reception, Truth and Reconciliation (CAVR) as well as the Commission on Truth and Friendship (CTF) relating to redress for women and girls who became victims of violations during the occupation."

The CEDAW also raised concern that survivors of sexual violence during the Indonesian occupation "continue to experience social stigma and ostracism

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<sup>1</sup> Amnesty International, 'Timor-Leste: Submission to the United Nations Committee on the Elimination of Discrimination against Women, 62nd Session', 1 January 2015, Index: ASA 57/0001/2015

resulting in feelings of 'shame' and have limited access to medical, psychological, reproductive and mental health services or treatment."

Amnesty International and the Judicial System Monitoring Program agree with the CEDAW's concern about the delay in adopting bills concerning the National Reparation Programme and a Public Memory Institute, which have been before parliament since 2010, and call for it to be debated and passed in accordance with the Convention and other international law and standards. The authorities must also provide for a "comprehensive program of transformative reparation" to address discrimination and violence against women and girls.

The Committee also raised concerns about the decrease in the human resources of the judiciary following Parliamentary Resolution No.11/2014 and Governmental Resolution Nos. 20/2014 and 32/2014 in October 2014 and called for its review. The resolutions terminated all existing contracts and contractual renewals of foreign judicial workers, including foreign judges, prosecutors, public defenders and judicial advisors with immediate effect, which negatively impact the ability to take forward judicial processes.

Under Timorese Law, trials of crimes that occurred during 1999 require two international judges. Following the termination of their contracts, such trials are currently impossible. Amnesty International and the Judicial System Monitoring Program's joint oral statement to the 62nd Session of the CEDAW can be accessed through the following link:

<https://www.amnesty.org/en/documents/asa57/2833/2015/en/>

The CEDAW Committee's Concluding Observations can be accessed via the following link:

[http://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=CEDAW%2fC%2fTLS%2fCO%2f2-3&Lang=en](http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CEDAW%2fC%2fTLS%2fCO%2f2-3&Lang=en)