

## Impunity

### **President must not undermine to seek truth, justice and reparation for serious human rights violations**

Amnesty International Public Statement, 25-03-2016

On 24 March, as people around the world mark the International Day for the Right to the Truth Concerning Gross Human Rights Violations and for the Dignity of Victims, Amnesty International, KontraS (the Commission for the Disappeared and Victims of Violence) and KontraS Aceh are concerned about the ongoing failure of the Indonesia government to ensure that victims and their families receive truth, justice and reparation for the violations they have suffered. Our organisations call on the Indonesian President Joko Widodo to fulfil the government's obligations under international law and his commitments - made on Indonesia's Independence Day in 2015 - to "address past human rights violations so that future generations in Indonesia would not continue to bear the burden of history".

Serious human rights violations, including unlawful killings, enforced disappearance, torture and other ill-treatment, rape and other crimes of sexual violence occurred under President Suharto's rule and during the reform period (from 1998) including the mass violations in 1965-66, the 1998 May riots, and the conflicts in Aceh, Papua and Timor-Leste.

Despite demands by NGOs and victims for the alleged perpetrators to be brought to justice, President Widodo has instead announced the establishment of a non-judicial mechanism to resolve all past human rights violations. According to the Attorney General the 'reconciliation committee' was decided as there is insufficient evidence for these cases to be brought to the Human Rights Court under Law No. 26/2000. On 17 March, the Coordinating Minister for Politics, Legal and Security Affairs Luhut Pandjaitan stated that the government aims to settle past serious human rights violation cases by early May through this mechanism.

Victim groups remain concerned that this process may prioritize reconciliation over efforts to deliver truth and justice. The establishment of this mechanism does not change Indonesia's obligations under international law to investigate and, if sufficient admissible evidence exists, prosecute those responsible for grave human rights violations and crimes under international law, in fair trials without recourse to the death penalty. This mechanism also does not replace the government's obligations to implement victims' rights to truth and full and effective reparation to address the harm they have suffered.

Amnesty International, KontraS and KontraS Aceh are also concerned about the ongoing failure by the Indonesian authorities to establish a National Truth commission and its lack of support for initiatives to establish a local truth commission in Aceh for human rights violations that occurred during the conflict which left between 10,000 and 30,000 dead, many of them civilians. Despite this, in December 2013 the Aceh legislative council passed the Aceh Truth and Reconciliation (TRC) bylaw to establish a truth commission, offering hope for victims and their family members. Currently there is an ongoing selection for the Aceh TRC's commissioners.

Victims of serious human rights violations have a right to truth. Truth commissions are an important step towards understanding the circumstances that led to past violations, learning from the past to ensure that such violations will not be committed again, and ensuring that shared experiences are acknowledged and preserved. Truth commissions can also play an important role in providing a full account of past human rights violations, contributing to their investigation and eventual prosecution, preventing their repetition, and ensuring that victims and their relatives are provided with full and effective reparation.

Over the last year the authorities have also attempted to silence public discussions in many areas of Indonesia, and disband events, particularly related to the mass 1965-66 human rights violations. In October 2015, the Ubud Writers and Readers Festival in Bali removed three panel sessions related to the 50th anniversary of the human rights violations after authorities threatened to revoke their permit. The authorities also banned numerous screenings of the film "Look of Silence", a documentary film about the victims and perpetrators of the 1965-66 human rights violations.

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In March 2016, the police banned a cultural festival “Belok Kiri (Turn left)” in Jakarta which sought to highlight the role of leftist activists in the history of Indonesia, including during 1965-66. In the same month, the police also banned a screening of a documentary film about Buru Island where around 10,000 prisoners from the 1965-66 period were imprisoned without trial and were subjected to forced labour.

These actions are a clear restriction on the rights to freedom of expression and assembly.

Amnesty International, KontraS and KontraS Aceh believe it is time that the Widodo administration face the past and take long overdue measures required to provide the victims and their families with truth, justice and full reparation. President Widodo should make a public call to end to all forms of restrictions against public discussions on any past human rights violations and ensure that the government starts listening to victims and their families instead of suppressing their voices.

### **Dutch Foreign Minister on past abuses (1945-1950)**

On 23 March 2016 Dutch Foreign Minister Koenders made a statement in Jakarta about possible investigations into abuses during the decolonization war (1945-1950).

During his visit to Indonesia he said: “(...) I would like to touch briefly on our past. The Netherlands and Indonesia are closely linked. Our histories are interwoven and go back over 400 years. Our shared past is why so many people in the Netherlands still feel so connected to Indonesia today.

In my country the impact of our shared history has been immense. Many generations of Dutch people lived and worked here, so Indonesia has had an enduring influence on our literature, our cuisine and our people.

There have also, however, been painful periods and events in this long relationship. And we must have the courage to confront them if we want to move forward. Novelists like the Indonesian Pramoedya Ananta Toer, the 19th-century Dutch writer Multatuli and the 20th-century Dutch writer Hella Haasse have all touched on different elements of this period and the colonial system. We should read them, we should follow Multatuli’s appeal in his book *Max Havelaar* where he writes: ‘Ik wil gelezen worden’ – ‘I want to be read by politicians who are obliged to keep an eye on the signs of the times’.

After the birth of the Republik Indonesia [17 augustus 1945, uitroeping Onafhankelijkheid door Soekarno], we experienced a painful separation, a process marked by terrible violence. Many people have lost their lives or been wounded in that period. The deployment of military force in 1947 put the Netherlands on the wrong side of history. If a society wants to go into the future with its eyes open, it must have also have the courage to confront its own history. The years after the Proklamasi had lasting consequences for those who suffered during that time.

It is striking to see how new topics and findings related to this dark page of our history have arisen over the years and how interest in this subject – certainly in the Netherlands – continues to grow. I believe this is a history that we should have the courage to examine and discuss, lest we forget. And we preferably do this together. History teaches us lessons for the future, it confronts us with sometimes a very difficult past, but also liberates our mind for the future. For a Indonesian-Dutch relationship 3.0, for a new generation.

I strongly believe that acknowledging and learning from the past, positions us so much better for creating the bright future our people deserve. Because even with all its ups and downs, our shared history offers a sound basis for building a shared future. (... )”

Read his whole speech in English:

<https://www.rijksoverheid.nl/documenten/toespraken/2016/03/23/toespraak-van-minister-koenders-op-jongerevent-jakarta>

According to Dutch press, Koenders visited Balongsari (formerly Rawagede) on Friday 25-03-2016. See for a report in Dutch: <http://www.nrc.nl/handelsblad/2016/03/26/in-rawagede-was-de-rivier-rood-van-bloed-1605037>

It is interesting to see what of his visit has been reported in the Indonesian press.

The Jakarta Globe (Berita Satu), 23-03-2016, has an informative background article (<http://jakartaglobe.beritasatu.com/news/dutch-fm-visits-indonesia-human-rights-dilemma-lingers/>), with different views.

“Human rights have long been a key element of Dutch foreign policy and with Indonesia having just made headlines internationally over a series of high-profile statements targeting the country’s LGBT community, no end in sight to problems in Papua and a group

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of Moluccan political prisoners still behind bars, it will be difficult for Koenders to not speak out one way or another. Koenders — who hails from the Labor Party (PvdA), just like the former Dutch development cooperation minister Jan Pronk, famous for slamming the Suharto regime in the early 1990s over its rights record — will have to tread a fine line if he doesn't want to undo all the progress made in recent years.”

Kompas (26-03-2016) included large parts of the speech by Mr Koenders in Bahasa Indonesia, and also noted that Koenders stated his opposition to the use of “ethnic profiling” in the context of tackling terrorists, as well as “religious profiling”. His visit to Rawagede is not mentioned. (Kompas does not publish on Good Friday).

The Jakarta Post (<http://m.thejakartapost.com/news/2016/03/26/have-courage-confront-dark-history-dutch-fm.html> ) mentioned that aside the economic cooperation, the death penalty had been discussed. No mention was made of the visit by Mr Koenders to Rawagede.

### Freedom of Expression

#### **Show about Tan Malaka canceled in Bandung under pressure from hardline group**

The Jakarta Post, 23-03-2016

Indonesian Francais Indonesia (IFI), the French cultural center in Bandung, West Java, and a Bandung-based theater group, Mainteater, canceled the monolog theater performance of national hero Tan Malaka on Wednesday following pressure from a hard-line group that accused the show of spreading communist ideology. The cancelation, just two hours before the show started, was related to pressure and threats from from the Islam Defenders Front (FPI), said IFI Bandung cultural program coordinator Ricky Arnold. The monolog, entitled *Saya Rusa Berbulu Merah* (I Am a Red-furred Fox), was scheduled to be performed on Wednesday and Thursday at 8 p.m. The representatives of the hard-line groups visited IFI at 2 p.m. Wednesday afternoon and demanded the organizers cancel the show. "The cancelation was not done because we are afraid or to justify their actions oppressing freedom of expression, but we have invited people to come and we do not want any of them to become victims of the groups," Ricky said on Wednesday.

The monolog's scriptwriter, Ahda Imran, questioned why Bandung Mayor Ridwan Kamil would allow such oppression. "Bandung is known as a creative city. People say that Bandung is the city of human rights, that Bandung is a champion. Prove it: What kind of champion is Bandung?" said Ahda, who had been writing the script since 2013.

The Mainteater group decided to have a show on Tan Malaka to pay respect to the forgotten hero. The group believed Tan's ideology is still relevant to Indonesia's current situation. "We need to learn by example: How Tan Malaka put the country's interest above his personal and party interests," Ahda said.

The monolog's director, Wawan Sofwan, also questioned where the state was when freedom of expressions was being restricted by hard-liners. He denied that the theater group was related to the leftist movement, as accused by the FPI. "This is the twilight for freedom of expression and doing arts. There are so many reports on restrictions. This is a challenge for Jokowi [President Joko Widodo]. How could we do our art?" Wawan asked.

Tan Malaka was a controversial leftist figure who fought for the country's independence against Dutch colonialism. President Soekarno's administration named Tan Malaka a national hero in 1963, but the New Order regime under late dictator Soeharto decided to minimize Tan Malaka's role in the country's struggle against the Dutch, given his ties to the communist movement.

The canceled show's production leader, Heliana Sinaga, said that 150 tickets, priced at Rp 30,000 (US\$2.27) each, were sold per day. The organizers are working on how to refund the ticket purchasers.

IFI director Melaney Martini said the organization supported the show because it reflected values related to human rights, including freedom of expression. "This is a good script that young generations must know because there are not much information on Tan Malaka," Melaney said, adding that the IFI provided the space for the show for free.

Dedi Subu from the West Java FPI said the group opposed the monolog because he claimed it spread communist teachings. He insisted that communism had been banned by law and thus such an event had to be canceled. Despite having protested against the show, Dedi admitted that he had not read the script provided by the organizers. "Why would I read it? We all know that Tan Malaka was a communist," he said adding that the

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FPI threatened to enlist the help of other mass organizations if the performance organizers had insisted on carrying on with the show. (rin)

## Indigenous rights

### **Pressure Grows on Jakarta to Tackle Indigenous Rights Abuses**

The Jakarta Globe, 26-03-2016<sup>1</sup>

Indonesia's government is under pressure to boost protection for indigenous peoples' rights, after a state-led inquiry identified 40 cases in which they were violated, prompting calls for the president to set up a task force to deal with the problem.

The National Commission on Human Rights (Komnas HAM) launched the inquiry in April 2014 after mounting reports of human rights abuses related to land in forest areas.

Of the thousands of cases reported to the commission, 40 were selected from seven regions - Sumatra, Java, Kalimantan, Sulawesi, Bali-Nusa Tenggara, Maluku and Papua - as test cases for investigation.

One was a long-running land conflict in Muara Tae village in East Kalimantan province's West Kutai district. Here the Dayak Benuaq indigenous people have struggled since the early 1970s to claim rights over their customary forests in the face of encroachment by logging and mining operations, and more recently oil palm plantations.

"Our ancestors have been protecting (our) customary forest for generations," said Masrani of the Dayak Benuaq, who came to Jakarta for the launch of the inquiry report in mid-March.

"We did all we could to protect the forests. We tried to seek help from local government but instead we were blamed, captured, criminalised for defending our own lands."

The expropriation of customary forest for timber concessions, mines, plantations and government-backed resettlement violated the Dayak Benuaq people's rights to a healthy

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<sup>1</sup> Story by Thomson Reuters Foundation, the charitable arm of Thomson Reuters, that covers humanitarian news, women's rights, trafficking, corruption and climate change

and safe environment, property ownership, cultural activities, education, traditional knowledge and a life free of fear, the inquiry found.

Masrani testified to the inquiry that the loss of land had created tension between his community and neighbouring villagers who had chosen to sell their territory to companies. He also recalled intimidation from "men with guns" who had attacked the village in 1998-99, forcing him and his family to take refuge in the forest.

### **LEGAL LIMBO**

In the eastern province of Maluku, a tribe native to the Aru Islands was taken unawares by a plan to develop a sugarcane plantation in 2012. Local people later discovered that the head of Aru district had granted permits in 2010 for companies to use customary forest without the tribe's knowledge or consent. Of the district's 600,000 hectares, the permits covered nearly 500,000 hectares, and 90 out of 117 villages were located in concession areas. "So where do you suppose we should live?" asked Mamado, an Aru traditional leader.

In 2014, after an intense social media campaign, Zulkifli Hasan, then forestry minister in the government of Susilo Bambang Yudhoyono, cancelled the plantation plan. The inquiry report said the Aru tribe's rights to information and participation, and to be consulted under the principle of free, prior and informed consent (FPIC) had been violated. Intimidation and abuse experienced by tribe members had also denied them the rights to feel safe, and to be free from fear, torture, inhuman or degrading treatment, it added.

Despite this, in mid-2015 the current agriculture minister, Amran Sulaiman, announced the development of 500,000 hectares of sugarcane plantation in three locations: Aru, Merauke and South Sulawesi. This and other developments have fuelled scepticism over President Joko "Jokowi" Widodo's election promise to protect the rights of indigenous peoples.

A draft bill to that end - which would recognise indigenous peoples' rights to their land and natural resources, and put their beliefs on an equal footing with those of other citizens - is in legal limbo, and has not been included in the national legislation programme for 2015-2019.

### **WOMEN SUFFER**

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Saur Tumiur Situmorang, one of the report's authors and a member of the National Commission against Violence on Women (Komnas Perempuan), said the inquiry also revealed violations of the rights of indigenous women. When they cannot access their land, they must travel longer distances to collect food, she said.

In Papua, that left some women vulnerable to sexual and physical abuse while out on the road, as well as at home if they failed to find enough food, the inquiry found.

And as forests are converted to plantations, the herbs indigenous women use to stop bleeding during birth are becoming rarer, denying them the right to reproductive health. Shrinking access to customary forest also restricts the farming and crafts activities of women, who are at greater risk of arrest for trespassing and encroachment without proper legal representation, Situmorang said.

Abdon Nababan, secretary general of AMAN (Indigenous Peoples' Alliance of the Archipelago), said indigenous peoples had waited "a rough two years" for the inquiry to be completed. Nababan had supported the process because in 2014, AMAN was reporting cases of rights abuses almost once a week, he said.

In 2013, Komnas HAM recorded 1,123 complaints over land use, which more than doubled to 2,483 complaints in 2014. That figure is likely to increase, as around 70 percent of Indonesia's nearly 32,000 villages are located in or near forest areas, experts say.

### "BE PATIENT"

Nababan blamed violations of the rights of indigenous peoples on the 1999 Law on Forest, which excluded them from secure legal tenure over customary forests. He urged the government to set up a task force to deal with indigenous peoples' grievances, while waiting for new legislation to be passed.

Presidential Chief of Staff Teten Masduki said at the report launch that Jokowi was deeply committed to indigenous people, but his administration had been up and running for only two years. "Please be patient. We are looking into the best way to find the right solution for the issue," said Masduki. "The past must be cleared so it will no longer be a burden for the future." He noted demands that the cabinet should not become too large, and said the government wanted to avoid overlapping agencies that would swell the state budget. But

it would not neglect the need to set up a task force on indigenous issues, he added, without saying when that might happen.

### Council urged to reject draft bylaw on restructuring of Gowa traditions, cultures

The Jakarta Post, 25-03-2016

Customary communities and descendants of Gowa rulers have called on the Gowa Legislative Council (DPRD) not to continue the discussion over a draft bylaw on the restructuring of traditions and cultures in Gowa regency, South Sulawesi. In a rally in front of the DPRD Gowa building on Wednesday, they urged lawmakers to drop the draft bylaw proposed by the Gowa administration, in which Gowa Regent Adnan Purichta Ichsan Yasin Limpo suggested that a Gowa regent would be automatically installed as a Gowa king.

One of articles heavily criticized by the Gowa customary communities and descendants of Gowa rulers is Article 3 in Chapter III of the draft bylaw concerning the composition of the Gowa customary institution.

In the bylaw, the institution will be headed by the Gowa regent, which will have a status as "King of Gowa". Meanwhile, a descendant of the Gowa king will only become a deputy chairman in the customary institution.

"This draft bylaw contradicts cultures and traditions, which have passed for generations in Gowa. It also hurts Gowa customary communities, especially the descendants of the King of Gowa," said Andi Baso Mahmud, one of members in the Gowa Kingdom customary council.

He further said it was true that the Gowa Kingdom had handed over its power and authority to the Indonesian government after it declared independence in 1945; however, the post of king of Gowa must be held by descendants of a Gowa king based on the kingdom's family tree.

"It is possible for a king to become a regent but a regent cannot become a king because it has been regulated in our culture and tradition, which has been implemented across generations. All this time, we have always paid respect to our regent or regional head," said Mahmud. Concerning this fact, Mahmud said, the DPRD Gowa must reject and cancel

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the draft bylaw. If it insisted on discussing it, he said, the Gowa customary council must be involved.

Asriady Arasy, the head of the DPRD Gowa's Commission IV, which handles the draft bylaw, promised that he would convey the aspirations of the Gowa customary communities, which rejected it. "Their aspirations will become input in the discussion of the draft bylaw," he said.

Commenting on the polemics, Adnan said the draft bylaw was aimed at preserving culture and tradition in the regency. If he suggested that a regent should also become a Gowa king, this was because a regent and a king had a similar status and position, namely they were leaders of a region.

"It is called a king because Gowa used to be a kingdom. After our independence, this kingdom has become a regency so the head of this region is a regent. So a king and a regent have a same status, namely a regional head," said Adnan, who has served as a Gowa regent for only one month.

Adnan claimed that in the history of Gowa, the first 36 Gowa kings were elected by the people and inaugurated by Bate Salapang or a customary council. Not all of the elected kings were descendants of a Gowa king according to the family tree.

"The last Gowa king, namely Andi Idjo Daeng Mattawang, was directly installed as the first Gowa regent after Indonesia's independence. So, it's also a normal thing if a regent can be installed a king," said Adnan.

Adnan is the second son of Ichsyan Yasin Limpo, formerly Gowa regent for two periods. He is also the nephew of South Sulawesi Governor Syahrul Yasin Limpo. Syahrul is also a former Gowa regent.

Alwy Rahman, a South Sulawesi cultural observer, who is also a lecturer at University Hasanuddin's School of Literature, said the draft bylaw was quite strange. "The kingdom era is over now. It is now a democracy era. So it's strange if there is a leader who personifies himself or herself as a king," said Alwy. He said there were still many descendants of Gowa rulers and they must be respected or institutionalized. It was not normal for a regional head to become a king, he added. (ebf)

### Rights of the disabled

#### **Indonesians with Mental Disorders Face Stigma, Shackling, Abuse: HRW Report**

The Jakarta Globe, 21-03-2016

With the prevailing stigma that they are cursed or possessed and the government failing to provide better alternatives, tens of thousands of people with psychosocial disorders are shackled and locked in confined spaces by their families or sent to institutions where they are treated inhumanely and subject to physical and sexual abuse, a new Human Rights Watch report released on Monday (21/03) finds.

Kriti Sharma, HRW's disability rights researcher and author of the 74-page report spent two years traveling across West, Central and East Java as well as Bengkulu to interview more than 100 people with psychosocial disorders and their families, all of whom are at some point in their lives shackled or locked up in a practice known locally as "pasung."

Sharma said the people she met had many things in common, they are locked up against their will — sometimes for years — in a chicken coop, a goat shed, or a disused room. Sometimes they are chained, or in extreme cases immobilized using wooden stocks.

Confined to such a small space, their limbs grow weak and they defecate and urinate in the same space as they sleep and eat. Almost all emerged even worse than they were originally. Nearly all described their ordeal as "living in hell" a phrase Sharma uses as a title for the report.



Before he died, this man lived chained to a platform at Kyai Syamsul's traditional healing center in Brebes, Central Java. While there his ankles swelled and his body became emaciated. (Photo courtesy of Human Rights Watch/Andrea Star Reese)

Although treatable with medication, counseling and support, people in Indonesia often associate psychosocial disorders, like schizophrenia, bipolar or depression, with superstition, assuming that they are possessed by evil spirits or cursed for their sins.

People with psychosocial disorders, even in urban areas, are taken to witchdoctors and faith healers and ostracized by their communities. So families treat patients as embarrassments, locking them away from society an act which deteriorates their conditions further.

Indonesia officially banned pasung in 1977 but its implementation is still widespread even in public and private mental hospitals and institutions across Indonesia.

Read the whole report at: <https://www.hrw.org/report/2016/03/21/living-hell/abuses-against-people-psychosocial-disabilities-indonesia>

### Terrorism and counterterrorism

#### **'Punishment for rights abusers should be stipulated in terrorism bill'**

The Jakarta Post, 28-03-2016

A lawmaker has said that punishment for law enforcers who abuse their power when handling alleged terrorists should be included in the revised terrorism bill that will be debated in the House of Representatives next month.

"We want security forces to have more power to prevent and eradicate terrorism. But we also think that they should be punishable if they abuse their power and, for example, violate human rights principles," said Ahmad Muzani, a member of House's Commission I overseeing defense affairs, on Monday.

The Commission for Missing Persons and Victims of Violence (Kontras) said on Saturday the National Police's counterterrorism unit, Densus 88, had committed human rights violations in relation to the death of terrorist suspect Siyono in Klaten, Central Java.

Kontras has said that these violations included incomplete arrest documents and torture during the interrogation, and urged the House to add an article to regulate punishment for law enforcers who abuse their power.

House speaker Ade Komarudin agreed that counterterrorism laws must address law enforcers who commit human rights abuses, but said the general public should not launch baseless allegation against the police, who are doing their jobs as sincerely and professionally as possible.

"Don't let [the allegations] discourage security forces from fighting terrorism in the country," he said on Monday.

The House will deliberate the terrorism law amendment during the upcoming April sitting session in a House special committee that will consist of lawmakers from House Commission I and Commission III overseeing legal issues. (vps/bbn)