

AMNESTY INTERNATIONAL PUBLIC STATEMENT

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Indonesia: President must take the lead in resolving cases of enforced disappearance

As people around the world mark the International Day of the Disappeared, Amnesty International calls on the Indonesian President to stop delaying the establishment of a Human Rights Court to try those responsible for the abduction and enforced disappearances of 13 political activists in 1997-98. The continued failure to investigate these crimes to establish the fate and whereabouts of the disappeared and, where sufficient evidence exists, to prosecute those suspected of committing the crimes, perpetuates the human rights violation and contributes to a wider culture of impunity in Indonesia.

The families of 13 political activists, all men – Sonny, Yani Afri, Ismail, Abdun Nasser, Dedi Hamdun, Noval Alkatiri, Wiji Thukul, Suyat, Herman Hendrawan, Bimo Petrus Anugerah, Ucok Munandar Siahaan, Yadin Muhidin and Hendra Hambali – who were disappeared in 1997-98 continue to demand that the government uncover the truth about what happened to them over 15 years ago. Nine others who were arrested and tortured by the military while being held incommunicado in a military facility in Jakarta in 1998, and who were subsequently released, have confirmed that at least six of the missing activists were held in the same facility.

A Presidential Decree for *ad hoc* Human Rights Court

In 2009 the Indonesian Parliament, based on a 2006 report by the National Human Rights Commission (Komnas HAM), recommended that President Susilo Bambang Yudhoyono establish an *ad hoc* human rights court to try those suspected of committing enforced disappearances in 1997-98. However, the President has not yet issued the presidential decree, required to establish the court. Other recommendations included an immediate search for the 13 activists by the Indonesian authorities; the provision of “rehabilitation and compensation” to the victims’ families; and the ratification of the International Convention for the Protection of All Persons from Enforced Disappearance. Almost four years later, the authorities have failed to take concrete action to effectively implement these recommendations.

The case of the 13 disappeared activists is emblematic of the impunity which exists for enforced disappearances in Indonesia and during the 1975-99 occupation of Timor-Leste (then East Timor). Families of the disappeared and missing have for years called on the Indonesian authorities to establish the fate and whereabouts of their loved ones; however, to date little progress has been made, prolonging their suffering.

The creation of truth commissions and mechanisms to search for the disappeared

In Aceh, victims’ representatives continue to demand the truth about the fate and whereabouts of those disappeared or missing between 1989 and 2005 and for proper burials. The positive moves by the Aceh Regional Parliament towards establishing a truth commission in Aceh offers some hope; however, there are fears that such an initiative could be blocked at the central government level. Meanwhile, the creation of a national-level truth commission remains stalled, with Parliament failing to prioritize a draft law establishing such a commission.

In Timor-Leste, relatives of those who were disappeared, and Timorese children who were separated from their families, have waited over 14 years to find out what happened to their loved ones. Although a bilateral Indonesia-Timor-Leste truth commission recommended that the two countries jointly establish a Commission for Disappeared Persons, to date no progress has been reported, and the issue has been sidelined in bilateral meetings.

Co-operation with the United Nations to resolve enforced disappearances

Amnesty International also urges the Indonesian Parliament to urgently debate and adopt legislation providing for the ratification of the International Convention on the Protection of All Persons from Enforced Disappearance, including making declarations under Articles 31 and 32 recognizing the competence of the Committee on Enforced Disappearances to receive and consider communications from or on behalf of individuals.

According to the Indonesian government, a draft bill to ratify the Convention was submitted to Parliament in June 2013. Amnesty International urges Parliament to prioritize the bill for 2014 when it reconvenes for its next session in November. The adoption of this legislation should be swiftly followed by the ratification of the Convention, the incorporation of its provisions into domestic law and its full and effective implementation in policy and practice.

Enforced disappearance is a serious human rights violation and a crime under international law which violates the rights of the persons who were disappeared and of their loved ones. The Declaration on the Protection of All Persons from Enforced Disappearances adopted by the United Nations General Assembly in 1992, provides that an investigation “should be conducted for as long as the fate of the victim of enforced disappearance remains unclarified” (Article 13(6)). It also states that “enforced disappearance shall be considered a continuing offence as long as the perpetrators continue to conceal the fate and the whereabouts of persons who have disappeared and these facts remain unclarified” (Article 17(1)). Enforced disappearance can also result in or lead to a range of other human rights, including freedom from arbitrary detention; the right to recognition as a person before the law; the right not to be subjected to torture and other cruel, inhuman or degrading treatment or punishment; and the right to life.

According to its 2012 Annual report, the United Nations Working Group on Enforced or Involuntary Disappearances (WGEID) holds information on 162 outstanding cases of disappearances in Indonesia, while there are a further 428 outstanding cases in Timor-Leste which mostly occurred during the period of Indonesian occupation (1975-1999).

Amnesty International therefore calls on the Indonesian government to also accept and facilitate a request from the Working Group on Enforced or Involuntary Disappearance (WGEID), pending since 2006, to visit Indonesia at the earliest opportunity.