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INDONESIA

**Briefing for
ASEM Foreign Ministers Meeting
March 1999**



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When President Habibie took office in May 1998 there were encouraging signs that he and his government appreciated the need for measures to improve the poor human rights situation in the country. A series of initiatives have been taken, however these have yet to make a significant difference to the situation on the ground. In some areas human rights violations have actually increased in recent months.

On coming to power President Habibie promised reform. To some extent he has been true to his word. The ban on independent political parties has been lifted, as has the ban the independent trade unions. Restrictions on the media have been relaxed and Indonesia is currently enjoying a relatively free press for the first time in many years. One hundred and fifteen Indonesian prisoners of conscience and political prisoners have been either released, had the charges against them dropped or parole restrictions lifted. The Anti-subversion Law - a piece of legislation under which many of those prisoners of conscience and political prisoners had been convicted - is, according to the government, to be repealed.

President Habibie's Government has also demonstrated a greater willingness to cooperate with the United Nations. Within six months of coming to power it had accepted requests by the Special Rapporteur on violence against women and the Working Group on Arbitrary Detention to visit East Timor and Jakarta - although requests for them to travel to Aceh and Irian Jaya were refused. An existing Memorandum of Intent between Indonesia and the Office of the UN High Commissioner for Human Rights was upgraded to a Memorandum of Understanding though was still confined to technical assistance rather than human rights monitoring. In October 1998 the government ratified the Convention against torture (CAT); prior to that it had ratified International Labour Organization Convention (ILO) No. 87 and has committed to ratifying three other core ILO conventions in the near future.

A program of ratifications of international human rights instruments, together with commitments to promote and protect human rights are elaborated in a five year National Action Plan on Human Rights which was published in June 1998. In addition a Human Rights Bill has been drafted and an increase in the powers of the National Commission on Human Rights (Komnas HAM) is under discussion.

Impressive as this list appears, the measures have so far failed to provide the people of Indonesia with the protection from human rights violations to which they are entitled. Failure to implement the changes at a practical level - through legal and institutional reform, by issuing guidelines and providing training to the relevant

authorities and by ending impunity - has meant that violations continue to be committed and that there remains little possibility of redress for victims.

The pattern of human rights violations which characterised the previous New Order Regime is fundamentally unchanged. At least 31 prisoners of conscience and around 70 political prisoners remain in jail despite repeated demands for their release or retrial. Over 20 of them were convicted under the Anti-subversion Law which the Justice Minister has acknowledged contravenes human rights standards and pledged to repeal. There have been new charges against peaceful political activists including three signatories of a declaration issued in November which calls for President Habibie to resign. In Irian Jaya at least 34 people are currently on trial for their involvement in flag raising ceremonies or other pro-independence activities. Amnesty International believes that at least 16 are prisoners of conscience and fears that none of them will receive a fair trial.

Arrests and detentions continue to be carried out in contravention of international standards with arrests taking place without warrants and access to lawyers frequently denied during the early days of detention. Reports of torture and ill-treatment also continue to be received by Amnesty. There are also concerns about unlawful killings of criminals. Ninety suspected criminals are reported to have been shot dead by the police during 1998 in Jakarta alone.

In some areas the human rights situation has actually deteriorated in recent months - in particular in the provinces of Aceh and Irian Jaya where there is a long history of severe human rights violations by the security forces in the context of counter-insurgency operations.

In Aceh, the early months of Habibie's presidency brought some relief. The province's status as an Area of Military Operation (*Daerah Operasi Militer - DOM*) was removed, combat troops were withdrawn and the Head of the Armed Forces, General Wiranto, publicly apologised for past violations. However, any improvements proved to be short lived. By the beginning of 1999 the situation had deteriorated badly. A series of protests as well as attacks, some lethal, on Indonesian military personnel in December 1998 resulted in renewed military operations in the province during the course of which between 17 and 40 people, including women and children, are reported to have been killed.

The Indonesia authorities have claimed that *Aceh Merdeka* (Free Aceh) - an armed opposition group - is responsible for growing unrest in the area. Other observers on the ground have suggested that the military itself may have provoked at least some of the disturbances in order to justify its return to the area. Amnesty International is unable to verify either account at this stage.

In contrast to the more tolerant atmosphere that was experienced in other parts of Indonesia in the months immediately following President Suharto's resignation, pro-independence protests in July 1998 Irian Jaya were quickly and forcefully broken up. At least six people died, three of them in connection with an incident in Biak on 6 July when the security forces opened fire on people who were guarding a West Papuan flag which had been raised on the island. Although there had been some violence by the protestors on previous days the security forces opened fire without warning in the early morning of 6 July when the majority of the protestors were sleeping around the flag pole.

Although the National Commission for Human Rights (Komnas HAM) carried out an investigation into the events at Biak, no one has been brought to justice for the killings. In Aceh five soldiers have been sentenced to prison terms ranging from two to six-and-a-half year's imprisonment and another for the beating to death of five detainees in Lhokseumawe, Aceh on 9 January¹. In Jakarta, 11 members of Indonesia's elite force - Kopassus are on trial for the "disappearance" of nine political activists². While Amnesty International welcomes efforts to investigate allegations of human rights violations the recent investigations and judicial processes illustrate on-going problems with accountability in Indonesia including: incomplete and inadequate investigations; the tendency for lower-ranking officers/soldiers to be brought to trial while their superiors - and ultimately those responsible for issuing the orders or failing to restrain their troops - escape justice; and the conduct of trials before military courts.

¹ A further 22 soldiers are reported to be facing court martial for their involvement in the killings.

² A total of 22 political activists "disappeared" in the run up to the May 1997 parliamentary elections or in the early months of 1998 during the intense political and economic crisis which preceded President Suharto's resignation. Nine have since reappeared. The whereabouts of the other 13 is still unknown.

Apart from investigations into recent violations there is also a pressing need for the government to address the hundreds of unresolved "disappearances" and extrajudicial executions as well as cases of wrongful imprisonment and torture that are the legacy of the Suharto years. The government of President Habibie has been willing to acknowledge these past abuses and in some cases to apologize, but has not taken concrete steps towards providing justice and redress to the victims and their families. Even where investigations have taken place, such as in Aceh, the government has failed to implement recommendations leaving the cases of hundreds "disappearances", extrajudicial execution and rape by the security forces unresolved and a growing sense of frustration and anger among the local population³.

With parliamentary elections scheduled for June and presidential elections for later in the year, the next months in Indonesia will inevitably be a time of heightened tension intensified by on-going economic problems and inter-racial and religious tensions. The shooting dead of at least six students who were taking part in demonstrations in Jakarta around the Special Session of the People's Consultative Assembly (MPR) on 13 November can leave little doubt that, under pressure, the security forces are still quick to resort to excessive force to control protests.

Concerns are heightened by the recent announcement that 40,000 people are to be recruited to a new civilian security force in order to help police the elections. The deployment of some 125,000 civilians armed with bamboo sticks in Jakarta during the Special Session of the MPR resulted in a number of clashes with student demonstrators until they were eventually withdrawn from the centre of Jakarta following strong criticism by human rights groups. In the absence of effective and transparent chains of command and an institutionalised process by which all allegations of human rights violations are thoroughly and independently investigated, it is feared that the presence of poorly trained, unchecked civilian security force could lead to an escalation in the levels of tension and result in further abuses.

Amnesty International calls on ASEM Foreign Ministers in their meetings with the Foreign Minister of Indonesia either individually or in concert to urge the Government of Indonesia:

to release all remaining prisoners of conscience, to review the cases of political prisoners and to immediately withdraw charges against anyone who is on trial or due to be tried for their legitimate peaceful activities.

³ Following a visit to Aceh in August 1998, Komnas HAM recommended that the government should immediately ensure that past cases of human rights violations in Aceh are fully resolved in accordance with the law and that the government should give assistance to the victims including financial assistance for their daily needs and so that they can educate their children. To date these recommendations have not been acted on.

- **to ensure that reforms made so far are implemented by:**
 - **issuing orders to the security forces to exercise restraint in dealing with demonstrations**
 - **provide members of the security forces with appropriate training on the use of force and firearms**
 - **incorporating into the Criminal Code an explicit prohibition against torture and cruel inhuman or degrading treatment**

- **to proceed with plans to separate the police from the military and ensure that the police receive training appropriate for a civilian police force.**

- **to continue the program of reform. This should include:**
 - **the repeal of all legislation which allows for the imprisonment of people for the peaceful expression of their views including the Anti-Subversion Law and the Hate-sowing articles**
 - **measures to ensure that the judiciary is independent both in law and practice**
 - **the abolition of the death penalty.**

- **to end impunity by ensuring that all allegations of human rights violations are independently and fully investigated and that those responsible are tried, in accordance with international standards for fair trial, before a civilian court.**

- **to ensure that, if a new civilian security force is to be established, its powers and responsibilities are clearly defined, that there is a clear chain of command, that its members receive proper training in accordance with their role; and that any of its members found to be responsible for human rights violations are brought to justice.**