

# INDONESIA

## An Agenda for Human Rights Reform

The resignation of Suharto as Indonesia's President, while an event of immense significance is the beginning and not the end of a process of change and reform needed to create political and economic stability in Indonesia, based not on repression and exclusion but on the full participation of the Indonesian people and respect for human rights.

This unique opportunity in Indonesia's history to put in place the foundations for a system in which the full set of human rights - economic, social, cultural, civil and political - are guaranteed must not be lost. The chance now exists to make changes which will secure Indonesian citizens their rights to benefit from economic development, to participate fully in political processes and to freedoms from fear of sanction by the state for their beliefs or peaceful expression of these beliefs.

The events of the past few months have demonstrated how the New Order Government's failure to respect these rights has fostered frustration and anger leading to social and political instability. The livelihood of many Indonesians has been destroyed by the economic downturn and by rioting and civil disturbances which have caused much damage and loss of life. Only a willingness to implement genuine reforms now will satisfy the demands of those who have taken their protests to the streets and prevent discontent once again spilling over into violence.

A durable solution to the current crisis in Indonesia can only be achieved if it is based on the respect of basic human rights. These rights are not an abstract concept, but are the foundation for national development and guarantee the genuine participation of every Indonesian in the political and economic life of the nation.

### **Immediate confidence building measures**

Amnesty International believes there are several immediate steps the new government should take to demonstrate its genuine willingness to break with the past, bring change to Indonesia and redress past wrongs.

- Release all Indonesians and East Timorese who have been imprisoned solely for the peaceful expression of their beliefs. The immediate release of prisoners of conscience, including peaceful political activists, would indicate that the government is ready to listen to all voices for change.

- Review the convictions against all other political prisoners in Indonesia and East Timor, the vast majority of whom received unfair trials.
- Revoke any lasting restrictions on former prisoners and their families, detained in connection with the 1965 alleged coup attempt.
- Respect the right of Indonesian people to participate in peaceful demonstrations. Issue strict orders to members of the Indonesian Armed Forces, including the police, that individuals should be allowed to take part in peaceful demonstrations without fear of the use of force by the security forces or fear of arrest.
- Issue instructions to all members of the security forces to abide by international standards on the use of force and firearms and ensure that those who violate these provisions are brought to justice.
- Ensure that the recent “disappearances” of political activists and reports of excessive force or lethal force, including the killings of the Trisakti University students on 12 May 1998 and the wounding of students during a demonstration in Surabaya on 19 May 1998, are immediately and independently investigated. Suspend from duty those members of the security forces implicated in such acts, pending their prosecution before a civilian court.
- Lift restrictions on the press to enable freedom of expression and the full debate on reform.

## **The Reform Package**

The new government should also commit itself to a broader program of reforms aimed at strengthening institutions for the protection of human rights and reviewing legislation which inhibits the ability of Indonesian citizens to exercise these rights. This reform process should involve the participation of as broad a spectrum of opinions as possible, including representatives from opposition groups, trade unions and human rights organizations. Outlined below is a summary of measures which Amnesty International considers should form a central element in this reform package.

### **Legislative Reform**

- Repeal all legislation which allows for the imprisonment of individuals for their involvement in peaceful political activities including; the Anti-subversion Law; the so-called Hate-sowing Articles of the Criminal Code, which include Articles 154, 155 and 156; and other articles which allow for the imprisonment of individuals for alleged disrespect or criticism of the Indonesian authorities, the President and Vice President - that is Articles 134, 137, 207 and 208; Law Number 5/PNPS/1963.
- Incorporate into the Criminal Code an explicit prohibition against torture and cruel, inhuman or degrading treatment of anyone in custody.
- Review the Code of Criminal Procedure (KUHAP), the Criminal Code, Presidential and Ministerial Decrees, and government regulations to ensure that they fully protect the rights of detainees and defendants in accordance with international human rights standards.
- Abolish the death penalty for all crimes and commute the sentences against any prisoner currently under sentence of death.

### **Freedom of association**

- Lift restrictions on freedom of association for individuals or groups, including trade unions and non-governmental organizations.
- Review the law regulating the activities of mass organizations to bring it into line with international human rights standards.
- Reform the laws regulating political parties and trade union activities to remove curbs on freedom of association.
- Review the electoral laws and practices to guarantee freedom of expression, association and assembly and ensure that individuals can participate in elections as candidates or voters without intimidation, discrimination or harassment.

**Institutional Reform**

- The Indonesian Armed Forces (ABRI)
  1. Ensure that all violations of human rights by the security forces are independently and fully investigated and those responsible are tried fairly before civilian courts.
  2. Ensure that, in accordance with the Code of Criminal Procedure, (KUHAP), ABRI no longer conduct arrests, detentions and investigations.
  3. Establish a separate civilian police force.
  
- The Judiciary
  1. Create a judiciary which is independent in both law and practice.
  2. Remove the judiciary from the control of the Ministry of Justice and strengthen the powers of the Supreme Court.
  3. Remove the requirement that all judges have to be members of the Civil Service Corps, which is under the authority of the Ministry of Home Affairs and is part of the government party, *Golongan Karya* (Golkar).
  4. Ensure that the rights of detainees and defendants as outlined in the Indonesian Code of Criminal Procedure and international human rights standards are upheld by the courts and that any breaches of these standards are independently and fully investigated.
  
- The Indonesian National Commission on Human Rights (Komnas HAM)
  1. Review the mandate, legislative base and operating procedures of Komnas HAM with a view to bringing it into line with international standards on national human rights institutions.
  2. Review all previous findings of Komnas HAM with a view to implementing all of its outstanding recommendations.
  3. Establish a genuinely indigenous human rights commission in East Timor which meets international standards on national human rights institutions and has the confidence of the East Timorese people.

- Human rights protection

1. Ratify international human rights standards, including the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR). Indonesia has expressed its intention to do so for many years.

2. Allow monitoring of human rights in Indonesia and East Timor by United Nations human rights experts and mechanisms, including the Working Group on Arbitrary Detention, the Special Rapporteur on torture and the Special Rapporteur on extrajudicial, summary or arbitrary executions.

3. Allow human rights monitoring by domestic and international non-governmental organizations to all areas of Indonesia and East Timor.

4. Ensure that those engaged in the defence of human rights, including lawyers, human rights workers, trade unionists and journalists, are free to carry out their tasks without fear of intimidation, harassment or arrest.

- Human Rights Training

Outlined above are the fundamental institutional and legislative reforms which are required in Indonesia to ensure a future based on the respect of human rights. Equally important, however, is the comprehensive training of government officials and members of the security forces to make them aware of their responsibilities under international human rights standards and of how to carry out their activities in accordance with these standards.

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