

AMNESTY INTERNATIONAL

PUBLIC STATEMENT

Index: ASA 21/012/2012
24 March 2012

Indonesia: Victims still waiting for truth and justice for past human rights violations

As the world marks the International Day for the Right to the Truth concerning Gross Human Rights Violations and for the Dignity of Victims, in Indonesia victims of serious human rights violations, including unlawful killings, rape and other crimes of sexual violence, enforced disappearance, torture and other ill-treatment continue to call for truth, justice and reparation for past crimes.

Amnesty International today urges the Indonesian Coordinating Minister for Political, Legal and Security Affairs, who is leading a team to resolve past human rights violations, to answer these calls by making the establishment of a National Truth and Reconciliation Commission a key priority.

The Commission should function according to international law and standards, including the Updated Set of principles for the protection and promotion of human rights through action to combat impunity. It should not substitute the responsibility of the criminal justice system in the country to investigate and – if sufficient admissible evidence exists – prosecute those responsible for grave human rights violations and crimes under international law. All victims should be guaranteed access to full reparation including restitution, compensation, rehabilitation, satisfaction and guarantees of non-repetition.

In 2004, the Indonesian Parliament passed the Law on a Truth and Reconciliation Commission (No. 27/2004), which provided for the establishment of a national truth commission with powers to receive complaints, investigate grave human rights violations which occurred in the past and to make recommendations for compensation and/or rehabilitation for victims. In 2006 the Indonesian Constitutional Court struck down the law, after it ruled that an article which provided reparation for victims only after they agreed to an amnesty for the perpetrator was unconstitutional. Amnesty International welcomed this ruling, as amnesties, pardons or similar measures of impunity for the most serious crimes and human rights violations such as unlawful killings, rape and other crimes of sexual violence, enforced disappearance, torture and other ill-treatment are contrary to international law.

Almost six years later, attempts to pass a new law and enact a national truth commission have stalled. Although a new law has been drafted and is scheduled for discussion in Parliament in 2011-2014; to date there has been no progress, with Parliament failing to prioritize debate of the draft in the 2012 legislative programme. The continued failure to debate and pass a new law in Indonesia leaves many victims without an effective mechanism for truth and full and effective reparation.

In May 2011, President Susilo Bambang Yudhoyono established a multi-agency team to devise “the best format to resolve grave human rights violations that occurred in the past”. The team has so far visited victims of such violations in various part of the country, including Talangsari, Tanjong Priok and Kupang. However, it has been criticized by human rights organizations and victims’ groups for failing to develop a concrete strategy to ensure truth, justice and reparation for victims.

All victims of gross human rights violations, crimes against humanity and other crimes under international law have a right to truth. Principle 4 of the Updated Set of principles for the protection

and promotion of human rights through action to combat impunity states that “[i]rrespective of any legal proceedings, victims and their families have the imprescriptible right to know the truth about the circumstances in which violations took place and, in the event of death or disappearance, the victims’ fate”.

For victims, this right involves knowing the whole truth about the violations they suffered, including the identity of the perpetrators and the causes, facts and circumstances in which such violations took place. For family members, particularly of those who were killed or disappeared, it involves establishing the fate and whereabouts of their loved ones. Whether individual or collective, the right to truth involves the public acknowledgement of victims’ suffering. Truth commissions are also an important step towards understanding the circumstances that led to past violations, learning from the past to ensure that such crimes will not be committed again, and ensuring that shared experiences are acknowledged and preserved.

In addition to a lack of action at the national level, local attempts to establish truth commissions to deal with specific cases also continue to face delays. In the provinces of Aceh and Papua, civil society organizations are pushing for the establishment of local truth commissions, which are provided for in autonomy laws governing those areas. In Aceh a draft bylaw (*qanun*) has been on the legislative programme since early 2011 but is yet to be debated in the Aceh regional parliament, while in Papua, to date there has been no progress.

Amnesty International calls on the provincial and central government to prioritize the establishment of local truth commissions to ensure truth, justice and full reparation for victims and their families.

Efforts to deliver truth for victims and their families must form part of a wider framework of accountability for past crimes. Amnesty International calls on the Indonesian authorities to ensure that perpetrators of serious human rights violations are brought to justice in independent courts and in proceedings which meet international standards of fairness. Victims and their families must be provided with full and effective reparation under international law.

Amnesty International further calls on the Indonesian government to ratify the International Convention for the Protection of All Persons from Enforced Disappearance at the earliest opportunity, incorporate its provisions into domestic law and implement it in policy and practice.