

AMNESTY INTERNATIONAL

PUBLIC STATEMENT

Index: ASA 21/028/2012
27 July 2012

Indonesia: Attorney General must act on Komnas HAM report on 1965-66 violations

The Attorney General must immediately investigate the findings of the National Human Rights Commission (Komnas HAM), alleging that gross human rights violations which may amount to crimes against humanity were committed in the context of the abortive 1965 coup. Any delay will prolong the suffering of victims and their families. They have waited for over four decades for access to justice, truth and reparation, and for the state to acknowledge what happened to them.

According to Komnas HAM, which submitted its *pro-justicia* inquiry report to the Attorney General's Office on 20 July 2012, government officials were involved in the systematic persecution of members of the Indonesian Communist Party (PKI) and suspected communist sympathizers following the abortive 1965 coup. The Commission's three year investigation found evidence that widespread human rights violations occurred nationwide between 1965 and 1966 and continued into the early 1970s at a lower level. According to the Commission, these findings meet the criteria of gross human rights violations, which include crimes against humanity, as defined by the Indonesian Law No. 26/2000 on Human Rights Courts.

Komnas HAM called on the Attorney General to launch an official investigation based on its findings and to establish an *ad hoc* Human Rights Court to bring the perpetrators to justice, as provided by the Law on Human Rights Courts. Komnas HAM also called on the authorities to establish a truth and reconciliation commission and to make a formal apology to the victims and their families.

Human rights organizations have documented a range of human rights violations in the context of the abortive 1965 coup, including unlawful killings, torture, enforced disappearances, rape, sexual slavery and other crimes of sexual violence, slavery, arbitrary arrest and detention, forced displacement and forced labour. An estimated 500,000 to one million people were killed and hundreds of thousands were held without charge or trial. Many victims and their families also faced violations of their social, economic and cultural rights, and continue to experience discrimination in law and practice.

Amnesty International emphasizes that the acts investigated by Komnas HAM are not only crimes under national legislation but may also amount to crimes under international law, in particular crimes against humanity. Under both international law and the Law on Human Rights Courts, Indonesia has responsibility and jurisdiction to investigate allegations of crimes against humanity and – if sufficient admissible evidence exists – to prosecute those responsible.

Amnesty International welcomes reports that President Susilo Bambang Yudhoyono has instructed the Attorney General's Office to study the findings and to report back to him. However, previously the Attorney General's Office failed to fully investigate and prosecute cases submitted by Komnas HAM. There has been no progress on a number of inquiries conducted by the Commission submitted to the Attorney General's Office. These include alleged gross human rights violations, including unlawful killings, enforced disappearance, torture, and crimes of sexual violence that occurred in 1998-1999 during the fall of President Suharto, as well as alleged crimes against humanity committed in Wasior and Wamena, Papua in 2001 and 2003 respectively.

Amnesty International also urges Parliament to set up a truth and reconciliation commission as recommended by Komnas HAM. The commission should be established at the earliest opportunity and 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. In 2006, the Constitutional Court struck down the Law on a Truth and Reconciliation Commission (No. 27/2004) after it ruled that an article which provided reparation for victims only after they agreed to an amnesty for the perpetrator was unconstitutional. Six years later attempts to pass a new law have stalled.

Efforts to give effect to victims' right to the truth about what happened must form part of a wider framework of accountability in Indonesia. Such efforts should not be a substitute for the responsibility of the criminal justice system 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.

Amnesty International also calls on the Indonesian government to establish a national programme to provide full and effective reparations (including restitution, compensation, rehabilitation, satisfaction and guarantees of non-repetition) to the victims of serious human rights violations, in line with international law and standards. Any such programme must consider in particular the situation of the families of victims, as well as victims of crimes of sexual and gender-based violence.

The Indonesian authorities must also take concrete steps to combat impunity by ratifying at the earliest opportunity the International Convention on the Protection of All Persons from Enforced Disappearance and the Rome Statute of the International Criminal Court, incorporating the provisions of these instruments into domestic law and implementing them in policy and practice.

These measures are fundamental if Indonesia is to ensure all victims' access to justice, truth and reparations.