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Indonesia must stand up against torture and other ill-treatment

Between 5 and 7 May 2008, the UN Committee against Torture will meet in Geneva to discuss Indonesia's compliance with provisions set out in the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (or the Convention). Amnesty International welcomes this opportunity and hopes it will lead to a major commitment by the Indonesian government to ban torture and ill-treatment in all its forms in Indonesia.

In a briefing released on 15 April 2008, "*Indonesia: Briefing to the UN Committee against Torture*" (AI Index: ASA 21/003/2008), Amnesty International provided information and analysis on the implementation by Indonesia of the Convention, and set out ways in which the Indonesian government could better comply with its obligations under the Convention. A number of aspects are highlighted in the briefing including insufficient provisions prohibiting acts of torture in the Criminal Code; insufficient safeguards in the Criminal Procedure Code; the absence of specific legal provisions prohibiting 'non-refoulement'; torture and other ill-treatment in detention; the death penalty and caning; weak accountability mechanisms; and the inadequate implementation of the Domestic Violence Law.

Amnesty International acknowledges Indonesia's progress in certain aspects of tackling the problem of torture and ill-treatment in past years, for instance through legal reform, human rights trainings to police and military officials, and efforts to strengthen accountability mechanisms. However, the organization believes that those measures have been far from sufficient.

The absence of strong legal and procedural safeguards preventing the use of torture in all circumstances is one of the weaknesses in the system. Although Indonesia's Criminal Code and Criminal Procedure Code have been under revision for many years, they have yet to include sufficient provisions prohibiting the use of torture. The Criminal Code does not have a comprehensive definition of torture, and lacks provisions making these offences punishable by appropriate penalties that take into account their grave nature. Further, the Criminal Procedure Code contains provisions allowing prolonged detention of suspects without being brought before a judge and insufficient safeguards prohibiting the use of statements that have been made as a result of torture as evidence during judicial proceedings. The result has been that torture and other ill-treatment are still widespread in Indonesia.

According to a recent study conducted in four detention centers or prisons in Java in 2007-8 by the Jakarta Legal Aid Institute (*Lembaga Bantuan Hukum, Jakarta*), over 80 per cent of the 367 prisoners interviewed, including women and children, had been subjected to torture or other ill-treatment during arrest and interrogation. Forms of torture and other ill-treatment used by state officials – mostly the police – were of a physical, psychological as well as sexual nature and included punches, kicks, slaps, threats at gun point, being forced to masturbate or being stripped naked in public. Many of those interviewed did not report these crimes because they were scared of doing so, because they were not aware they could file complaints or because they did not think

their complaints would be taken seriously. Those who complained of torture and other ill-treatment in court reported that their complaints were not taken into account by judges during proceedings and did not lead to sanctions for perpetrators.

The cases stated above confirm some of the findings of Amnesty International's briefing to the UN Committee against Torture. Despite progress since the fall of Suharto ten years ago, there is still a prevalent culture of violence among police and military officials in Indonesia which is being nurtured by a lack of credible accountability mechanisms. Victims, their families and lawyers do not have access to a satisfactory independent complaints mechanism to submit complaints and report crimes of torture and other ill-treatment, and the criminal justice system fails to deliver justice, truth and reparations.

In a small number of cases of human rights violations, including torture and other ill-treatment, committed by members of the police force, there have been internal investigations or officers have been subject to internal disciplinary proceedings. While Amnesty International welcomes the use of disciplinary measures as part of a system ensuring respect for human rights, the organization emphasizes that such measures cannot replace investigation and prosecution under criminal law, as provided by the UN Convention against Torture. Furthermore, the Law must protect against and explicitly prohibit the use of torture and deliberate acts of ill-treatment. Thus any complaints and investigations of alleged cases of torture and other ill-treatment should always be treated as suspected criminal offences and be brought before independent civilian courts. It is also essential that victims are fully informed of the legal proceedings against the alleged perpetrators and are ensured reparations in accordance with international standards.

Amnesty International sincerely hopes that the upcoming sessions of the UN Committee against Torture on 5-7 May will provide a key forum for discussion of some of the issues set out in Amnesty International's briefing and in other non governmental organizations' submissions. Ten years after the ratification by Indonesia of the Convention, these sessions should be a turning point in Indonesia's commitment to eradicating the incidence of torture and other ill-treatment on its territory.

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