

AMNESTY INTERNATIONAL PUBLIC STATEMENT

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Indonesia: Exxon Mobil decision a reminder of continuing impunity in Aceh

Amnesty International welcomed the decision by a US Court of Appeals that US-based Exxon Mobil can face claims relating to extrajudicial killings, torture, and prolonged arbitrary detention by Indonesian soldiers in Indonesia's Aceh province under the US Alien Tort Statute (ATS).

A group of villagers from Aceh filed lawsuits in 2001 and 2007 against Exxon Mobil Corporation, a US corporation which operated a large natural gas extraction and processing facility in the Aceh province of Indonesia in 2000–2001. They claimed that Exxon Mobil should be held responsible for its complicity with human rights violations perpetrated by Indonesian soldiers who were mandated to protect the company's property and operations. In a 2-1 decision on 8 July 2011, a US Circuit Court of Appeals said that Exxon Mobil does not have corporate immunity from claims filed by 15 Indonesian villagers under the ATS.

The decision sends a signal to the Indonesian government to do more to ensure there is truth and justice for past human rights violations in Aceh. No suspected perpetrators have been brought to trial for any of the thousands of cases of human rights violations, including torture and ill-treatment, believed to have taken place between 1989 and 1998 when the province was a military operations zone (Daerah Operasi Militer, DOM).

Aceh province suffered from a decades-long insurgency, and associated human rights violations and lack of development, that only ended after an August 2005 peace agreement between the Indonesian government and the armed pro-independence movement (Gerakan Aceh Merdeka, GAM) was signed.

The resulting 2006 Law on Governing Aceh (No. 11/2006) provided for the establishment of a Human Rights Court. The law also called for the creation of an Acehese branch of the Truth and Reconciliation Commission. Neither body has been established to date.

Amnesty International calls on the Indonesian authorities to immediately establish the Human Rights Court and ensure that a Truth and Reconciliation Commission is established and functions according to international law and standards, as set out in Amnesty International's paper, *Truth, justice and reparation: Establishing an effective truth commission*, (Index: POL 30/009/2007), 11 June 2007. The government must also ensure that perpetrators of past human rights violations and abuses, including torture and ill-treatment in Aceh, are held effectively to account. This includes co-operating with respect to on-going litigation in relation to the case brought in the US.

Amnesty International knows of only two instances in Indonesia where cases involving human rights violations in Aceh between 1998 and May 2003 have been investigated and resulted in trials. Only a few cases of human rights violations have been dealt with during the subsequent period of military and civilian emergency (May 2003–August 2005).

Amnesty International welcomes the US Court of Appeals' view that companies are not immune from liability under the ATS for "heinous conduct" allegedly committed by its agents in violation of international law. Victims of human rights violations in which multinational

corporations are allegedly involved should have unobstructed access to the courts of the corporations' home states, and these states should take steps to remove any obstacles that deny victims this access.

As this case demonstrates, access to home state courts (i.e. places where companies are domiciled or registered) is often the only realistic avenue for victims of corporate-related human rights abuses to have their claims heard and achieve any form of reparation. The Court of Appeals' decision to allow the claims to proceed in the US provides a vital opportunity to have the merits of the allegations made against Exxon Mobil properly examined by a court.