

AMNESTY INTERNATIONAL

PUBLIC STATEMENT

Index: ASA 21/001/2014
8 January 2014

Indonesia: Aceh parliament passes truth commission bylaw to address past human rights abuses

The passage of a truth commission bylaw (*qanun*) in Aceh province in December 2013 is a historic step towards addressing impunity for past human rights abuses committed during the Aceh conflict. The organisation calls on the central government to extend full support for the establishment of such a commission in line with international law and standards to ensure truth, justice and reparation for victims of the conflict and their families.

On 27 December 2013, after eight years of campaigning by human rights groups and victims organisations, as well as significant efforts by Acehnese parliamentarians, the Aceh House of People's Representatives passed the Aceh Truth and Reconciliation bylaw. The bylaw has now been submitted to the Ministry of Home Affairs for approval before it comes into effect.

The setting-up of such a commission had been included in the 2005 Helsinki Peace Agreement and 2006 Law on Governing Aceh (No. 11/2006). However the lack of political will as well as the failure by the central government to enact a new national truth commission law, after it was struck down by the Constitutional Court in 2006, delayed its formation for years.

The establishment of truth commissions is 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. During visits to Aceh in 2012 and 2013, Amnesty International met victims from many districts in Aceh who continue to demand to know the truth about the violations they suffered. Amnesty International also met family members, particularly of those who were killed or disappeared, who want to establish the fate and whereabouts of their loved ones.

Amnesty International urges both the Acehnese and central government to ensure the truth commission bylaw is implemented at the earliest opportunity and that the commission operates in line with international law and standards.

The organisation also calls on the central government to pass a national truth and reconciliation law so that victims of other past human rights violations such as during the events of 1965-66, the 1998 May riots, and the conflicts in Papua and Timor-Leste (formerly East Timor) can seek truth, justice and reparation.

Efforts to give effect to victims' right to truth 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.

Addressing these past crimes would not only contribute to healing the open wounds of the civilian population, it would also help strengthen the rule of law in the country which can help secure the peace process in the long-term.

Amnesty International welcomes provisions in the Aceh truth commission bylaw to guarantee the independence of the Commission and to provide it with a clear mandate to establish the truth about human rights abuses and to recommend comprehensive measures to ensure reparation for the victims.

However some provisions in the bylaw fall short of international law and standards and should be strengthened to ensure that the truth commission operates effectively. Among others, the definition of human rights violations or abuses is currently limited to those rights guaranteed by Law No.39/ 1999 on Human Rights and should be expanded to expressly include violations of all human rights set out in the Universal Declaration of Human Rights and other human rights treaties that Indonesia has ratified (Article 1.14). Further, the definition of "serious human rights abuses" in the bylaw should not be limited to genocide, crimes against humanity and war crimes but should also include other crimes under international law such as torture, extrajudicial executions and enforced disappearances (Article 1.15). It should also be clarified that participation by perpetrators of all crimes under international law, in reconciliation processes, cannot result in amnesty before national courts.

The bylaw also does not specify that members of the Commission should include individuals who have expertise in international human rights and humanitarian law as well as individuals experienced in dealing with victims of serious crimes, including traumatized victims, victims of sexual violence and children victims. Further, Amnesty International is also concerned that the requirement for all commissioners to be able to read the Koran is discriminatory, and will limit participation especially of non-Muslims (Article 11.c).

The Aceh conflict between the armed pro-independence movement Free Aceh Movement (*Gerakan Aceh Merdeka*, GAM) and the Indonesian government dated back to 1976, and peaked during military operations from 1989 until 2005. It took a brutal toll on the population there, leaving between 10,000 and 30,000 dead, many of them civilians.

An Amnesty International report published in April 2013 found that victims and survivors of abuses committed during 29-years of violence are still waiting for the government to establish the truth about what happened to them and continue to demand justice and reparation. Amnesty International and other human rights groups have documented a range of crimes committed by members of the security forces and their auxiliaries against the civilian population, including unlawful killings, enforced disappearances and torture – crimes which have gone largely unpunished. Human rights abuses by GAM included hostage taking and the targeted killings of those suspected of ties to the government.

Many of the violations and abuses committed by both sides in the context of the non-international armed conflict may amount to war crimes. Many of the violations directed by Indonesia's forces and their auxiliaries against civilians as part of the policy of suppressing the independence movement appear to have formed part of a widespread or systematic attack and may amount to crimes against humanity.