

ICCPR INDONESIA
NGO ASSESSMENT OF THE FOLLOW-UP ACTION OF THE STATE PARTY
in implementing UN Human Rights Committee's recommendations

Submitted by
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RECOMMENDATION 8: GRAVE HUMAN RIGHTS VIOLATIONS IN THE PAST

Observation from the Human Rights Committee

The Committee regrets the failure by the State party to implement article 43 of Law 26 of 2000 in order to establish a court to investigate cases of enforced disappearance committed between 1997 and 1998 as also recommended by Komnas HAM and the Indonesian Parliament. The Committee particularly regrets the impasse between the Attorney General and Komnas HAM with regard to the threshold of evidence that should be satisfied by Komnas HAM before the Attorney General can take action. The Committee further regrets the prevailing climate of impunity and lack of redress for victims of past human rights violations, particularly those involving the military (art. 2).

Recommendation from the Human Rights Committee

The State party should, as a matter of urgency, address the impasse between Komnas HAM and the Attorney General. It should expedite the establishment of a court to investigate cases of enforced disappearance committed between 1997 and 1998 as recommended by Komnas HAM and the Indonesian Parliament. Furthermore, the State party should effectively prosecute cases involving past human rights violations, such as the murder of prominent human rights defender Munir Said Thalib on 7 September 2004, and provide adequate redress to victims or members of their families.

Specific recommendation from the Committee:

“The Committee further regrets the prevailing climate of impunity and lack of redress for victims of past human rights violations, particularly those involving the military (art. 2).”

RESPONSE FROM NGO:

1) The case of human rights violation in Abepura, Papua in 2000:

Actions taken by the State party (if any) and current situation

There had been an allegation of human rights violation in Abepura, Papua, in December 7th, 2000 when the Indonesian Police Force raided the student dormitories in Abepura, brutally arrested around 100 students in response to earlier raid by unknown group causing the death of 2 police officers and one security guard. As result of the raid, several students were seriously injured and three were death. The Indonesian Commission on Human Rights (KOMNAS HAM) decided to establish National Human Rights Commission of Inquiry (*Komisi Penyelidikan Pelanggaran Hak Asasi Manusia – KPP HAM*) based on the decision February 5th, 2001 No. 020/ KOMNAS HAM/ 2001. In its conclusion, the team found that there had been torture, summary executions, and assault, and recommended

prosecuting 25 police officers, 21 for their direct role in the violence and four for operational responsibility.¹

Based on Law No. 26 of 1999, a regional court was established in 2005 in Makassar, South Sulawesi to hear the Abepura case. Around 100 witnesses were heard and provided evidence of evidence of systematic arrests and beatings by the security force. Two low rank officers were accused of human rights violation. However, the court acquitted both officers and dismissed the victims' claims for compensation.

Other Comments and actions immediately required from the State

The 2001 Special Autonomy Law for Papua has the provision to create Human Rights Court for cases of human rights violation in Papua. To presence, the Government of Indonesia has failed to comply with the requirement in the Special Autonomy Law to create a Human Rights Court in Papua.

This is a proof that the Government of Indonesia fails to deliver the transition justice and also fails to achieve truth, accountability, and justice for serious human rights violation.

2) The case of Paniai shooting, in Enarotoli, Paniai District, Province of Papua in 8 December 2014:

Actions taken by the State party (if any) and current situation

We deplore the continuing human rights violation in Papua. The most recent human rights situation was the extrajudicial execution of four high school students in Paniai, Papua Province. On 8th December 2014, the Indonesian security forces shot dead four high school students,

1. Mr. Alpius Youw (17 yo),
2. Mr. Yulian Yeimo, (17 yo),
3. Mr. Simon Degei (18 yo),
4. Mr. Alpius Gobai, (17yo).

We received a report that at least 23 other people. Military and police officers fired into the crowd of around 800 indigenous villagers who had gathered to perform a traditional Papuan Waita dance. The dance was an expression of grievance of events of the night before, when military officers ill-treated two children and shot another.

Based on Law No 39, 1999 on Human Rights, the National Commission on Human Rights established an Ad-Hoc Investigation Team (*Tim Penyelidik Ad-Hoc*). The two members of the Team, Commissioner (Mr) Manager Nasution and Commissioner (Mr) Natalius Pigai went to visit to Paniai on February 17th to 20th 2015. They met and spoke with the witnesses. In conclusion of the visit, the team indicated the allegation of human rights violations.² However, the team faced the difficulty to collect information from the military personnel.

According to 1997 Law No 31 on Military Courts, the Courts have jurisdiction to prosecute all crimes committed by soldiers. Therefore, KOMNAS HAM Ad-Hoc Investigation Team has no possibility to

¹ Komnas HAM, *Laporan KPP HAM Papua: Ringkasan Eksekutif* [Human Rights Commission of Inquiry (KPP HAM) report on Papua/Irian Jaya: executive summary] (May 8, 2001), 11; Human Rights Watch, *Violence and Political Impasse in Papua* (July 2001), 15-21.

² See <http://www.hukumonline.com/berita/baca/lt54dde1d649192/komnas-ham-bentuk-tim-penyelidikan-kasus-paniai>

investigate and hear the witnesses from the military members. The military members refused to talk to KOMNAS HAM. Similarly, the Police are facing the similar concern. They cannot investigate the witnesses from the military due to the application of the Military Court Law.

Other Comments and actions immediately required from the State

We express our concern on failure of KOMNAS HAM to conduct investigation on human rights violations which are allegedly involving military personnel, such as the case in Paniai above. Therefore there is an urgency for the Government of Indonesia to revise Law No 31, 1997 on Military Courts system which currently lets impunity prevails.