



ASIAN HUMAN RIGHTS COMMISSION

19 Floor, Go-Up Commercial Building, 998 Canton Road
Kowloon, Hong Kong . Tel: +(852) 2698-6339 . Fax: +(852) 2698-6367
E-mail: ahrchk@ahrchk.org . Web: www.ahrchk.net

INDONESIA: The Human Rights Situation in 2006

Asia has hardly been the poster-child for Human Rights; in fact, its track-record of human rights violations has grown progressively worse over recent years. Indonesia is no exception. Government conspiracies and corruption, police brutality, judicial apathy, civil unrest and state-sanctioned torture have become a routine reality in Indonesia.

In this report, we will highlight and explore in-depth some of the key fundamental issues that underlie the current crisis in Indonesia. By examining recent events in the broader context of this institutional crisis, which is holding the country in deadlock, we can begin to make some leeway in understanding the magnitude of the problem at hand, and what can and must be done to rectify it.

MURDER OF A MARTYR: Recent developments in the Munir Murder Case

The assassination of renowned Indonesian human rights defender, Mr. Munir Said Thalib, and the subsequent highly dubious investigations and paper-thin prosecution offers an opportune analytical starting-point in gauging the current climate of State politics and stability in Indonesia.

The theatrical court prosecution of the case came to a dramatic conclusion, when on October 3, 2006, the Panel of Judges of the Supreme Court in Jakarta returned with a verdict of 'Not Guilty' in the criminal case against prime suspect, Garuda Airways Pilot Pollycarpus Budihari Priyanto on the charge of premeditated murder. Mr. Pollycarpus was however found guilty of falsifying the Garuda Airways work roster, and was sentenced to two years imprisonment.

Although hardly surprising, considering the high political stakes involved in the said criminal trial, the Supreme Court's ruling blatantly overlooked the findings of an evaluational examination conducted by the Central Jakarta District Court and the Jakarta High Court between the 20th-23rd May 2006, which exposed the shoddy standards of application of domestic legislation and judicial procedure in the criminal investigations into Mr. Munir's murder.

The examination findings also made direct reference to a letter signed by primary witnesses, Ramelgia Anwar (Vice Corporate of Security for Garuda Airways) and Indra Setiawan (Director of Garuda Airways), instructing Mr. Pollycarpus to travel aboard the 974 flight to Amsterdam, in which Mr. Munir would be travelling. Additionally, it was

found that Mr. Pollycarpus had been in almost constant contact with Major-General Muchdi PR (Deputy of the Badan Intelijen Negera (BIN), a State Intelligence Body) prior to travelling aboard the said flight. Records show that Mr. Pollycarpus made over 41 calls to Mr. Muchdi's mobile phone, his home telephone, as well as at his office at BIN.

Despite the documenting of what is undoubtedly damning evidence of a complex and carefully politically-orchestrated conspiracy, the Attorney General and the National Police have shown no intention to conduct further investigative inquiries in light of these findings.

The Supreme Court's ruling was met with moral outrage by the late Mr. Munir's grieving family, colleagues and far-reaching support base. The Committee on Solidarity for Munir, by far the most vocal of political pressure groups in Indonesia, held a press-conference on October 5, 2006, in which they openly challenged the competency of the Indonesian judiciary, police and parliament.

Mr. Munir's family and supporters, who continue to be subjected to threats, intimidation and extreme harassment by police and political agents alike, recently filed a 13 billion Rupiah (US\$1.4 million dollar) lawsuit against Garuda Airways for the death of Mr. Munir.

In a very recent development, Mr. Munir's widow, Mrs. Suciwati, met with Mr. Philip Alston, UN Special Rapporteur on Extra-Judicial, Summary, or Arbitrary Executions in New York, appealing that he lead an official UN intervention and investigative inquiry into Mr. Munir's murder. This was met with outright indignation by Indonesian political and police authorities alike.

Chief of National Police, General Sutanto, vehemently stated that he would under no circumstances allow international (particularly UN) involvement in police investigations; *"This is our sovereignty...we want no foreigners interfering in the process"*, but added that international assistance in the form of technical support (e.g.: loaning their DNA testing services) was preferred.

Defense Minister, Dr. Juwono Sudarsono also stated that while the genuine concern, interest and sincere advice of foreign governments and international humanitarian bodies was welcome, *"...We don't need international intervention...our own legal systems can handle this"*. It is not clear whether this decision could effectively mean that Mr. Alston will be denied entry to Indonesia.

Such a move by the Indonesian Government in the face of mounting international pressure following Mr. Pollycarpus Priyanto's acquittal could seriously undermine the credibility of the Indonesian State, notably with regard to its membership in the UN Human Rights Council.

DIAGNOSING THE DISEASE: Breaking down the problem of Indonesia's institutional failure.

Mr. Munir's murder and the subsequent series of events offer a telling insight into the desperate situation in which the fundamental principles of justice and human rights finds themselves in Indonesia. If this is "justice" for one of Indonesia's most prominent public citizens, one can only imagine what is available to ordinary Indonesian citizens.

The AHRC is of the view that the rule of law is fundamental to the maintenance of a stable society and the fundamental principles of human rights within that society, and that the current and prevailing predicament that has long characterized the highly volatile Asian region can be traced to the near total collapse of the rule of law in many Asian nations.

In the case of Indonesia, we will present this predicament issue by issue, as follows:

International Convention vs. Domestic Legislation

The overarching obstacle to any form of rule of law in Indonesia, and indeed in wider Asia, is the ever-expanding vacuum between the norms and standards embodied in international conventions, and those put into practice at the domestic legislative level.

A recently elected member to the UN Human Rights Council in May of 2006, and a State party to the UN Convention against Torture (CAT), the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESR), Indonesia has often been accused of paying lip service to international institutions and bodies of authority (namely the UN), while simultaneously and systematically failing to fulfil its fundamental obligations to its people.

According to the European Court of Human Rights, the CAT convention is a "*living instrument which must be interpreted in the light of present-day conditions*"; it is here where the underlying root-cause of the problem lies. A major point of contention and heated debate concerns the failure of the Indonesian government to accommodate the fundamental principles of the CAT in domestic legislation, and the establishment of a systematic mechanism through which these principles may be translated into practice - eight years after having ratified the said convention.

Despite its three primary courts of law: the Court of General Jurisdiction; the Military Court; and the more recently established Human Rights Court, the pursuit of justice still remains a distant prospect for many Indonesians.

The existing Indonesian Penal Code (KUHP) and the Law of Criminal Procedure (KUHAP) does not explicitly employ the term 'torture' in its legislative literature, instead opting for the much milder term 'maltreatment'. However close in definition, 'maltreatment' does not equate to torture before a court of law, and therefore cannot be

prosecuted as such. More importantly, it does not take into consideration human rights violations committed by State-agents; a key qualitative aspect of the international definition of torture under the CAT. The UN Committee against Torture stated on this matter that: *“The special nature of torture would be masked by classing torture together with traditional terms such as mistreatment or abuse of authority. And while torture is certainly covered, to a large extent, by national terms, there is one important difference. A substantial characteristic of torture is that the actions are performed by the State. Bringing torture under the traditional national and provisions would damage an important qualitative and distinguishing aspect of torture”*.

The core cause of the current crisis of the rule of law in Indonesia, particularly with regard to torture and other human rights violations, is that the existing laws in Indonesia are not self-executing. They remain abstract concepts on paper, unfulfilled in practice. The responsibility for this largely lies in the hands of Indonesia’s collapsed prosecution system.

Much hope was pinned on the establishment of the Human Rights Court in 2000, initially established - largely due to international pressure - to address the atrocious record of human rights violations committed by the Indonesian government and military in the build-up to East Timor’s independence in 1999.

Seven years on, and all hopes have faded. What was once seen as a monumental step forward has actually proved itself to be two steps back. The definition of a human rights violation according to the Human Rights Court has been stretched so tight, that its current criteria for deciding the eligibility of a case for prosecution is based solely on the fact of whether it is part of an organized and systematic project of mass genocide. As a result, the vast majority of cases of torture and other human rights violations committed by State-agents in Indonesia which do not occur under genocidal circumstances, go unprosecuted and unpunished.

The Military Court has been suggested by some to bear the disturbing characteristics of the highly despotic culture of the New Order Regime, which was overturned in 1998. By virtue of Article 9[a] of Law 31/1997, any military officer charged with a criminal offense has the right to demand to be tried by a military court, which consists of their superiors. The process of prosecution within a military court is a behind-closed-doors affair, and often overrides any and all decisions made by either the Court of General Jurisdiction or the Human Rights Court.

The status of the military in Indonesia could be said to be that of a dictatorship. It has become somewhat of an acknowledged fact of the Indonesian brand of “justice”, that military officers and personnel are able to skirt around the law, and evade any accountability whatsoever for their actions before courts of law, even going so far as to point-blank refuse to cooperate with investigations. In fact, public fear of the military in Indonesia is so great that they very openly intimidate, bribe, blackmail, harass and threaten (often with death) the victims and their families, trial witnesses, independent investigators, human rights activists, and even the prosecution and judges themselves.

It is a well known fact that many public prosecutors are highly reluctant to take on criminal cases involving military officers or personnel, and it has been known for prosecutors to deliberately lose their cases for fear of the repercussions of a victory against Indonesia's ever-powerful military.

Despite the recent passing of a Witness and Victims' Protection Bill by the Indonesian parliament, it will be another year (possibly longer) before the law is officiated and put into practice. However, human rights activists and organizations have expressed their concern over the content of this new law, which prescribes that a person's eligibility for witness/victim protection will be assessed and decided by a State-appointed commissioner. This is a clear violation of the obligations of the Indonesian government under the ICCPR, which identifies equal access to witness/victim protection as a fundamental civil and political right. At present, the lack of an established system of protection and support has left victims and trial witnesses vulnerable to intimidation, harassment, and even violence.

Therefore, given the circumstances, it is hardly surprising that many succumb to accepting bribes, or choose to settle their cases out of the courtroom as opposed to gambling on the evidently collapsed and completely ineffective system of law and order in Indonesia.

Police Torture: An Epidemic out of Control

Torture is at the top of Indonesia's lengthy record of human rights violations, and is fast becoming an epidemic. Ironically enough, it is the law-enforcement authorities who more often than not are responsible for the violation of the very laws and principles that they have been assigned to protect.

The collapse of the rule of law in Indonesia can be directly traced to the collapse of the police as a legitimate law-enforcement authority. The relatively recent separation of the police from under the authority of the military has meant that for the first time, police officers could be held accountable before the Court of General Jurisdiction. This was seen by many as a crucial victory. The high hopes were short-lived, however, as the Criminal Procedure Code was speedily amended to prohibit the prosecution of any criminal case that has not been subject to an official police investigation and inquiry, including in prosecution cases against police officers themselves. The implications of this amendment effectively mean that the police are able to block, stall and even discontinue any and all investigative inquiries and disciplinary actions made against their officers.

The realities of this are that the police and the military in Indonesia currently enjoy privileges of power that even the Government are not privy to. In fact, one could even argue that their level of power is gradually resembling that of a dictatorship, much in the style of former President and despot, General Suharto. Despite their functioning independently from each other, the police nevertheless continue to employ highly

militaristic methods of discipline, whilst the military continue to play a significant role in the maintenance and enforcement of public law and order.

Case Study: Mr. Yupiter Manek

Mr. Yupiter Manek was arrested and kept in detention by officers of the Belu Resort Police on December 18, 2005 on charges of sexual harassment of a young female employee of a local department store. Mr. Manek was subsequently tortured by Belu Police officers, and on December 23, 2005, slipped into a coma. After having been admitted to the nearest hospital, and with his family at his bedside, Mr. Manek succumbed to his injuries at 12:30 pm on the same day.

According to members of his family, Mr. Manek's body was severely bruised and swollen, and inside his trouser pocket, they found a cigarette pack on which was written, *"Uncle, Father, Mother, Minggus, Eta, Jum, Igung, (I) was butchered by the Belu Resort Police"*. When confronted with this, the Deputy Officer in Charge (OIC) of the Belu Police Headquarters denied any responsibility concerning Mr. Manek's death, instead alleging that Mr. Manek was a drug addict, and fell in the bathroom, where he sustained a head injury which induced his coma.

The Belu Police authorities pressured Mr. Manek's family into signing binding documents agreeing not to sue the Belu Police for Mr. Manek's death, and also not to press for a post-mortem examination of Mr. Manek. Mr. Manek's family later appealed to the East Nusa Tenggara Provincial Police to revoke these documents, and requested a formal investigative inquiry into Mr. Manek's death.

On the February 2, 2006, the Chief of the Belu Resort Police passed a disciplinary sentence on four police officers allegedly responsible for Mr. Manek's torture. Officer Muhammad Ramlah - believed to be the "ringleader" in this incident - was sentenced to 21 days imprisonment, while the three other officers were sentenced to 14 days imprisonment. It is important to make mention here, that these disciplinary sentences were made on the basis of "maltreatment" charges, as opposed to torture and indeed murder. Having completed their sentences, the said officers were reinstated in their prior positions, and have not been prosecuted any further.

Case Study: Mr. Marino

Mr. Marino, a 38 year old farmer, was brutally gunned down by officers of the Sukoharjo Mobile Police Unit on October 20, 2006, at his parents-in-law's home in Central Java.

On the date of the said incident, brigadiers Sutrisno, Mulyono and Tupono were conducting raids on well-known local gambling haunts, when they spotted Mr. Marino transporting a diesel machine (which he used to irrigate his farm) by bicycle with his brother Widodo.

A local farmer and resident of the Muningan Village in the Sukoharjo district, Mr. Marino had been irrigating his farm and was travelling to his parents-in-law's home.

The officers in question, for reasons still unexplained, pursued Mr. Marino and his brother, following them to the his parents-in-law's home. There, the officers accused Mr. Marino of being involved in the local underground gambling scene; charges which Mr. Marino vehemently denied. Brigadier officer Sutrisno then fired a warning shot into the air, before shooting Mr. Marino. Mr. Marino was rushed to the nearest hospital, where he succumbed to his injuries a few hours later. To date, no prosecutory action has been taken against the said officers.

These two cases are merely the tip of the iceberg of Indonesia's record of human rights abuses committed by the police. The police are crucial intermediaries between the State and its people. Therefore, the collapse of the police as a legitimate source of law, order and social morality carries both micro- and macro-level repercussions for the stability of society itself.

Torture has become endemic in the existing system of law-enforcement in Indonesia and is the police's "trump-card". Cases of torture of criminal suspects, detainees, witnesses, the homeless and innocent persons hardly raise an eyebrow amongst the local masses, who have long grown accustomed to the Indonesian "method" of policing.

Indonesia's most unconventional methods of detention of criminal suspects have come under heavy criticism from the local and international humanitarian community. Contrary to international standards, the police in Indonesia are able to detain a suspect for an extendable period of 20 days, and additionally, are under no obligation to produce the suspect before a Magistrate. If the suspect is sentenced to imprisonment of under nine years, the police can upon issuing a formal appeal to the Magistrate, detain the suspect for an additional period of 60 days, and 120 days if the suspect is sentenced to more than nine years imprisonment.

The unwarranted accusation and subsequent killing of innocent civilians by police officers who are willing to name and shame a person whom they know to be innocent for the sake of concluding an investigation, has also become part-and-parcel of Indonesia's system of law and order.

One of the most difficult tasks that any judicial system will inevitably be confronted with is the issue of ensuring that State institutions, agencies and actors are not immune to the very laws which they have been assigned to enforce and protect; a task at which Indonesia is failing miserably. Excusing State-actors of accountability seriously undermines public faith in the justice system and in the very legitimacy of the State itself.

The existing system of law and order in Indonesia has created a "trickle-down" culture of corruption, chaos and social anarchy. By indulging in such reckless, lawless and brutish behaviour, officers of the police and the State are setting a poor example for citizens to

follow. This begs the crucial question: if the State cannot adhere to the rule of law, how can one then expect citizens to?

Right to Redress: A fundamental, yet systematically denied right for many Indonesians.

The question of torture is inevitably tied to the question of redress for the unfortunate victims of torture. Under the CAT, the right to redress for victims of torture is clearly enshrined as a fundamental right. It also clearly identifies redress as the sole responsibility of the State and State-systems. Yet again, the Indonesian Government has failed to deliver on this issue.

The problem of the lack of redress for victims of torture and other human rights abuses in Indonesia results from poor State mechanisms for processing, investigating and prosecuting human rights abuse cases. Particularly in cases involving police or military officers, any and all official complaints filed by either the victims or their families more often than not are stalled indefinitely, and rarely reach the courts.

Intimidation of victims, witnesses and their families into withdrawing their complaints currently accompanies many, if not all human rights abuse cases in Indonesia.

Case Study: Mr. Rudi Sebastian

On August 16, 2006, Mr. Sebastian was arrested by officers of the Garut Attorney General Office and detained at the Garut Correctional Institution in the Garut district of West Java, where he was tortured by four correctional officers. Mr. Sebastian was at no point informed of the charges under which he was being arrested or detained.

Mr. Sebastian suffered severe bodily bruising and injuries; sustaining two broken fingers, swelling of the eyes, hands and legs and was unable to walk. The next day, when Mr. Sebastian's wife - Mrs. Imas Tini - visited him at the correctional institution, he identified his torturers as Ahmad Syarif, Nana, Catur and Oki. On August 22, 2006, Mrs. Imas Tini filed a formal complaint against the accused officers, but was threatened by the Chief of the Garut Correctional Institution, who allegedly said; *"You could complain to the police. But we cannot guarantee Rudi's life"*. Undeterred, Mrs. Tini filed a formal complaint with the Resort Police of Garut. To date, despite a formal complaint, there has been no official investigation into Mr. Sebastian's case.

The Truth and Reconciliation Commission Bill is a clear example of the insincerity of the Indonesian State in fulfilling its obligations under the CAT to grant its citizens equal access to avenues of redress in the event of the violation of their human rights. Established in 2004, the Truth and Reconciliation Commission Bill is widely condemned as the State's attempt to whitewash its deplorable record of human rights-related crimes during the 1965-66 massacres. The Bill states that the victim's forgiveness of their

perpetrators is a mandatory condition for claiming State compensation for their physical and psychological grievances. By doing so, the victims are effectively sealing their perpetrators' immunity from prosecution. Despite it being widely condemned by both local and international humanitarian organizations, activists and actors, the Indonesian government has made no amendments to the Bill.

Also at issue here, is the right of the victims (and their families) to be informed of the court verdict. At the present moment, under Indonesia's judicial legislation, the official verdict passed by the court judge is made known only to the prosecutor and the defendant. In many prosecution cases, the victim has often learnt of the outcome of their case at the same time as the public.

Marginalization of the Minorities: A Recipe for Disaster

The UN Declaration on the Rights of Persons belonging to National or Ethnic, Religious or Linguistic Minorities and the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief clearly identify a person's right to practice their chosen form of religion without fear of reprisal and discrimination, as well as the right of minorities in any given society to participation and representation within the State's democratic process. As a member of the UN Human Rights Council, the Indonesian government should incorporate these fundamental principles in its domestic legislation, and set up mechanisms to oversee the fulfillment of these rights for all its citizens. Although the Indonesian Constitution does acknowledge the rights of its citizens to their freedom to practice their chosen form of religion without fear of persecution, the realities on the ground show a very different picture.

Indonesia's Muslim community comprises over 86% of the total population and enjoy the privileges of power commonly associated with a majority, whilst Islamic norms and values have primacy in Indonesian society. Currently, the Indonesian State only recognizes six major religions: Islam, Christianity, Catholicism, Buddhism, Hinduism and Confucianism. This sidelines the numerous other religious groups that exist in Indonesia. As a result, these groups and their members are marginalised, greatly narrowing the scope of their participation in public life.

Those wishing to marry in Indonesia must first complete a registration form which requires that the couple specify their religion. Those from minority religious groups that are not recognized by the Indonesian government must in many cases list themselves as Muslim and marry according to Islamic custom.

Islamized politics and political parties have seen a steady rise in recent years, and have undoubtedly impacted intra-religious affairs in Indonesia. In 1961, the government, which is heavily backed by Islamic political parties, made a public declaration in which they accused the Ahmadiyyahs, an Islamic minority group, of being heretics and "non-Muslims". Their spreading of anti-Ahmadiyyah sentiments across the cross-section of

orthodox Muslims is believed to have incited a spate of attacks against members of the Ahmadiyyah minority.

Case Study: Attacks on Ahmadiyyahs

Three houses owned by Ahmadiyyahs were attacked and vandalized by frenzied mobs of up to 100 people, and one Ahmadiyyah follower sustained minor facial injuries in a religiously motivated attack in the Ketapang Village of West Lombok on Lombok Island on October 19, 2005.

This was one of a series of intimidation attempts by the local orthodox Muslim community to drive the three resident Ahmadiyyah families out of the village before the commencement of Ramadan, the most important occasion in the Islamic calendar.

In a similar act of religious hatred, a 400-strong mob of villagers attacked, vandalized and plundered a local Ahmadiyyah mosque, over 23 houses owned by Ahmadiyyah followers (11 of which were irreparably damaged), and 1 car owned by an Ahmadiyyah follower in the rural village of Cicakra in the Cianjur region of West Java on September 20, 2005.

Arguably the most extensive attack against Ahmadiyyahs, took place on the 9th and 15th of July 2005, when a mob numbering in their thousands attacked an Ahmadiyyah settlement, torching it to the ground.

Similar attacks on Ahmadiyyah-owned property, including mosques, homes, schools, shops and vehicles, have been reported across Indonesia, from Kalimantan to Lombok.

Alongside the problem of the attacks themselves, is the apathy and inactivity on the part of the Indonesian government and the police to protect the Ahmadiyyah community and other vulnerable minorities, and to prevent such attacks in the future. To date, the police have taken no action in conducting official investigations into any of the reported cases of discriminatory attacks against the Ahmadiyyah community, nor have they taken any prosecutory action against those persons involved in the attacks. This shows the complete failure on the part of the Indonesian State to protect its citizens, which is one of its most fundamental obligations.

Case Study: The Execution of three Catholic prisoners in Poso

Fabianus Tibo, Dominggus Da Silva and Don Marinus Riwu were executed by firing squad at an undisclosed location near Palu Mutiara Airport in the Poso region of Central Sulawesi Province on September 22, 2006. Having been convicted in 2001 on charges of inciting a mass communal riot in Poso in 2000, which left over 200 Muslims dead (charges which the three prisoners vehemently denied up until the day of their death), local and international humanitarians and political commentators believe that their

execution was driven by a heavily political agenda, in order to placate the agitated Muslim majority.

Having been postponed several times due to mounting international pressure, a final decision on the execution date was set following a meeting between Indonesian President Mr. Susilo Bambang Yudhoyono, and Central Sulawesi Police authorities. Despite the uncovering of substantial evidence confirming the prisoners' innocence, the Supreme Court rejected appeals for a judicial review of the criminal case on the basis of the fact that under the Indonesian Constitution, a criminal case may only be reviewed once. During the process of their prosecutory trial, witnesses who could support the innocence of the defendants were barred from testifying before the Supreme Court. President Yudhoyono rejected the prisoners' joint appeal for clemency twice - in November 2005 and later in May 2006.

Lessons that need to be Learnt: The way forward for Indonesia

In conclusion, the AHRC recommends that the Indonesian authorities implement the following recommendations:

1) The Indonesian government must undertake immediate reform to ensure consistency between international norms, standards and procedures and those followed at the domestic level. As a member of the UN Human Rights Council, and as a State-party to the CAT, ICCPR and ICESCR and other such UN conventions, the Indonesian government is bound by obligation to protect, maintain and enforce the fundamental human rights enshrined in these instruments. This can only be achieved by developing domestic legislation that directly corresponds with international human rights laws and standards to which the country is party.

With regard to the rule of law, the key lies with the existing domestic Penal Code (KUHAP) in Indonesia. The AHRC recommends that the Indonesian government make immediate amendments to the existing Penal Code. A key point of reform is the current domestic definition of torture that does not differentiate between torture and maltreatment between undermines a fundamental qualitative aspect of the CAT with regard to torture; that it is a gross human rights violation of the highest order, committed by officers of the State. Therefore, the Indonesian government urgently needs to revise its definition of torture to directly correspond with that stipulated in the CAT. The government must introduce mechanisms under which cases of torture can be speedily and effectively reported, investigated and prosecuted.

In addition, the existing draft of the Witness and Victim's Protection Bill must urgently be revised to provide witness/victim protection to all persons who require it. The existing Bill which prescribes that a person's eligibility for witness/victim protection must be decided by a State-appointed commissioner is in clear violation of the ICCPR, to which the Indonesia is a State-party. Under the ICCPR, equal access to witness/victim protection is clearly identified as a fundamental civil and political right.

2) The unbridled power of the military and the police in Indonesia is a serious cause for concern. It is evident from the case studies included in this report, that the crisis of the rule of law is inextricably linked to the collapse of the police and other institutions of the rule of law as legitimate law-enforcement authorities and sources of communal morality.

There can be no rule of law in Indonesia, or indeed anywhere, when officers of the State routinely abuse and remain immune to the very laws that they have been appointed to enforce and protect. By taking prosecutory action against those police and military officers who have demonstrated a total disregard and indifference to the rule of law through their human rights violations, the Indonesian government will be sending a clear message to both its citizens and its officers alike: let no-one be immune before the law.

A transparent system of justice is crucial to reaffirming the legitimacy of any State. This is a critical requirement for the Indonesian State. The current use of military courts and the pattern of selectively adhering to domestic judicial legislation and procedures is a clear step in the wrong direction. Therefore, the AHRC strongly recommends that the Indonesian government review this matter, and clip the wings of the military by making it mandatory that criminal cases in which military officers have been charged with abuses against civilians be tried in the Court of General Jurisdiction. Moreover, the Indonesian government should take appropriate disciplinary action against military officers who refuse to comply with the State authorities and judicial procedures and official investigations.

3) The right to redress and compensation for grievances inflicted by the State is a fundamental principle of the CAT, to which Indonesia is party. Therefore, the fact that over 90% of torture cases reported in Indonesia do not result in a conviction is simply unacceptable.

In addressing this issue, the Indonesian government must first amend its existing legislative definition of torture (as mentioned previously) to acknowledge the gravity and nature of the crime, and also introduce effective and efficient mechanisms for processing, investigating and prosecuting human rights abuse cases.

This also relates to the issue of adequate victim and/or witness protection, as intimidation of victims, witnesses and their families into withdrawing their complaint and/or testimony accompanies many, if not all human rights abuse cases in Indonesia. The Indonesian government must take immediate measures to create a supportive and protective environment for victims of torture and other human rights-related abuses. This is a necessary step towards ensuring redress.

In the event that a torture case is taken to court, it is the fundamental right of the victim to be informed of the case verdict when and as it is decided. Under the present Indonesian Constitution, the official verdict passed by the court judge is made known only to the prosecutor and the defendant. This is in urgent need of reform.

The Truth and Reconciliation Commission Bill of 2004 is a mockery of justice, and must be abolished without further ado. That a victim must first forgive the perpetrator, and by doing so, effectively grant them prosecutory immunity before being able to claim compensation is farcical. As a member of the UN Human Rights Council, the Indonesian government is under strict obligation to address the issue of human rights violations committed under its jurisdiction, and more importantly, to take appropriate disciplinary action against State-agents found to have committed these violations. By continuing to neglect the issue of the human rights atrocities committed during the 1965-66 massacres, the Indonesian State risks losing its international credibility.

4) Indonesia's religious minorities have long been neglected by the government. By failing to acknowledge these religious minorities, the Indonesian government is effectively actively participating in their social marginalization and vulnerability. The AHRC strongly urges President Yudoyono to immediately publicly condemn the recent and ongoing spate of attacks against members of the Ahmadiyyah minority, and bring the perpetrators of these attacks to justice.

The AHRC strongly urges the Indonesian government to acknowledge the Ahmadiyyahs and other religious minorities as legitimate religions of Indonesia, so that they too may participate in public life and civil society as equal citizens.

5) The AHRC strongly urges President Yudoyono and his government to press for an official judicial review of the recent acquittal of prime suspect Mr. Pollycarpus Budihari Priyanto in the murder trial of the late Mr. Munir Said Thalib. Despite the recent uncovering of new and conclusive evidence showing a complex and carefully orchestrated political conspiracy of murder, the Attorney General and the Chief of National Police have shown no intention to conduct further investigative inquiries, which, in light of the recent findings, is the only appropriate course of action.

Therefore, the AHRC requests that further investigations be conducted into Mr. Munir's murder in light of these recent findings. That more than one person was responsible for orchestrating Mr. Munir's murder is evident, therefore, the refusal to comply and cooperate with official criminal investigative procedure on the part of officers of the State Intelligentsia (BIN) must not be tolerated.

In addition, the AHRC is concerned by the Indonesian government's response to UN Special Rapporteur on Extra-Judicial, Summary or Arbitrary Executions, Mr. Philip Alston's attempts at international intervention in the matter. Chief of National Police, General Sutanto's statement that he would under no circumstances allow international (particularly UN) involvement in police investigations into Mr. Munir's murder severely undermines the international credibility of the Indonesian State. It is the strong opinion of the AHRC that the international community should be included in ongoing investigations, due to the State's obvious failure to carry out an impartial investigation and prosecution in this case.

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