

Written statement submitted by the International NGO Forum on Indonesia Development (INFID), a non-Governmental organization on special consultative status

Item: 11 b

Disappearances and Summary Executions

The practices en forced disappearances which has been going on since 1965 until the present time has not been given serious consideration from the government. Various kinds of complaints and requests, including handing in related documents, has been done by the victims' family and The Commission for Disappearances and Victims of Violence (Komisi untuk Orang Hilang dan Korban Tindak Kekerasan /Kontras), to the president and National Commission for Human Rights (Komnas HAM) and other institutions. Yet there are no significant progress due to the lack of political will and coordination among state institution in applying the legal regulations.

Since 2004, the National Commission for Human Rights (Komnas HAM) as the sole institution holding the authority to investigate the incidents which are suspected as human rights abuses still shows reluctance in maximizing the authority, instead they only carry out studies on those cases. The cases being studied are also still having the partial nature, thus the commission is feared of not being able to completely uncover the forced disappearance incidents. Only in October 2005, the National Commission for Human Rights formed the Commission for Human Rights Abuse Investigations (KPP HAM) for the en forced disappearances of pro democracy activists occurred in 1997-1998, which was expected to be able to open the way to the Human Rights trials for those cases. Yet the investigation and disclosure efforts of the National Commission for Human Rights were rejected and opposed by some parties suspected as the actors of the Human Rights abuse, specifically the Indonesian National Army (TNI) and National Police (POLRI).

Forced disappearance cases are not phenomena of the past. In Aceh, post martial law, we noted that there were forced disappearance cases still occurring. In 2005, nine people were reported missing, seven originated from Aceh, one from Medan. The data did not include cases where the victims families who were scared of reporting the existing forced disappearance cases, since during the martial law period in Aceh, Human Rights activists did not have enough mobility space to carry out Human Rights abuse monitoring Whereas in 2004, approximately 51 people were missing.

Other case that recently occurred on 24 August 2005 was a violence case of forced disappearance and murder on a 'Berita Sore' daily newspaper in Medan. Elyudin Telambua (51 years old) in South Nias was kidnapped by some people who—according to the witnesses—were under the order of Hadirat Manao, Chairman for Regional Legislative Council for South Nias. The victim was kidnapped for writing news of Hadirat Manao's fraud in the district head election. According to the witness, he was kidnapped on the way; he was beaten, kicked to death. His body was later thrown into the sea, but it was cast onto the beach. The body later was buried together with the body of recently dead man to cover the trail by the executor of the murder. Although there were

many people witnessing the violence, nobody dared to file a report to the police since there was no security protection guaranteed.

Up until now, Kontras noted there were 1508 reported cases of involuntary disappearances occurring since 1965 until 2005. Yet we believe the number of involuntary disappearances during that span of period in Indonesia was more than that.

From our studies, the involuntary disappearances in Indonesia are systematic criminal act, carried out by the government apparatus to stabilize the power/authority and to silence the oppositions and public critical voice.

At the international level, we noted a significant progress in the struggle against involuntary disappearances after the Inter-Sessional Open Ended Working Group to Elaborate a Draft Legally Binding Instrument for the Protection of All Persons from Enforced or Involuntary Disappearances which was established by the UN Commission for Human Rights approved the UN Draft Convention for the Protection of All Persons from Enforced or Involuntary Disappearances on 23 September 2005. We hope the Convention draft will eventually be adopted by the UN General Assembly this coming September 2006. The adoption by the Convention that has an independent monitoring body hopefully will help UN member countries to halt involuntary disappearance cases, to call for the executors' responsibility, and to make the involuntary disappearance as history.

Meanwhile, until today, summary execution still occur in various conflict areas in Indonesia, utilizing various different methods and modus. The greatest occurred in Poso and Palu, Central Sulawesi. The murder such as the mysterious shootings occurred in Poso on 3 and 4 August 2005. Budiyanto and Sugito, citizens of Poso Kota were shot by a revolver by an unidentified motorist. One of the victims instantly died after being shot in the right side of his temple and the bullet's projectile nested in his head, whereas the other victim got some shooting wounds; two on his right chest, left side of his temple and mouth.

The summary execution cases in the form of mutilation were also increasing in Poso. On 29 October 4 female students of SMK Poso were mutilated, 3 of them died and one was wounded in the right side of her cheek by a machete cut. The victims were mutilated by unidentified group on their way to school. According to the witness, the group consisted of eight people.

Meanwhile, in Aceh, summary execution might be done to common citizen being in the wrong time or place between the Indonesian Army and GAM or when the military with their instinct or without any reasons carried out the violence acts or murders to the people. The numbers of involuntary disappearances in Aceh amounted to seven people. The number has not included the unmonitored victims during the martial law time in Aceh.

In 2005, the summary execution Indonesian amounted to 39 people, two of them caused by death penalties.

Death punishment is still in effect in Indonesia even when it contradicts the Human Rights constitution and Acts. Even though Indonesia has ratified the ICCPR in September 2005, yet Indonesia has not specifically ratified the optional protocol 2 regulating the abolishment of death penalty. During 2005, two victims were executed to death and some are still waiting for the death execution after being sentenced to death.

The government of Indonesia has not responded to the letter sent by the Special Rapporteur extrajudicial, summary or arbitrary execution (W/CN.4/2005/7/Add.1, 17 March 2005) dated 18 December 2003, in the form of an urgent appeal on the case in Banda Aceh where the chief editor of the biweekly newspaper Beudah, Mr. Maarif, had been interrogated for 10 hours by military intelligence apparatus who threatened to kill if the victim would not change the editorial of his newspaper.

The government also did not respond to another letter, dated 20 September 2004, bearing the type of a complaint on the case of the arrest carried out by Brimob (Mobile Brigade) and Polsek (Section Police) on Mr. Johan Calvin Werianggi. He was suspected to be a target because he was a vocal lawyer for the independence of Papua which was believed so by the local government.

The letter from the Special rapporteur dated 14 September 2004, bearing an urgent appeal against refusal of an appeal of clemency from the head of the state for 10 suspects who had been proven to be involved in narcotics related criminal acts.

Various efforts had been taken by the victims and their families as well as the NGOs to request the government's responsibility. The efforts covered advocacy works and campaigns in the national and international level. The National Commission for Human Rights (Komnas HAM) as an institution expected to put an end to the involuntary disappearance cases seemed to evade from their responsibility by pointing out that they did not have the authority to execute any investigations for such cases. Whereas the police as the law enforcement apparatus was also being passive and irresponsive on the prevention as well as to eradicate of the cases which often occurring, specifically in the conflict areas. The NGOs also carried out advocacy and campaign for the abolition of death penalty, which is an individual's non derogable right.

Based on it, we request that 62nd UNCHR :

1. The United Nations urge the Indonesian Government to do the investigations on cases of extra judicial killings beyond legal process cases as well as bring the culprits to court.
2. Urge the Indonesian Government to invite UNWG on Enforced or Involuntary Disappearances for an official visit to Indonesia
3. Urge the Indonesian Government to ratify optional protocol 2 ICCPR.

4. Urge Indonesian Government to carry out the efforts to reveal the truth, the investigations, open, total and fair justice and penalty on the various involuntary disappearance cases in Indonesia.
5. Urge the Indonesian Government to hasten the ratification of the Rome Statutes on International Criminal Court
6. Urge members state to support the adoption of UN Draft Convention for the Protection of All Persons from Enforced or Involuntary Disappearances by in the next UN General Assembly

Written by KontraS and HRWG