

07 June 2007

The Honorable
Ms. Hina Jilani
The Special Representative of the Secretary General
on the situation of Human Rights Defender

Dear Madam,

Warm greetings from the Commission for the “Disappeared” and victims of violence (KONTRAS).

First and foremost, the Commission for the “Disappeared” and victims of violence (KONTRAS) would like to thank you very much to send a letter without having a space to speech in front of you. On this occasion, we would like to inform the progress of the attack cases after you released these cases in Annual Reports by the Special Representative to the UN Commission on Human Rights. The attack cases were pointed to KontraS’ office and staff member occurred in 2002, 2003, 2005 and 2006.

In terms of the first attack occurred in 13 March 2002 by estimated 100 persons, calling the “Solidarity group for the families of the victims of blood Cawang. Several staff member of KontraS were beaten, kicked and attacked with broken glass including Munir, the founder of KontraS. According to your report in E/CN.4/2003/104/Add.1 page 93 mentioned that the seven people charged in connection with the attack on 17 April 2002. ***But then, up to now there is no trial for the perpetrators.***

The second attack was on 26 May 2003, approximately 20 members’ youth associations with reported links to the military allegedly called PPM as Pemuda Panca Marga, came to KontraS’ headquarters in Central Jakarta and physically assaulted KontraS’s activists, Usman Hamid, Ori Rahman and Gian Moko. The office was allegedly vandalized and some equipment destroyed. However, in your report E/CN.4/2004/94/Add.3 page 80 mentioned that the government informed that the Special Representatives that, contrary to the allegations made, the seven people had been detained in connection with the incident and full dossier had been completed. It is true that there is an investigation process in level of police. Some people in KontraS also were informed their witness in the police stations, but then the seven people detained had been released a couple months after the attacks. ***So far, there is no other suspect and no judicial process for the suspects.***

The biggest attack to KontraS, was stated in your report, E/CN.4/2005/101/Add.I. Munir, the former Coordinator of KontraS was died on 7 September 2004, during a flight to Amsterdam. Reportedly, the Netherlands Forensic Institute performed an autopsy allegedly indicates that Mr. Munir died from excessive levels of arsenic in his body, in particular in his stomach. Furthermore, the report allegedly states that the concentration and location of the arsenic indicates that it had been slipped into the food or drink he had consumed. After the incident, late Munir, Mrs. Suciwati received a death threat after she demanded, together with relatives of Mr. Munir, an impartial and thorough investigation into his death. Concern is expressed that the death of Mr. Munir may be a result of his activities to defend human rights, in particular his work as a lawyer and in connection with his activities for the KontraS. Our government was establishing the fact

finding team to investigate this case. Event though many international interest and respond, such as the letter from you and *Special Rapporteur on the Independency of Judges and Lawyer* on 23 November 2005 and *Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions* on March 2007, our government argued that the need for judicial independence made it impossible to influence the process, but police investigations remained underway. In fact, only one perpetrator brought to justice, even though in trial, the judge indicated that he has a connection with State Intelligence Body (BIN). ***Up till now, the police still conduct the investigation. But there has been no effective investigation of the intelligence officials implicated by evidence.***

The forth of the attack was on 17 November 2005 in car park area of the Central Jakarta District Court with the victims consisted of 20 human rights activists and supporters including from KontraS, Chrisbiantoro, Daud and Paulus and some mothers of the victims of the May 1998 tragedy. When one of the KontraS activists named Chrisbiantoro started shouting the name of the Muchdi and Nurhadi, two intelligence officers due to appear at the court that day, suddenly around 10 persons attacked the crowd. Chrisbiantoro was attacked with a hard object wrapped with newspaper. The attackers ripped up posters, leaflets and placards in support of Munir's case carried by people. ***There is no investigation for the attackers to cover the motive of the attacks and punish the perpetrators.***

For the last case is a letter made death threats against Usman Hamid (KontraS), Abdul Hakim Garuda (KOMNAS HAM), Thoby Mutis, the lecture of Trisakti University and Mugiyanto (Chairman of IKOHI) on May 2007. They had an intimidation in terms of the stated that they would be killed within 14 days. The death threat was signed by a person who identified himself as Mr. Julfikar, "Defender of the New Order", and accused the aforementioned of affiliating themselves with the Indonesian Communist Party (PKI). Concern was expressed that these death threats may be a result of their work in defending human rights, in particular, the work of KONTRAS, KOMHAS HAM and AFAD in exposing the alleged human rights violations perpetrated under President Suharto. These concerns were heightened by the killing on 7 September 2004 of Mr. Munir, the Chairman of AFAD and co-founder of KontraS. It was noted that Usman Hamid is a member of the official fact-finding team charged with investigating the suspected murder of Mr. Munir and the case of Trisakti Semanggi. Even this case already reported and observation by Special representatives jointly with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression in E/CN.4/2006/95/Add.1, ***however there is no investigation for this case by Police.***

In this regard for all the information above, we would like to ask you to clarify all the latest communication that you received to the Indonesian Government and urge to settle the investigation and judicial process for all cases of attack to KontraS' activist.

We shall truly appreciate the Honorable Ms Hina's favorable action on this request.

Thank you,
Very truly yours,

Usman Hamid, SH
Coordinator of KontraS

Past Abuses, Human Rights Defender and Impunity in Current Indonesia

The State's refusal to resolve past cases, threats, intimidation, and even bribery committed by perpetrators of serious human rights violations against the survivors hamper the effort to resolve serious human rights violations in the past, where a number of prominent leaders or Human Rights Defenders were victims. This brief report will describe several issues related to past abuses cases, Human Rights Defenders who became victims of past human rights violations, the state's refusal to resolve those cases and the efforts of victims' families who relentlessly fight to get the cases resolve.

I. Pattern of Past Abuses to HRD in Indonesia

In past cases of serious human rights violations, there were a number of leaders from political groups or religious groups, state critics, and student activists who were murdered, disappeared, kidnapped, tortured, had unfair trial, detained without trial, alienated and detained arbitrarily, criminalized, and were labeled as communists or members of satanic sects. Such actions serve as proof that security apparatus acting as State's agent disabled these key persons as a means to weaken society's critical thinking. Such practices are often committed in several cases of serious crimes from 1965 until today.

II. Human Rights Defenders who were killed in Past Abuses

There were several Human Rights Defenders who became victims of serious crime, whose cases were refused to be resolved by the State or where the perpetrators were punished in manners that were neither accountable nor transparent. Among these were: 1). In the eradication of "Communist" movement in 1965-1966, a human rights defender was victimized, Pramoedya Ananta Toer. He was a writer who was critical towards the government and his thoughts were considered to be "left" by the new order regime. He was arrested and sent into exile in Buru island. Furthermore, his writings were also banned from publication. 2). Amir Biki in Tanjung Priok case (1984), a Moslem leader who was vocal in criticizing "Pancasila" as the sole ideology during the New Order government. He was shot dead during a demonstration on 12 September 1984. 3). Warsidi, the leader of Islamic Village in Talangsari Village Lampung, was killed and then defamed after his death, by saying that he was a leader of a satanic sect who wanted to build an Islam country in 1989. 4). Four Trisakti students, members of Security Task Force during a demonstration were shot dead on their vital body parts by security personnel during a demonstration in front of Trisakti campus, Jakarta (1998). 5). Benedictus Norma Irmawan, called Wawan; an economy student from Atma Jaya University, Jakarta, was shot while he was working as a volunteer to help students who were injured due to the violence perpetrated by the security personnel (TNI and Polri) in front of Atma Jaya University (1998); 6). Tengku Bantaqiyah, a leader and a teacher in an Islamic school in Betueng Atueh, Aceh, was killed together with dozens of his pupils in a military operation conducted by the Indonesian Army Strategic Reserve Command (Kostrad TNI AD) in 1999; 7). Theys H. Eluay, a leader of the peace movement for the independence of West Papua was kidnapped and killed by the Indonesian Army Special Forces (Kopassus TNI AD) in 2001, meanwhile, Aristoteles, the driver, is still missing until today; the new order government also kidnapped and committed involuntary disappearances against pro-democracy activists and non-majority political parties (1997-1998) who were known to be critical towards the regime and who were potential in mobilizing the communities.

III. Advocacy on past abuses

Victims who returned and are still alive, and families of missing, killed and traumatized victims' have made several efforts to uncover the truth, and to prosecute and bring the cases to human rights court. There is progress in several cases but it is neither accountable enough, nor transparent, and failed to punish the perpetrators appropriately.

Event though the victims were went to many institutions to ask the judiciary process for their case, the government seems reluctant to fulfill their rights. They were conducting the audience with the Police or Military Institutions, National Commission of Human Rights, Attorney General, Supreme Court, the Parliament and the President. They also made the demonstrations and conduct the annual commemoration to keeps other people's memory collective of the tragedies and declared that the human rights cases were unsolved.

The reluctant of the government clearly appears. In the gross violation of human rights of the 1965-1966 massacres, there has been no investigation at all. Meanwhile, in the shooting of students 1998-1999, May 1998 case, kidnapping and disappearances of pro-democracy activists in 1997-1998, the Attorney General refused to follow up the cases and they were used as a political tool by the Parliament. Similarly, it is still unclear how serious human rights violations in the past that occurred in Aceh and Papua are going to be resolved.

Waiting for justice and the darkness for the further development of those case, when the government conceals the truth and hides the one who should responsible; government takes many measures to let impunity resigns as far as government concerns the old regime; government is unwilling to resolve the case; and the president keep silent.

Since January 2007, victims' families has started a new activity called "*Black Thursday Silent Action* : Solidarity for Victims of Human Rights Abuses", where they stand up and stay silent for 1 hour in front of the Presidential Palace while wearing black clothes and black umbrella with photos of their families which symbolized their mourning, their hopeless situation due to the rejection of the government to take responsible for their case. This activity is performed every Thursday with the purpose of waiting for the President of the Republic of Indonesia to take attention and immediately resolve all cases of serious human rights violations in Indonesia.

IV. Obstacles/intimidations to Survivors (HRD) in Advocacy

There are several obstacles in resolving cases of serious violations in the past; *firstly*, on State level in the form of bureaucracy; use as a political tool by the parliament; the President's "silence"; shallow interpretation on the implementation of human rights court by National Commission of Human Rights, Attorney General and Human Rights Court (Ad hoc); use of Military Court mechanism or *koneksitas* court and the use of *Nebis In Idem* as a reason; the release of perpetrators of human rights violations; "communism" propaganda towards human rights advocacy movement; lack of information regarding the case progress or case handling by the court.

Secondly, among the perpetrators, in the form of bribery towards the victims, whose economic condition is difficult and poor (since their rights to jobs and education had been violated); in Tanjung Priok 1984 and Talangsari 1989 cases, the perpetrators used the mechanism of "*Islah*" (an Islamic terminology which means to reconcile) in order to ask the victims to stop demanding to resolve the cases; violent acts in the form of intimidation, efforts to stop activities also

occurred in Tanjung Priok and Talangsari cases when the victims and their families were about to demand for the resolution of case or during trial; also, they are frequently asked by police and military personnel in their neighborhood about the advocacy plans, as if they are being terrorized; statements that the cases have been resolved; accusations that the parties who keep demanding to re-open past cases are a threat to national/local security; spreading defamation for foreign interests.

Thirdly, among the victims and victims' families, in the form of depression and emotional exhaustion as well as being stagnant in seeing how the state deny its responsibilities of resolving past cases of serious human rights violations. There were even 3 fathers from Trisakti and Involuntary Disappearances cases who died from depression, with others suffering from loss of eyesight, hypertension, and diabetes.

V. Recommendation

On following that, we would like request for the attention of International community, through UN, especially UN Special representative for HRD, to request our government to :

- 1) Immediately urge the Indonesian government to resolve cases of serious human rights violations against HRD in the past.
- 2) Immediately urge the Indonesian government to immediately find the whereabouts of those who are still missing
- 3) Immediately urge the Indonesian government to provide information needed by the victims.
- 4) Immediately urge the Indonesian government to implement the Witness and Victims Protection Law by establish and elect the members of the Witness Protection Institution
- 5) Immediately urge the Indonesian government to immediately create a Reparation Program for the victims of serious human rights violations in the past.
- 6) Immediately urge the Indonesian government to respect the existence of the Indonesian Constitution, Law No.39 on Human Rights and Law No. 26 Year 2000 on Human Rights Court, that guarantee human rights for the sake of the presence and the freedom of HRD and Survivors in Indonesia.

Presented by:

**KontraS (Commission for the Disappeared and Victims of Violence) – www.kontras.org
June 6th, 2007**