

## **Progress Case**

### **Activists kidnapping in 1998**

Case of activists kidnapping happened to several youth activists and students who intended to uphold justice and democracy in the New Order Regime. Those who were critical in responding to the government's policy were considered as a dangerous group who endanger the country. They were seen as threats that would hamper the governance.

It started in 1996 when the campaign for general election started and several members of Indonesian democracy party struggle (PDIP) were kidnapped without any news of their fate. Then, it continued during the riot in May 1998 until the kidnapping activists from Democratic People Party and Indonesia Students Solidarity for Democracy.

The kidnapping of Pius Lustrilanang, Desmond J Mahesa, Haryanto Taslam, Mugiyanto, Aan Rusdianto, Faisol Reza, Rahardja W Jati and Nezar Patria encouraged civil community movement to demand responsibility from the military which was considered the perpetrator. One by one, the victims was returned, but until 2004 there are still 14 people missing. They are Suyat, Yani afri, Sonny, M.Yusuf, Noval Alkatiri, Dedy Hamdun, Ismail, Bimo Petrus, Abdun Naser, Hendra Hambali, Ucok Siahaan, Yadin Muhidin and Wiji Thukul.

The victims and victims' families started to move and demand the government to take responsibility on the kidnapping in 1998. Besides from forming Indonesian Association of Families of the Disappeared (IKOHI), many advocacy efforts were conducted such as meetings and actions with the responsible institutions and public campaign nationally and internationally.

The strong demand from the victims and the public finally had the government through its Commander of TNI (state army) to form the Council of Military Ethical Office (Dewan Kehormatan Perwira) to carry out an investigation. DKP proved that the kidnapping and forced disappearances were committed by Kopasus (Special arm forces) involving several military institutions and Police. Letjen TNI Prabowo Subianto admitted that he gave an order to kidnap and he also admitted mistake in analyzing an order under the operational control and is willing to take responsibility. As the result, Letjen Prabowo Subianto was released from the military while Mayjen Muchdi PR and Col.Inf. Chairawan were released from their duties.

Late 1998, a military court was held to prosecute 11 members of Kopasus (Mawar Team) who admitted the crime out of their own conscience. This team admitted of kidnapping 9 activists but was unable to reveal the whereabouts of the other 14 victims. The team also denied of torturing the victims. The defendants were sentenced 15 to 26 months of imprisonment and release from TNI.

In 1999, the victims and victim's families submitted their litigation to the East Jakarta state court. the litigation demanded the court to order the Commander of TNI to explain the whereabouts of the still missing victims.

The victims and victims' family still insisted on the state to be responsible through the investigation conducted by Komnas HAM because the kidnapping classified as severe human rights violation. The victims and victims' families also fight internationally by joining an organization called AFAD. In mid 2003, Komnas HAM formed a review team on the case of activist kidnapping 1998 but so far there has been no report on the review result.

The recommendation, in January 2005 Komnas HAM formed inquiry team for disappearances people in May Riots 1998 and abduction activist 1998. However, there was no significant progress made from the team until the team was longed in April. Beginning May 2005, the team started to interview victims and families as well as the witness coming from military and special armed forces (esp 3 generals: Wiranto, Prabowo & Syafri Syamsudin). The team sent calling until three times and used the court to pressure them to present in Komnas HAM, but it failed.

Finally at the end of October 2006, the Ad Hoc Team released the report of inquiry result that mentioned several human rights violation to victims such as arbitrary and arrest detention, torture and enforced disappearance and the last about reparation for the victims and families.

Then, Komnas HAM delivered the report to Attorney General. Until the middle of year 2007, the Attorney General has not followed up by reason that the Ad Hoc tribunal for human rights is not established by parliament. Since for the reason, the debate came up and down between Komnas HAM and Attorney General. The parliament also involved to set up bilateral meeting between both of institutions. In the middle of debating, suddenly Parliament set up special committee (*Pansus*) to settle the case. Up to now, nothing action came from the committee.

On 26 March 2008, there were several victim's families met to President SBY, representatives of tragedy Semanggi I, May Riots 1998, disappearance activist 1997, Tanjung Priok massacre 1984 and KontraS reported directly to President about the difficulties to resolve the case and who the responsibility of all cases occurred. To respond their report, President would conduct meeting special limited cabinet to be attended all ministers and other assistants of President who handle to the human rights violence resolve. On the meeting, President also promised to ask clarifications from AG, Mr Hendarman Supanji about the statement of lost documents of Trisakti Semanggi, as well as the statement of minister of defence, Mr Juwono Sudarsono on not essential for military officers and former members of TNI to fulfill of Komnas HAM invitation to be witness in inquiry team.

On July 1, 2008, KontraS and IKOHI visited the Third Commission of the Parliament. The group demanded that the Attorney General (AG) be called to explain why he is not implementing the MK decision to conduct further investigation on the four gross human rights violations. Specifically, the group's calls were: (1) Demand the AG to investigate enforced disappearance cases which occurred in 1997-1998 especially that of 13 persons who remain missing up to this day. Since these cases are continuing crimes, these should be handled by the permanent human rights tribunal and not necessarily by an ad hoc tribunal; (2) The President must establish an ad hoc human rights tribunal for past cases based on the documents which Komnas HAM have

already submitted to the AG. The victims' families and surfaced victims are now closely monitoring the developments related to their calls.

On February 21, 2008, the Constitutional Court (MK) issued its decision through Decree No. 18/PUU-V/2007 based on their discussion on Law No. 26/2000 article 43. The MK cited that Article 43 verse 2 is valid and a part of its decree is as follows: “..in deciding whether it is needed to establish an ad hoc human rights tribunal on a particular case according to *locus* and *tempus delicti*, this requires the involvement of a political institution representing the people, which is the Parliament.

Meanwhile, on September 15, 2009 the Special Committee of the House of Representative regarding the case of abduction and enforced disappeared of student activists 1997 – 1998 released some recommendations. The recommendations are *first*, to recommend the president to establish an ad hoc Human Right Court, *second*, to recommend the President including all government institutions and other related parties to immediately find out 13 people who was announced by National Commission for Human Right that they are still missing, *third* to recommend the President to facilitate the rehabilitation and satisfy compensation for victims and family of the disappeared, *forth*, the Government to immediately ratify the International Convention for the Protection of All Person from Enforced Disappearances. Eventually, On September 28, 2009 The Plenary Session of The House of Representative agreed to the Special Committee's recommendation and made a decision and recommendation to president to establish an ad hoc Human Right Court.