

## **KONTRAS (THE COMMISSION OF “THE DISAPPEARED” AND VICTIMS OF VIOLENCE)**

URGENT APPEAL: UNWILLINGNESS OF ATTORNEY GENERAL TO INVESTIGATE THE CASE OF ENFORCED DISAPPEARANCE IN 1997

INDONESIA: Unwillingness of Attorney General to investigate the case of enforced disappearance in 1997

Dear Friends,

**The Commission of “the disappeared” and victims of violence (KONTRAS) writes to inform you that the Attorney General has not yet followed up the fact finding finished by National Commission on Human Rights (Komnas HAM) in 2006.**

### **Case Details:**

In January 2005 Komnas HAM formed inquiry team for disappearances people in May Tragedy 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 Syamsuudin. 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.

On January 5, 2007, the Atty. General sent a letter to the Chair of Komnas HAM saying that his office cannot proceed with the cases because there is no Ad Hoc Human Rights Tribunal referring to article 43 of Law No. 26/2000 on Human Rights Tribunal. The Chair of Komnas Ham responded to the AG's letter saying that the further process does not need an Ad Hoc human rights tribunal. A copy of this letter was furnished to the President, the Chair of the Parliament and the Third Commission. The AG continued to hold on to his argument that the Parliament must first establish an Adhoc human rights tribunal before the cases are processed. In February 2007, the Plenary Meeting of the Parliament agreed that the cases will be reviewed by a Special Committe (PANSUS). The first session of PANSUS was held on 13 March 2007 and elected Panda Nababan as Chair. So far, nothing followed after this.

Meanwhile 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. However, the Parliament should also consider investigation results from the authorized institution if the Parliament wants to establish such tribunal. In other words, the Parliament will not rely on its own understanding as it has to review the investigation report made by the authorized institution, which is Komnas HAM and the Attorney General as stipulated in Law No. 26/2000.”

On April 1, 2008, the AG returned four documents from the 1997-'98 and May 1998 riot cases to Komnas HAM asking the commission to improve the documents. On April 28, 2008, Komnas HAM returned the four documents to the AG without any improvement. According to the commision, the AG should improve the documents as he is in-charge in the further investigation process. Thus far is the update of the cases to this writing.

**BACKGROUND INFORMATION:**

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, Faisal 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 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 sentence 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.

**SUGGESTED ACTION:**

Please write letters to the Indonesian authorities requesting their intervention (**please see attachment the sample letter**) to:

**1. Mr. Susilo Bambang Yudoyono  
President Republic of Indonesia**

Presidential Palace  
Jl. Medan Merdeka Utara  
Jakarta Pusat 10010  
INDONESIA  
Fax: + 62 21 231 41 38, 345 2685, 345 7782  
Tel: + 62 21 3845627 ext 1003  
E-mail: [presiden@ri.go.id](mailto:presiden@ri.go.id)

**2. Mr. Hendarman Supandji  
Kejaksaan Agung RI**

(Office of The Attorney General)  
Jl. Sultan Hasanudin No. 1 Kebayoran Baru, Jakarta 12160  
Telp. (021) 720-8577, 725-1403  
Fax. (021) 725-1277

## Sample Letter to President

August 30, 2008

**Mr. Susilo Bambang Yudoyono**  
**President Republic of Indonesia**

Presidential Palace  
Jl. Medan Merdeka Utara  
Jakarta Pusat 10010  
INDONESIA

Your Excellency,

.....(inform briefly on your organizations) .....  
(Name of organization).....would like to address some issues regarding the Komnas HAM Inquiry Team for the Talangsari Massacre of 1989 with you.

In January 2005 Komnas HAM formed inquiry team for disappearances people in May Tragedy 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 Syamsuudin. The team sent calling until three times and used the court to pressure them to present in Komnas HAM, but it failed.

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On April 1, 2008, the AG returned four documents from the 1997-'98 and May 1998 riot cases to Komnas HAM asking the commission to improve the documents. On April 28, 2008, Komnas HAM returned the four documents to the AG without any improvement. According to the commision, the AG should improve the documents as he is in-charge in the further investigation process. Thus far is the update of the cases to this writing.

Regarding all information above, we would like you to urge the Attorney General to follow up the process of investigation as mandate in the Law.

Such action would be in line with the statements of support you made at the March 26<sup>th</sup> meeting that was held with several victims and members of KONTRAS. At that meeting, you pledged your support to resolve cases of past abuse in Indonesian, including the Talangsari Massacre of 1989. Your support is essential for the victims and families who are seeking justice and would like to put the mystery of their disappeared relatives to rest.

Sincerely,

Cc:

**1. Mr. Hendarman Supandji**  
**Kejaksaan Agung RI**  
(Office of The Attorney General)  
Jl. Sultan Hasanudin No. 1 Kebayoran Baru, Jakarta 12160  
Telp. (021) 720-8577, 725-1403  
Fax. (021) 725-1277

**2. Mr. Agung Laksono**  
**Chairman of Parliament (DPR RI)**  
Gedung DPR - MPR, Jl. Gatot Subroto, Jakarta  
Phone: +62-21-57906467, 57906524.  
Email: [humas@dpr.go.id](mailto:humas@dpr.go.id), [admin@dpr.go.id](mailto:admin@dpr.go.id)

## Sample Letter to Attorney General

August 30, 2008

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Regarding all information above, we urge you to follow up the process of investigation as your mandate in the Law.

Such action would be in line with the statements of support that President SBY made at a meeting that was held with several victims and members of KONTRAS on March 26<sup>th</sup>. At that meeting, the President pledged his support to resolve cases of past abuse in Indonesian, including the Talangsari Massacre of 1989. Your support is essential for the victims and families who are seeking justice and would like to put the mystery of their disappeared relatives to rest.

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