

# INDONESIA

## ANNUAL REPORT 2007

Head of state and government: Susilo Bambang Yudhoyono

Death penalty: retentionist

International Criminal Court: not ratified

Perpetrators of human rights violations continued to enjoy impunity for violations which occurred in Nanggroe Aceh Darussalam (NAD) and Papua. In Papua, cases of extrajudicial executions, torture and excessive use of force were reported. Across the country, ill-treatment or torture in detention facilities and police lock-ups continued to be widely reported. Three people were executed in September, sparking increased debate about the death penalty. At least 13 people were sentenced to death. Freedom of expression remained under threat with at least eight people prosecuted for peacefully expressing opinions.

### Background

In May, Indonesia's ratification of the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights came into force, but legislation had not been enacted by the end of 2006 to incorporate the treaties' provisions into domestic law.

In June Indonesia was elected to the UN Human Rights Council and it promised to ratify the Rome Statute of the International Criminal Court by 2008.

Minority religious groups and church buildings continued to be attacked. In Sulawesi, sporadic religious violence occurred throughout the year.

In July, a long-awaited Witness Protection Act (Law 13/2006) was passed, establishing a witness and victim protection agency, among other positive developments. However, non-governmental organizations (NGOs) protested that incomplete definitions rendered the Law's protections inadequate.

### Impunity

In October, the Supreme Court overturned the conviction of Polycarpus Budihari Priyanto for the murder of human rights defender Munir, who was poisoned on a flight to the Netherlands in 2004. No-one has been held to account for this crime.

The majority of human rights violations by the security forces were not investigated, and impunity for past violations persisted. The Attorney General's Office (AGO) failed to act on two cases in which the National Human Rights Commission (Komnas HAM) had submitted evidence in 2004 that crimes against humanity had been committed by the security forces.

In March, Eurico Guterres - a Timorese militiaman sentenced to 10 years' imprisonment for crimes against humanity committed in Timor-Leste in 1999 - was jailed after the Supreme Court upheld his 2002 conviction. He is the only person found responsible for the 1999 crimes by the ad hoc Human Rights Court to have had his conviction upheld.

The Commission of Truth and Friendship established jointly by Indonesia and Timor-Leste to document crimes committed in Timor-Leste in 1999 and to promote reconciliation began its work. Provisions in its mandate included the ability to recommend amnesty for perpetrators of gross human rights violations.

In December the Constitutional Court annulled Law 27/2004 which mandated an Indonesian Commission of Truth and Reconciliation. Rights activists had challenged provisions allowing amnesty for perpetrators of severe human rights violations and limiting victims' ability to obtain compensation. However, the Court ruled that the whole law should be repealed as it was "illogical", some articles violated the Constitution, and the annulment of individual articles would render the rest of the law unenforceable. The annulment of the law left victims of past human rights violations without a compensation mechanism.

## **Torture and ill-treatment**

Torture and ill-treatment of detainees and prisoners continued to be widespread.

- Twenty-three men were reportedly ill-treated during police interrogation to make them "confess" to involvement in violence during a demonstration in Jayapura, Papua, in March. Before their trial in May, 16 of the defendants were reportedly kicked by police officers and beaten around the head and body with rifle butts and rubber batons to make them admit their guilt in court. Those who refused to acknowledge the charges were allegedly beaten and kicked by police when they returned to detention.

Prison conditions fell short of minimum international standards. Detainees lacked access to adequate bedding, health services, adequate food, clean water and hygiene products. They were subjected to physical and sexual violence and suffered from severe overcrowding. Juveniles were sometimes held together with adults, and women detainees were sometimes guarded by male guards.

## **Death penalty**

At least three people were executed by firing-squad during 2006 - Fabianus Tibo, Domingus da Silva and Marinus Riwu from Sulawesi. Their case heightened debate on the death penalty. There were concerns that their trial had been unfair and two of the three men were allegedly ill-treated before being executed.

There were announcements during 2006 that 19 further prisoners would be executed, including three men convicted of involvement in the 2002 Bali bombings. However, none of these were executed by the end of the year.

At least 92 people were known to be under sentence of death at the end of 2006.

## **Discrimination and violence against women**

In May, the National Commission on Violence Against Women criticized the lack of gender-sensitive provisions in the draft revision of the Criminal Procedure Code (KUHAP). The draft lacks sufficient provisions for the investigation and prosecution of crimes of sexual or gender-based violence and fails to address the particular needs of women in custody.

In August, the government issued a circular banning doctors and nurses from practising "female circumcision" (female genital mutilation). However, those who continued the practice would face no punishment.

Plans to pass into law a controversial pornography bill that would penalize women who wore short skirts or refused to cover certain parts of their body were ongoing at the end of the year.

The increasing application of Shariah bylaws by local governments appeared to disproportionately affect women. In February, a woman was sentenced to three days in jail after a judge ruled, after an unfair trial, that she was a sex worker because she was out on the street alone at night wearing make-up. In Tangerang municipality alone, there were at least 15 other cases in 2006 of women being arrested for similar offences - one 63-year-old woman was arrested while buying fruit.

Women domestic workers, who are excluded from the national Manpower Act, were subjected to violations of labour rights and to physical, sexual and psychological abuse. In June, the Ministry of Manpower prepared draft legislation on domestic workers but it did not regulate many basic workers' rights such as maximum hours of work and the minimum wage, or the special needs of women.

## **Nanggroe Aceh Darussalam**

The security situation in Nanggroe Aceh Darussalam (NAD) remained stable despite sporadic clashes.

The Aceh Governance Bill, passed by Parliament in July, provided for a Human Rights Court to be established for NAD to try perpetrators of future violations. However, it contained no provisions to bring to justice perpetrators of past human rights violations.

In September, local organizations submitted information to Komnas HAM about mass graves excavated in NAD since the signing of a peace agreement in August 2005. The organizations urged Komnas HAM to conduct thorough investigations and to prevent further excavations from taking place without the presence of the necessary medical and legal experts.

In December, the first local elections were held in NAD in the presence of the European Union-led Aceh Monitoring Mission, which extended its stay until 15 December.

Throughout the year concerns were expressed over the increased use of Shariah law in NAD, and its adverse effects on women. Women complained that they were disproportionately targeted by Vice and Virtue patrols and were harassed for minor infractions and sometimes for no apparent reason. Reports indicated that at least 23 people were caned for gambling, adultery, selling and consuming alcoholic drinks, and theft.

### **Papua**

There were reports of extrajudicial executions, torture and ill-treatment, excessive use of force during demonstrations and harassment of human rights defenders.

In at least six incidents civilians were shot at by the security forces.

- In January, a child was shot dead and at least two people were injured after security forces opened fire in the village of Waghete. Accounts of the incident by the police and by victims and witnesses differed widely. Many observers feared that the incident was in reprisal for the high-profile actions of 43 people from the Waghete region who sought asylum in Australia in January.
- In March, five members of the security forces were killed in Abepura after clashes with protesters demanding the closure of the gold and copper mine, PT Freeport. Security forces used tear gas and fired rubber bullets at the crowd. At least six civilians - and possibly many more - were injured, including one passer-by. Twenty-three people were prosecuted in connection with the violence. By the end of 2006, at least 21 men had been sentenced after unfair trials to between four and 15 years' imprisonment. All the detainees were reportedly ill-treated in police detention. Lawyers and human rights defenders involved with the trials were subjected to intimidation and received death threats.

Severe restrictions continued to bar nearly all foreign journalists and NGOs from operating in Papua. Officials claimed that foreign organizations were divisive, although access to Papua was granted to at least one international media team, albeit restricted and closely monitored.

### **Freedom of expression**

At least eight prisoners of conscience were sentenced to prison terms during 2006 and eight others sentenced in previous years remained in jail. They included peaceful political activists, union leaders, religious practitioners and students.

- In February and March, six union leaders - Robin Kimbi, Masri Sebayang, Suyahman, Safrudin, Akhen Pane and Sruhas Toto - were sentenced to prison terms of between 14 months and two years, apparently because of legitimate trade union activities. The men were arrested following a strike and demonstration at a palm oil plantation owned by the company Musim Mas, in Riau province, in September 2005. The strike followed the company's refusal to negotiate with the union, SP Kahutindo, over issues including the implementation of minimum labour standards under national legislation. Four of the men - Suyahman, Safrudin, Akhen Pane and Sruhas Toto - were released in November.

In December the Constitutional Court repealed as unconstitutional Articles 134, 136 and 137 of the Criminal Code, which punished "insulting the President or Vice-President" with up to six years' imprisonment. These articles had long been used to inhibit free speech and to imprison activists.

### **Security legislation**

In April, the police declared that around 200 people had been arrested since anti-terrorism operations began after the 2002 Bali bombing. At least 56 people were arrested under anti-terrorism legislation during 2006, and a further 24 people previously arrested were convicted. Despite declarations made in

February by the government and lawmakers that anti-terrorism legislation (Law 16/2003) would be revised, there was no visible progress during the year.

Reports that terrorist suspects were subjected to ill-treatment by police officials during interrogations continued. In April, police shot dead two terrorist suspects during a raid in Wonosobo, Central Java.

### **Economic, social and cultural rights**

Large-scale evictions were carried out with inadequate consultation, little or no compensation and excessive use of force.

- In January, two large-scale forced evictions occurred in east Jakarta, reportedly leaving over 600 families homeless, without suitable compensation or alternative housing. The series of forced evictions related to the expansion of the East-Jakarta-Cikarang railroad.

In May, exploratory drilling in east Java by the oil and gas company Lapindo Brantas triggered a vast flow of hot, noxious mud which had not been stemmed by the end of the year. The mudflow displaced around 10,000 people, engulfing entire villages, cultivated areas and infrastructure. In areas close to the mudflow more than 1,000 people were hospitalized with breathing difficulties and there were fears of water pollution.

Lapindo Brantas offered to pay an extrajudicial stipend of around US\$35 a month to those displaced, and reportedly set aside 6.9 billion Rupiah (US\$750,000) to cover future agricultural losses. Those affected protested that the compensation was inadequate. In September the President decreed that Lapindo Brantas should pay 1.5 trillion Rupiah (US\$163 million) to repair state infrastructure. He ordered that nearly 3,000 families be permanently relocated and provided with jobs and financial compensation. However, the government was not explicit on other rights, including the rights to adequate housing and water.

At the end of the year, hundreds of thousands of people were still without shelter as a result of the 27 May earthquake in Yogyakarta, which killed 5,900 people and displaced 1.5 million.

## **ANNUAL REPORT 2006**

**Although the general situation in Nanggroe Aceh Darussalam (NAD) improved after a peace agreement was signed in August by the government and the Free Aceh Movement (Gerakan Aceh Merdeka, GAM), impunity for serious human rights violations remained a concern. In Papua, cases of torture and arbitrary detention were reported. Across the country, the police used excessive force against demonstrators, and ill-treatment in detention facilities and police lock-ups was widespread. At least two people were executed by firing squad and at least 10 people were sentenced to death. Freedom of expression remained severely curtailed and at least 18 people were detained for criticizing the government.**

### **Background**

For the first time a representative of Indonesia chaired the annual session of the UN Commission on Human Rights in Geneva. In September parliament took the necessary steps to approve ratification of the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights.

Various religious minority groups came under threat. Members of the Ahmadiyya community were targeted for attacks, sometimes forcing them to flee. The Liberal Islam Network was also attacked, and several Christian churches were forced to close in Java. In Maluku and Central Sulawesi, ethnic and religious tensions continued to result in violence.

On 1 October bomb attacks in Bali killed 23 people.

### **Nanggroe Aceh Darussalam**

On 15 August a Memorandum of Understanding between the government and GAM was signed setting out a framework to end peacefully the 29-year conflict in NAD. Over 200 monitors from European Union and Association of South East Asian Nations (ASEAN) countries were deployed to monitor compliance with the agreement. By the end of the year over 30,000 police and army personnel had left the province and the fourth phase of the decommissioning of GAM's weapons had been completed. There was hope that the peace process would hold. Preparations for local elections were well under way.

In January human rights monitors, humanitarian aid agencies and journalists were allowed to operate in NAD for the first time since martial law was declared in May 2003. Their presence, although mainly restricted to areas affected by the 2004 tsunami, contributed to an enhanced feeling of security in the province.

In May, as part of the government's post-tsunami reconstruction and rehabilitation efforts, the Civil Emergency status in NAD was downgraded to Civil Order status. This had little impact in practice as military operations continued. However, as a result of the peace agreement in August the human rights situation improved significantly.

Despite considerable human and financial investment in the reconstruction effort, there was widespread criticism of the aid agencies' lack of local consultation and coordination. In November over 130,000 people were still living in tents or temporary barracks waiting for permanent housing. There were concerns that many were living in facilities that did not meet basic needs.

In August more than 1,400 political prisoners and at least two human rights activists were released from prisons in NAD and Java as part of an amnesty granted to alleged GAM combatants and their supporters. In October, concerns were raised that 115 GAM prisoners had not been released. During the military and civil emergencies, suspected GAM members and supporters faced unfair trials. Many suspects were denied full access to lawyers and were convicted on the basis of confessions reportedly extracted under torture.

According to local human rights organizations, during the Civil Emergency period alone (May 2004-May 2005) 80 civilians were killed: three died as a result of torture; 64 were assassinated; six were abducted and killed; and seven were killed during shootings. There were concerns that past human rights violations would not be prosecuted and that impunity could undermine prospects for a lasting peace. Despite provisions within the Memorandum of Understanding that a human rights court would be set up, the government announced that the court would not have powers to hear cases from the past.

## **Papua**

In March, the military announced plans to increase troop numbers in Papua by 15,000. There were concerns that this might lead to more human rights violations in the province. Hundreds of additional military troops were reportedly sent to Merauke in October. Concerns were also expressed that troops withdrawn from NAD could be deployed in Papua.

Tight restrictions on access to Papua by international human rights monitors, as well as harassment and intimidation of local activists, hampered independent human rights monitoring. At least two peaceful supporters of Papuan independence were sentenced to long jail sentences. There were reports of arbitrary arrests, torture and ill-treatment.

- In April, prisoners of conscience Yusak Pakage and Filep Karma were sentenced to 10 and 15 years in prison respectively for having raised the Papuan flag in December 2004. Both were imprisoned in Jayapura, Papua province, and had lodged appeals to the Supreme Court by the end of the year.

## **Security legislation**

Between April and June, at least 64 civilians were arrested under the Law on Combating Criminal Acts of Terrorism. Concerns about the legislation remained, including the inadequate definition of acts of "terrorism"; provision for up to six months' detention without access to judicial review; and provisions allowing capital punishment. There were reports that 36 of those arrested were arbitrarily arrested and four of them were ill-treated.

- In June, four peasant farmers — Jumaedi, Jumeri, Mastur Saputra and Sutikno — who were arrested in relation to a bomb attack in Tentena, Sulawesi district, in May, were reportedly beaten by police during interrogation. An internal investigation was initiated by the police but there were fears that it would not lead to full prosecution of those found responsible.

## **Excessive use of force**

Members of the police used excessive force on numerous occasions, including against demonstrators and detainees.

- In September, 37 people were reportedly wounded when the police shot into a crowd of around 700 peasant farmers in Tanak Awuk, Lombok island. The gathering was organized to commemorate National Peasants' Day and to discuss land issues. The police said they were responding to people attacking them. The National Human Rights Commission (Komnas HAM) sent a team to investigate the incident in October.

## **Torture and cruel, inhuman or degrading treatment**

According to a survey conducted by a local non-governmental organization, over 81 per cent of prisoners arrested between January 2003 and April 2005 in Salemba detention centre, Cipinang prison and Pondok Bambu prison, all in Jakarta, were tortured or ill-treated. About 64 per cent were tortured or ill-treated during interrogation, 43 per cent during arrest and 25 per cent during detention.

For the 12th consecutive year, the request by the UN Special Rapporteur on torture to conduct research in the country was not granted.

At least 29 men convicted of gambling and two women were caned under local Sharia (Islamic law) in NAD.

## **Impunity**

The Human Rights Courts proved unable to bring perpetrators of serious human rights violations to justice, including those in Tanjung Priok, Timor-Leste and Abepura.

In a report submitted to the UN Security Council, a Commission of Experts (CoE) appointed by the UN Secretary-General to review the prosecution of serious violations of human rights in Timor-Leste (then East Timor) in 1999 concluded that the judicial process before the Indonesian ad hoc Human Rights Court for Timor-Leste was "manifestly inadequate with respect to investigations, prosecutions and trials". The CoE pointed to provisions in the terms of reference of the Truth and Friendship Commission, officially established by the governments of Indonesia and Timor-Leste in March to reveal the truth

about the 1999 events, which “contradict international standards on denial of impunity for serious crimes”. In particular, the CoE stated that the Truth and Friendship Commission should not allow amnesties for cases of genocide, crimes against humanity and other grave human rights violations. Despite such criticism, the Truth and Friendship Commission was set up in August without appropriate changes to its mandate.

- In July, an Appeals Court overturned the decision by the ad hoc Human Rights Court in Jakarta to convict 12 military officials of charges arising from the detention, torture and killing of Muslim protesters in Tanjung Priok, Jakarta, in 1984. No one has been held to account for these crimes.
- In September, two police officers were acquitted by the Human Rights Court in Makassar and victims were denied reparations. The officers were charged with command responsibility for the killing of three people and the torture of many others in Abepura, Papua, in 2000. The initial investigation was marred by allegations of witness intimidation. The trial suffered severe delays in both the investigation and trial stages. The victims and their families lodged an appeal.

Investigations into other human rights violations were stalled. The report submitted in September 2004 by Komnas HAM to the Attorney General's Office suggesting that security forces had committed crimes against humanity in Wasior in June 2001 and Wamena in April 2003 were not acted upon during the year.

#### **Freedom of expression**

At least 19 prisoners of conscience were sentenced to prison terms during the year and three others sentenced in previous years remained in jail. They included peaceful political and independence activists, members of religious minorities, students and journalists. Defamation suits were also used against human rights activists, sending a chilling message to the human rights community.

- In September Rebekka Zakaria, Eti Pangesti and Ratna Bangun were each sentenced by the Indramayu District Court, West Java, to three years' imprisonment for having violated the 2002 Child Protection Act. The three women, all prisoners of conscience, were accused by a chapter of the Indonesian Council of Muslim Clerics of enticing children to participate in a Sunday school programme and trying to convert them to Christianity. The trial was marred by Islamists who made threats inside and outside the courtroom to kill the accused. In November the High Court confirmed the sentence.

#### **Death penalty**

At least 10 people, including two convicted of terrorism-related charges, were sentenced to death, bringing to at least 82 the total number of people known to be under sentence of death.

At least one woman, Astini, and one man, Turmudi bin Kasturi, were executed by firing squad. Both were convicted of murder.

#### **Violence against women**

Women's organizations expressed concern about the lack of implementation of the 2004 Law on Domestic Violence. In November, the commission on violence against women reported that the Law had not contributed to reducing the high number of domestic violence cases, and that the lack of clarity of the definitions and regulations pertaining to the Law hampered full enforcement by local police and judges.