



General Assembly

Distr.: General
30 August 2017

English only

Human Rights Council

Thirty-sixth session

11-29 September 2017

Agenda item 3

**Promotion and protection of all human rights, civil,
political, economic, social and cultural rights,
including the right to development**

Written statement* submitted by the Asian Legal Resource Centre, a non-governmental organization in general consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[17 August 2017]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

GE.17-15062(E)



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INDONESIA: No justice for victims of enforced disappearances

More than two years since President Widodo was inaugurated in October 2014, the Indonesian government has shown little effort to settle cases of enforced disappearances which occurred under the Suharto dictatorship and under successive governments. Until now, the President and the Parliament have not yet shown their willingness to ratify the International Convention for the Protection of All Persons from Enforced Disappearance, despite signing it nearly seven years earlier.

There are several obstacles in addressing cases of enforced disappearances in Indonesia, such as the absence of a national law on enforced disappearances, the unwillingness of the President and political parties to resolve the cases, the government's preference for political stability rather than dealing with enforced disappearances, and the limited role of the National Commission on Human Rights (Komnas HAM).

Under Suharto's administration, between 1966 and 1998, countless people became victims of enforced disappearances conducted by the military, police, intelligence agencies and other state apparatus. The families of these victims are still suffering today; over 18 years since Suharto stepped down, their beloved remain missing. Moreover, most of the victims were the family breadwinners, or expected breadwinners. After Suharto stepped down in 1998, transitional governments made no significant effort to search for the missing persons. Instead, enforced disappearances continued, as in the case of Mr. Aristoteles Masoka in 2001, and Mr. Dedek Khairuddin in 2013.

For the case of enforced disappearances against student activists in 1997-1998, there is no progress upon the settlement of the case, since previous President Susilo Bambang Yudhoyono and current President Joko Widodo were both reluctant to issue a presidential decree to establish an ad hoc human rights court for enforced disappearances against student activists in 1997-1998. Although in 2009 the parliament issued a recommendation to the president to establish such a court, the government ignored it. The parliament's recommendation is in line with Indonesian law number 26 of 2000 on the Human Rights Court, according to which cases occurring before the year 2000 should be brought to an ad hoc court, for which a presidential decree is needed as legal basis.

In the last one year, the main priority of the Indonesian government has been economic development and political stability. Towards this end, President Widodo has made various efforts to approach opposition parties and persons, including Prabowo Subianto, former commander of special armed forces. Subianto was dismissed from military service due to his alleged involvement in the case of enforced disappearances against student activists in 1997-1998.

This circumstance is an obstacle to resolve the case of enforced disappearances against student activists in 1997-1998, where since 2006 the investigation report of the case had been submitted by the National Commission on Human Rights to the Attorney General.

Moreover, for the case of enforced disappearances against Mr. Dedek Khairuddin in 2013, the Asian Legal Resource Centre (ALRC) has learnt from his family that he is still missing; despite six navy personnel (TNI AL) having been prosecuted and sentenced by the Military Court of Medan City, there is no further information about the whereabouts of Mr. Khairuddin. The six Navy personnel who were prosecuted and sentenced with light punishment are: Mr. Muliadi Wintoro, Sergeant 1st Class of Marine: 1 year, 3 months; Mr. Hari Subandi, Lance Corporal: 1 year, 2 months; Mr. Didik Utomo, Private in charge of Marine: 1 year, 3 months; Mr. Wahyu Cahyono, Private in charge of Marine: 1 year, 4 months; Mr. Karso, Private in charge of Marine: 1 year, 2 months; Mr. Bambang Trinugroho, Marine Captain: 1 year, 5 months. The Military Court has failed to further investigate whether high-ranking Navy personnel are behind the case.

Khairuddin's wife has exhausted all avenues in seeking justice and demanding the government to find her husband. Facing serious economic problems, and having to take care of her child, she is now a migrant worker in Malaysia.

Despite human rights organizations lobbying the parliament to ratify the Convention on Disappearances, the parliament has yet shown its willingness to do so. The Convention will help Indonesia to strengthen its national law against

disappearances. At present, there are various laws and provisions that could potentially cause disappearances, such as the new draft bill on anti-terrorism. This new bill allows security forces to detain persons based upon suspicion for six months. It also provides for keeping terrorist suspects at unknown places. This is particularly threatening to individuals' right to justice and right not to be subject to enforced and involuntary disappearances.

Furthermore, the Convention is important and strategic for victims and citizens to defend their rights against the practice of enforced and involuntary disappearances. It allows them to demand better legal and institutional standards to protect their rights.

The ALRC therefore requests the Human Rights Council to urge the Indonesian government to immediately ratify the International Convention for the Protection of All Persons from Enforced Disappearance. Moreover, we also request the Council to urge the government to properly investigate and prosecute perpetrators of enforced disappearances, and ensure adequate remedy for victims. In particular, the government should immediately establish a special commission for missing persons to search for the victims as mandated by parliament in 2009. Meanwhile, the parliament should regulate protection and punishment against enforced disappearances in the new penal code bill.
