



# General Assembly

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## Human Rights Council

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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.

[29 August 2016]

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

GE.16-15420(E)



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## **INDONESIA: Truth, justice, reparation & guarantees of non-repetition remain elusive**

The Asian Legal Resource Centre (ALRC) wishes to inform the UN Human Rights Council (UNHRC) about the stagnation of transitional justice in Indonesia. Despite 18 years of political reform, marked by the resignation of President Suharto, gross violations of human rights that occurred during President Suharto's administration have not yet been investigated and redressed.

Incumbent President Joko Widodo promised that he would prioritize a policy for victims of past human rights abuses, and their families. In his Nawacita document (vision and mission), the President has clearly stated that he will ensure prosecution of past human rights abuses cases. However, in the past two years, this promise has been kept. On the contrary, President Widodo has issued a controversial regulation, wherein he has appointed Retired Army General Wiranto to be Coordinator Minister of Politic, Law and Security (Menkopolhukam), and also appointed Retired Army General Rramizard Ryacudu as Minister of Defense.

President Joko Widodo appointed Retired Army General Wiranto to replace Retired Army General Luhut Binsar Panjaitan to be Coordinator Minister of Politic, Law and Security. Wiranto is an individual with such a dubious human rights record that he should be prosecuted for his actions, rather than given a seat in government. This appointment created a controversy, because the National Commission on Human Rights (Komnas HAM) had issued a final investigation report on the alleged involvement of Wiranto in the shooting of student activists at Trisakti and Semanggi 1998-1999, the State negligence in handling the riots and the mass rape against Indonesian Chinese 13-15 May 1998, and Crimes against Humanity in East Timor after the referendum in 1999.

Further, the Attorney General of East Timor has filed an arrest warrant at the Dili district court over the Retired Army General Wiranto, but President Widodo did not consider this matter, so the promotion of Wiranto as Coordinator Minister further prove that the government does not have strong commitment to resolve the cases on the contrary the government tends to protect and grant privilege to the perpetrators.

The ALRC also notes alleged involvement of Retired Army General Ryamizard Ryacudu in the murder case of Mr. Theys Hiyo Elluay in 2001. Mr. Elluay was a prominent Papuan activist. General Ryacudu had said, "Whoever killed Theys was a hero". Moreover, when he was Army Chief in 2003, he led the implementation of martial law by the Indonesian Armed Forces (TNI) in Aceh Province and caused various human rights violations.

Despite Nawacita document clearly stating that past human rights abuses will be solved and given priority, President Widodo's other policy, known as RPJMN (the National Mid Term Development Plan (RPJMN) 2015-2019, does not clearly explain the way how to solve the cases. In practice the government prefers to bring these cases to the Truth and Reconciliation Commission (TRC) mechanism. However, the new bill has yet to be finished. Since the time of the previous government under President Susilo Bambang Yudhoyono (SBY), the law on TRC remains controversial with blanket amnesty for perpetrators. The new bill that was initiated by the Minister of Law and Human Rights, does not compare well even with the Law No. 27 of 2004 on Truth and Reconciliation Commission, which had been annulled by the Constitutional Court (MK).

Besides the TRC Bill, under the Law No. 26 of 2000 on Human Rights Court, the National Komnas HAM completed and submitted the final investigation report on seven cases of gross violations of human rights. Six cases occurred under President Suharto's administration, namely: student shooting in Trisakti, Semanggi 1998-1999; massacre in Talangsari Lampung 1989; enforced disappearance of student activists in 1997-1998, 1965-1966 massacre, mysterious shooting 1981-1984, and the tragedy of 13-15 May 1998. Whereas, one of the cases occurred under the transition government, namely Wasior Wamena case in Papua, between 2001 and 2003.

Since 2003 to present, sluggish communication between Komnas HAM and the Attorney General (AG) has not yet provided any solution. President Widodo, who has an authority over the AG, does not order the AG to continue investigation processes conducted by Komnas HAM. The situation is worsening, as Komnas HAM and the Attorney General. Basically, law enforcement agencies are reluctant to bring past human rights abuses to the human rights court, as regulated under the Law No. 26 of 2000 on Human Rights Court. Both institutions emphasized their unwillingness to prosecute those cases, by promoting the TRC mechanism as the only way to solve these cases.

Moreover, the International People Tribunal (IPT) which was held at The Hague in November 2015, decided that the Indonesian state was "responsible" for the "genocide" against members and supporters of the country's Communist party and followers of President Soekarno, during the 1965-1966 killings. Responding to the judgment, the government showed strong rejection; further the Coordinator Minister of Politics, Law and Security, Mr. Luhut Binsar Panjaitan (before he was replaced by Retired Army General Wiranto), stressed that the government would not apologize to the victims and family of victims for what happened in 1965-1966.

Further, on 18 and 19 April 2016, in Jakarta, the government – represented by the President's advisory body (Watimpres) – Komnas HAM, the Press Council (Dewan Pers), and also representatives from other government institutions, organized a National Symposium for 1965-1966 massacre. The victims, family of victims, and even the culprits that committed massacres attended the symposium. The symposium has been a step forward for the government, because, despite 18 years of political reform, Indonesia has never officially discussed the 1965-1966 massacre. Unfortunately, after the symposium the government has yet shown any further step to comprehensively investigate and seeks the truth behind the massacre. On the contrary, the security forces conducted sweeping operations and arrested any person wearing clothes and symbols of communism, and anyone who could spread the symbol of communism through social media.

Little progress has taken place in Aceh, where the local government and local Parliament has enacted a local regulation on Truth and Reconciliation Commission (TRC Qanun Aceh), and recently the parliament has adopted and inaugurated seven Commissioners of the TRC for Aceh dealing with past abuses during the military operation conducted by the Indonesian security forces. However, the mandate of the Qanun KKR is very limited; it can only investigate the truth involving local actors, and it does not have any authority to examine policymakers in Jakarta.

The ALRC recommends that the Government should take all necessary measures to ensure that past human rights violations are redressed. To this end, the Government should:

- a) Provide remedies for victims of human rights violations and their family members, and ensure non recurrence of these abuses;
  - b) Evaluate appointment of Retired Army General Wiranto as the Coordinator Minister of Politic, Law and Security, as well as evaluate appointment of Retired Army General Ryamizard Ryacudu as the Minister of Defense, and ensure that law enforcement over the alleged perpetrators of past human rights abuses must be conducted without undue delay;
  - c) Ensure that the TRC mechanism will not replace the Human Rights Court, but complement the Human Rights Court under the Law No. 26 of 2000 on Human Rights Court;
  - d) To invite and cooperate with the UN Special Rapporteur on the promotion of truth, justice, reparation, and guarantees of non-recurrence.
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