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Indonesia: Continuing failure in addressing enforced disappearances would worsen culture of impunity

As people around the world today mark the International Day of the Victims of Enforced Disappearances, AFAD (Asian Federation Against Involuntary Disappearances), AJAR (Asia Justice and Rights), Amnesty International, IKOHI (Indonesian Association of Families of the Disappeared) and KontraS (the Commission for the Disappeared and Victims of Violence) call on President Joko 'Jokowi' Widodo to immediately provide the families of the disappeared truth, justice and reparation as recommended by various Indonesian authorities. Our organisations urge on the Indonesian President Widodo to fulfil the government's obligations under international law, as well as his commitments - made on Indonesia's Independence Day in 2015 - to "address past human rights violations so that future generations in Indonesia would not continue to bear the burden of history".

The families of 13 political activists, all men – Sonny, Yani Afri, Ismail, Abdun Nasser, Dedi Hamdun, Noval Alkatiri, Wiji Thukul, Suyat, Herman Hendrawan, Bimo Petrus Anugerah, Ucok Munandar Siahaan, Yadin Muhidin and Hendra Hambali – who were disappeared in 1997-98 continue to demand that the government uncover the truth about what happened to them over 19 years ago.

In addition to that victims' groups and local Acehese NGOs have called for the Indonesian authorities to find out what happened to the disappeared and missing persons in Aceh during the 29 year conflict in Indonesia's most westerly province between the Indonesian government and the armed opposition group, the Free Aceh Movement (*Gerakan Aceh Merdeka*, GAM). Further, in Timor-Leste, many families want to know the fate and whereabouts of those who disappeared and went missing during the period of Indonesian occupation (1975-1999) and in the context of the 1999 independence referendum.

Our organisations are disappointed that despite several positive official statements and recommendations to address the problem of enforced disappearances in Indonesia, almost all of them have been ignored by the Indonesia's government.

In 2009 the Indonesian Parliament, based on a 2006 report by the National Human Rights Commission (Komnas HAM), recommended that then President Susilo Bambang Yudhoyono establish an *ad hoc* human rights court to try those suspected of committing enforced disappearances in 1997-98. However, unfortunately, by the end of his term,

President Yudhoyono failed to issue a presidential decree, required to establish the court. Other recommendations included an immediate search for the 13 activists by the Indonesian authorities; the provision of “rehabilitation and compensation” to the victims’ families; and the ratification of the International Convention for the Protection of All Persons from Enforced Disappearance. Eight years later, the authorities have yet to take concrete action to effectively implement these recommendations

In July 2008, the Commission of Truth and Friendship (CTF), which was set up by the Indonesian and Timorese governments in 2005 to “establish the conclusive truth” in regard to the events prior to and immediately after the popular consultation in 1999, published its final report, in which one of its key recommendations was for the Indonesian and Timorese governments to work together to establish the fate and whereabouts of those who disappeared and went missing surrounding the 1999 referendum by establishing a Commission for Disappeared Persons. However, the Commission has yet to be established and the issue has been sidelined in bilateral meetings.

In the province of Aceh, after many years of campaigning and advocacy the Aceh Provincial Parliament (DPRA) established an Aceh Truth and Reconciliation Commission (KKR Aceh) in 2013. In July 2016, the Aceh parliament appointed seven Commissioners due to operate between 2016 and 2021. The Commission is mandated to uncover the circumstances that led to abuses in the past, including to provide the truth about the fate and whereabouts of disappeared or missing persons together with the need to be able to provide proper burials. With very limited resources, the Aceh TRC has just started to initiate truth seeking by collecting victims’ testimony.

Enforced disappearance is a serious human rights violation and a crime under international law which violates the rights of the persons who were disappeared and of their loved ones. The Declaration on the Protection of All Persons from Enforced Disappearances adopted by the United Nations General Assembly in 1992, provides that an investigation “should be conducted for as long as the fate of the victim of enforced disappearance remains unclarified” (Article 13(6)). It also states that “enforced disappearance shall be considered a continuing offence as long as the perpetrators continue to conceal the fate and the whereabouts of persons who have disappeared and these facts remain unclarified” (Article 17(1)). Enforced disappearance can also result in or lead to a range of other human rights, including freedom from arbitrary detention; the right to recognition as a person before the law; the right not to be subjected to torture and other cruel, inhuman or degrading treatment or punishment; and the right to life.

The right of families of disappeared and missing persons to know what happened to the victims is an essential component of the right to truth. The right to know the fate and whereabouts of disappeared relatives, both in times of peace and in times of armed conflict, has been confirmed in Article 24 (3) of the International Convention for the Protection of All Persons from Enforced Disappearance (which Indonesia has signed but not yet ratified), as well as jurisprudence of international and regional human rights bodies and national courts. The continued failure to investigate these crimes to establish the fate and whereabouts of the disappeared and, where sufficient admissible evidence exists, to prosecute those suspected of committing the crimes, perpetuates the human rights violation and contributes to a wider culture of impunity in Indonesia.