

Submission to:

Mr. Juan Mendez

*Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
Office of the United Nations High Commissioner for Human Rights
Geneva, Switzerland*

STILL DENIED: Right to Rehabilitation for Torture Victims During the Mass Detention of 1965 in Indonesia

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AJAR: Asia Justice and Rights; KontraS: Commission on the Disappeared and Victims of Violence; SKP HAM Sulawesi Tengah: Solidarity for Human Rights Victims of Central Sulawesi; ELSAM: Institute for Policy Research and Advocacy; KIPPER: Women's Progress (Association of 1965 Women Survivors in Yogyakarta, Central Java); LAPPAN: Women's Empowerment Circle (Ambon, Maluku); JPIT: Women's Research Network of Eastern Indonesia (Kupang, East Nusa Tenggara).

Executive Summary

In 2012, Indonesia's National Commission on Human Rights concluded that the atrocities of 1965-1966 may amount to crimes against humanity, filing its dossier with the Attorney General for prosecution. However, to date there has been no follow-up on this case. This stalling of judicial process has blocked victim's access to truth, justice and reparations.

Between 1965 and 1979 in Indonesia, hundreds of thousands of civilians were detained without trial and became victims of torture and ill-treatment. Many detainees were disappeared or killed, some perished in detention centers. Those who survived were released by 1979. However, they faced continued stigmatization and discrimination, reinforced by state policy and social norms.

To mark 51 years since the mass atrocities against Indonesia's "victims of 1965¹", AJAR and partners in Indonesia documented both the past experiences of survivors and their current circumstances, illustrating the significant and ongoing impact of the torture and other violence they endured.

Significant findings include:

- Torture perpetrated by both the state and civilian groups directed by security forces was severe and widespread.
- Victims were subjected to institutionalized discrimination for so long that it crossed generational lines. The practice of marking victims' national identity cards to identify them as former political prisoners ("ET": *eks-tapol*) continued from 1981-97.
- Victims continued to suffer discrimination, poverty, psychological trauma, and health problems long after their release. Indeed, even now many victims continue to suffer stigmatization and discrimination related to the events of 1965. Thousands struggle on their own against ongoing discrimination in politics and society as they become increasingly elderly and infirm.
- Security forces used police and military offices, and other buildings as torture sites.
- Women victims lack basic services, and need specialized programs to deal with general and reproductive health, trauma, and aging to complement the social networks they built and rely on.
- To date the state has refused to acknowledge the truth about the violence of 1965 and has made no apology to victims.
- The state actively denies victims' right to rehabilitation that includes the right to a life plan. This total neglect means that many of the victims of 1965 continue to suffer from the impact of past physical and psychological abuse and from the state's ongoing refusal to fulfill their economic and social rights.
- Recent efforts by civil society to uphold victims' rights to truth and justice have been met with renewed intimidation and fear-mongering by state officials, security forces, and hardline groups, causing new trauma among victims.

¹ Victims refer to themselves as "victims of 1965," marking the year the atrocities began. However, the violations were not limited to a one-year period. The mass killings, arrests, detentions without trial, and torture took place throughout Indonesia for many years. Victims were released and re-arrested in the years to come. Most detainees were released by 1978, but victims continue until now to suffer scrutiny and intimidation.

However, the government would establish a non-judicial mechanism to ‘resolve’ all past human rights violations, particularly to the 1965 atrocities. We consider that the establishment of a non-judicial mechanism to address past human rights violations does not preclude Indonesia’s obligations under international law. Therefore, the effective prosecution of those responsible of human rights violations and crimes under international law will not only send a strong signal about Indonesia’s commitment to justice and the rule of law but will also strengthen the efforts of all victims and their families who have, for several years, been fighting to ensure accountability for the serious crimes committed in different parts of the country.

We recommend that the UN Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment urge the Indonesian government to take effective steps to acknowledge and rehabilitate victims of torture that began in 1965 as victims of on-going suffering and discrimination by establishing a presidential committee on truth and justice, reparations, and institutional and judicial reform; and by providing urgent rehabilitation and assistance to the now elderly survivors.

1. Introduction

I was bombarded with questions: “Were you involved in the killings of the generals?” I kept answering that I didn’t know . . . Then I was beaten, burned with cigarettes. My hand was burned with a cigarette, then I was hit with a door knob, and was stripped naked . . . [In 1969] they told me to take off my clothes, and began to shout out instructions. They shouted, “Sideways, on your back, on your stomach.” [Then they] touched me everywhere, stripped me, while I was three months pregnant.²

AJAR and its partners are making this submission on behalf of the “victims of 1965”—members and suspected members of the Indonesian Communist Party (PKI), and those thought to be affiliated with them, who were the victims of mass atrocities committed by military and civilian armed groups beginning in 1965-66. Denied acknowledgement, justice, and reparations, many continue to suffer from state violence, discrimination, and unfulfilled social, economic and cultural rights. The torture they survived has had pervasive consequences for their health and family relationships.

This submission will focus on the plight of the hundreds of thousands of survivors of torture and ill-treatment that was conducted in a widespread and systematic manner throughout Indonesia, beginning in 1965. It contains first-hand accounts of torture documented in nine detailed cases (See Appendix). It also outlines how, despite its ratification of the CAT, Indonesia’s domestic law does not criminalize torture *per se* and does not provide adequate redress for victims of torture. In particular, the lack of judicial process for the 1965 cases has blocked reparations for victims, as current laws require judicial proceedings for reparations.

² Galuh Wandita et al, “Enduring Impunity: Women Surviving Atrocities in the Absence of Justice,” AJAR, October 2015, p.43. <http://asia-ajar.org/2015/11/enduring-impunity-women-surviving-atrocities-in-the-absence-of-justice/>

2. Historical Background

Atrocities committed across Indonesia in 1965-1966 gave birth to an authoritarian military regime that continued to violate human rights and abuse state power for decades until reforms began in 1998. In the aftermath of an “attempted coup”, allegedly planned by the Communist-backed 30th September Movement (G30S), an estimated 500,000 to one million people were killed by military personnel and military-backed civilian groups. Hundreds of thousands more were detained without trial, tortured, disappeared, raped, harrassed, or removed from their jobs. The government also revoked the passports of thousands of Indonesian students studying abroad, as well as Indonesians in the foreign service. It was relatively easy for government authorities to instill fear and hatred among both Muslim and Christian communities throughout Indonesia towards members of the communist party simply by accusing them of being atheists. As a result, discrimination against victims of 1965 became embedded in society through state policy and attitudes that quickly became social norms.

3. Current Context

30 September 2016 marked 51 years since waves of anti-Communist violence swept Indonesia. The intensity and breadth of the 1965 violence has been well-documented by civil society, academics and survivors. Indonesia’s National Human Rights Commission conducted ad hoc *pro justitia* inquiries of the 1965 atrocities and concluded that crimes against humanity had occurred. These investigations have made an important contribution to victims’ right to truth. For example, the commission’s investigation into the atrocities of 1965 found that torture was committed systematically, citing 33 places of torture across the country. In its 2012 report, this commission recommended criminal investigation and prosecution, submitting its report of the investigation to the Attorney General, as required by Indonesia’s Law 26/2000 on trials for crimes against humanity or genocide. However, the Attorney General’s office has not pursued the case, claiming the files were administratively incomplete. The National Human Rights Commission has disputed this claim.

Many victims of torture continue to suffer from stigmatization, poverty, and neglect that are direct consequences of the 1965 violence and subsequent institutionalized discrimination. Despite political reforms implemented since the demise of Suharto and his “New Order” regime in 1998, acts of repression and intimidation continue. The Institute for Policy Research and Advocacy (ELSAM) notes that in 2015 at least 20 activities were subject to repression: discussions were prohibited or dispersed, including those scheduled for an international event (the Ubud Writers and Readers Festival); there were six incidents of arbitrary arrest; and one case each of intimidation, censorship, and deportation.³ Data posted online by the Southeast Asia Freedom of Expression Network, SAFEnet Voice, indicates 18 anti-Communist incidents in which freedom of expression and assembly were violated (intimidation, disbanned discussions or meetings, and even the arbitrary arrest of activists

³ A man, now in his 70s, who lost his Indonesian citizenship while studying abroad in 1965 returned to Sumatra to visit the mass grave where his father, a victim of 1965 killings, was buried. He was arrested by police and deported. Syofiardi Bachyul Jb, “Man deported for visiting 1965 mass grave,” *Jakarta Post*, 19 Oct. 2015, <http://www.thejakartapost.com/news/2015/10/19/man-deported-visiting-1965-tragedy-mass-grave.html>

accused as communist supporters) since the beginning of 2016.⁴

In meetings with civil society groups, President Joko Widodo has stated his commitment to settle cases of past human rights violations and to take steps to prevent their recurrence in the future. In May 2015, he formed a Reconciliation Committee to address cases of past serious human rights violations, including those of 1965. However, political recognition of state crimes and an apology to victims seems unlikely as some groups seek to provoke anti-Communist fears. A prominent Indonesian militant Islamic organization has claimed that compensation to victims of 1965 would be too costly for the state.⁵ The President has stated that no apology is needed for 1965,⁶ and Luhut Pandjaitan, Indonesia's then Coordinating Minister for Political, Legal, and Security Affairs, said the government is still exploring ways to deal with cases of past human rights violations that "fit the Indonesian way".⁷ This is widely understood to mean a cosmetic response to save face internationally without significant efforts to seek truth, justice, and reparations for victims.

In early April 2016, the President's Advisory Council, the Indonesian Press Council, the National Commission on Human Rights, Solidarity Forum for the Nation's Children (FSAB), and several Indonesian universities held a historic national symposium: "Dissecting the 1965 Tragedy through a Historical Approach". This was the first time state institutions provided an official space for discussion on 1965. Academics, military representatives, and human rights activists spoke about results of various efforts to resolve the issue. During the symposium the Coordinating Minister for Political, Legal and Security Affairs again demonstrated his reluctance to acknowledge and apologize for the violence of 1965, but emphasized that the government was committed to resolving past human rights abuse cases.⁸ The death toll was also disputed.⁹ Sidarto Danusubroto, of the Presidential Advisory Council acceded, however, that "We have to acknowledge the state's involvement [in the violence] . . . It is the responsibility of the nation to heal this wound." He continued by saying that the symposium would recommend full rehabilitation and restoration of rights for all victims, and removal of the stigma still attached to them.¹⁰ Agus Widjojo, symposium chair and head of the National Defence Institute, indicated that the government's settlement plan has been pared back to reconciliation through a non-judicial process.¹¹

⁴ SAFEnet's list of infringements on the right to freedom of assembly and expression in Indonesia, from January 2015 to 30 May 2016 is available at <http://id.safenetvoice.org/pelanggaranekspresi/>

⁵ "No need to apologize for 1965 communist purge: FPI," *Jakarta Post*, 1 Oct. 2015, <http://www.thejakartapost.com/news/2015/10/01/no-need-apologize-1965-communist-purge-fpi.html>.

⁶ "Indonesian President Says No Apology for 1965 Massacre," Voice of America, 1 Oct. 2015, <http://www.voanews.com/content/indonesian-president-no-apology-massacre/2987854.html>.

⁷ "PKI purge to be solved the Indonesian way," *The Jakarta Post*, 1 Oct. 2015, <http://www.thejakartapost.com/news/2015/10/01/pki-purge-be-solved-indonesian-way.html>.

⁸ "Government will not apologize for 1965 massacre: Luhut," <http://www.thejakartapost.com/news/2016/04/18/government-will-not-apologize-for-1965-massacre-luhut.html>, *The Jakarta Post*, 18 April 2016.

⁹ "Govt to draft recommendation from 1965 National Symposium," *The Jakarta Post*, 31 May 2016, <http://www.thejakartapost.com/news/2016/05/31/govt-to-draft-recommendation-from-1965-national-symposium.html>.

¹⁰ "Govt takes conciliatory tone to 1965 victims," *The Jakarta Post*, 20 April 2016, <http://www.thejakartapost.com/news/2016/04/20/govt-takes-conciliatory-tone-1965-victims.html>,

¹¹ "1965 symposium team ready to submit recommendations to govt," *The Jakarta Post*, 18 May 2016, <http://www.thejakartapost.com/news/2016/05/18/1965-symposium-team-ready-to-submit-recommendations-to-govt.html>,

Meanwhile, members of Front Pancasila, a radical group, protested the symposium, claiming that a resurgent PKI was using the symposium to disseminate communist ideas. In addition, a number of retired army generals and their supporters, including members of radical religious organizations, conducted a counter symposium on 18-19 April 2016, titled “Protecting Pancasila from the Indonesian Communist Party [PKI] and other Ideologies”. They concluded that attempts at formal reconciliation and settlement for victims of the 1965 political conflict and violence would only serve to reopen old wounds. Further, they urged the government to ban the PKI and all its activities, and to uphold anti-communist policies put in place at that time, including the 1966 law that banned the dissemination of “communism, Leninism and Marxism” in Indonesia.¹² The day following this counter symposium, members of hard line groups marched to the Presidential Palace, urging the state to disband the PKI and ban anything related to communism, including lessons about PKI in school curriculums.¹³ Recommendations of these two symposiums were sent to the government.

Although President Widodo’s administration has shown some political will for dialog on 1965, the strong backlash by the military and fundamentalist groups seems to have weakened it. An international people’s tribunal, organized by Indonesian civil society and held at The Hague in November 2015, announced its judgment that the Indonesian state is guilty of crimes against humanity and possibly genocide. Although this initiative has quenched victims’ thirst for truth, senior government officials have made statements refuting the people’s tribunal findings.

However, more recently, the current Coordinating Political, Legal, and Security Affairs Minister Wiranto¹⁴ recommended the non-judicial mechanism to resolve the atrocities of 1965. He said that “Whereas in 1965 and previous years there has been a difference in political ideology that led to the rebellion, causing a setback and a big loss for the people of Indonesia. Therefore in order to resolve the existing problems, the government put forward a non-judicial mechanism fairest order not to cause prolonged excesses.”¹⁵

4. A Problematic Legal Framework

To date there is no specific legal provision in Indonesia that criminalizes torture. The right to be free from torture is guaranteed by a law that ratifies the Convention on Torture (CAT)

¹² “Attempts at formal reconciliation “will reopen old wounds,” *The Jakarta Post*, 3 June 2016, <http://www.thejakartapost.com/news/2016/06/03/attempts-at-formal-reconciliation-will-reopen-old-wounds.html>.

¹³ “Thousands rally in protest of alleged revival of PKI,” *The Jakarta Post*, 3 June 2016, <http://www.thejakartapost.com/news/2016/06/03/thousands-rally-in-protest-of-alleged-revival-of-pki.html>.

¹⁴ Wiranto was indicted for crimes against humanity by a UN sponsored tribunal in Timor-Leste and named as a suspect in the inquiry initiated in 1999 by Indonesia’s National Commission on Human Rights (Komnas HAM) for gross violations of human rights in East Timor surrounding the 1999 referendum. To date, however, Indonesia has failed to charge him.

¹⁵ *Wiranto: Peristiwa 1965 Kasus HAM Berat, Penyelesaian Pakai Pendekatan Non-yudisial* (Wiranto: the event of 1965 is the gross violation of human rights, it will solve by non judicial mechanism), *Kompas*, 1 October 2016, <http://nasional.kompas.com/read/2016/10/01/10022961/wiranto.peristiwa.1965.kasus.ham.berat.penyelelesaian.pakai.pendekatan.non-yudisial>

(1998), by Indonesia's Human Rights Law (1999), and by an amendment to the Indonesian Constitution (2000).¹⁶ However, neither the judicial system nor Indonesia's criminal code comply with these human rights obligations.

According to Indonesia's criminal code, the only offense that covers acts similar to torture is *penganiyaan*, which means "maltreatment or assault." The severity of punishment for this crime depends on the state of mind with which the perpetrator committed the maltreatment and the degree of harm that results. Additional penalties for officials who use maltreatment as a means of coercion to extort a confession or obtain information are recognized, yet anyone who acts under the authority of official orders will not be convicted. The act of torture *per se* is not recognized as a crime and so cannot be prosecuted.

The Law for Establishing a Human Rights Court (No. 26/2000) grants jurisdiction for crimes against humanity or genocide, where the act of torture can be given a sentence of 5-15 years imprisonment. However, the court is all but defunct. There are 10 cases filed by the National Human Rights Commission for follow-up by the Attorney General, but the unit tasked to investigate serious crimes has long been disbanded.

Law 26/2000 acknowledges that victims of human rights violations may receive compensation, restitution, and rehabilitation, but only after obtaining a final verdict. Details regarding reparation for human rights violations are stated in a government regulation on compensation, restitution and rehabilitation for victims of "gross violations of human rights"¹⁷ (PP 3/2002). However, with the court defunct there are no verdicts to provide the basis for reparations.

Another path to reparations is through the Witness and Victims' Protection Agency or LPSK (established by Law 13/2006) and its supporting regulation (PP 44/2008) to provide compensation, restitution and support to witnesses and victims. This law recognizes the Protection Agency as a conduit for compensation to victims of gross human rights violations. However, as stated above, provision of compensation to victims of gross human rights violations is dependant on a verdict of the Human Rights Court that is now defunct.¹⁸ The Witness and Victims' Protection Agency is also tasked with providing medical and psycho-social rehabilitation support to victims of gross human rights violations. Although victims can apply for such support from the agency, the agency requires a recommendation from the National Commission of Human Rights to confirm that the commission has conducted its pro

¹⁶ The Second Amendment to the 1945 Constitution, Article 28G (2) states: "Each person shall have the right to be free from torture or inhuman and degrading treatment, and shall have the right to obtain political asylum from another country"; Human Rights Law No. 39/1999, Article 33(1), states: "Each person has the right to be free from torture, cruel, inhuman or degrading punishment or treatment." Furthermore, the definition of torture found in Law 5/1998 conforms to the international definition of torture.

¹⁷ A confusing feature of Law 26/2000 is that it uses the phrase "gross human rights violations" to mean crimes against humanity or genocide.

¹⁸ Only three trials were conducted by the human rights court before its effective demise: for crimes against humanity in East Timor (2002), for crimes against humanity in Tanjung Priok (2004), and for crimes against humanity in Abepura, Papua (2005). The court did not provide reparations for victims in any of these cases; trials and appeals have resulted in a 100% acquittal rate. Although the legislation for a Human Rights Court remains in place, political interventions compromised the court's independence, and mechanisms that would allow it to function properly have been slowly eroded so that this court is, in effect, defunct.

justicia investigation and has found that crimes against humanity or genocide may have been committed. LPSK has granted short-term medical and psychosocial support to hundreds of victims of 1965, claiming thousands more have registered their cases to the agency.¹⁹ Although limited in scope, this initiative must be applauded.

5. Methodologies and Data Collected

AJAR and its partners have compiled testimonies and other data with a focus on torture and ill-treatment experienced by victims detained during the 1965 atrocities. This report also includes findings from interviews and information based on participatory action research conducted from 2014-2015 by AJAR together with LAPPAN, JPIT, and KIPPER. Some of the data in this report were also submitted to the National Coalition for Justice and Truth (KKPK).

The cases of torture in this report come from different areas of Indonesia: Lampung, South Sumatera; Jakarta, Bogor, Tangerang, and Bekasi in West Java; Yogyakarta, Central Java; Kutai Kartanegara and Balikpapan in East Kalimantan; Central Sulawesi; Minahasa, North Sulawesi; Bali; Kupang, East Nusa Tenggara; and Buru Island, Maluku.

In total we have collected information on 295 victims of torture and ill-treatment - 235 males (79.7%) and 60 females (20.3%). The data includes 215 counts of forced labour, 9 counts of rape or other forms of sexual violence (all women victims), and 7 counts of extortion in order to secure release. One hundred seventy three victims had to regularly report to authorities upon release, while 31 reported that they experienced discrimination. Most of the men were victims of forced labour, particularly those detained on Buru Island; in North and Central Sulawesi; in Yogyakarta, Central Java; and in East Kalimantan. Importantly, our data shows that the perpetrators of torture and ill-treatment came from the following institutions:

Victims' Testimonies			Perpetrators of Torture			
M	F	Total	Military	Police	Prosecutors	Civilian Groups
235	60	295	240	51	3	32

The nine cases documented at Appendix A represent the broad geographic range of our data on torture in Indonesia related to the 1965 violence.

5. Key Findings

Systematic and Widespread Torture and Ill-treatment

Members of the Indonesian security forces and civilian groups condoned, encouraged, participated in, and ordered the widespread and systematic torture of detainees. Most of the victims suffered arbitrary arrest and detention without trial. Sometimes victims died as a direct result of the torture they experienced and sometimes as a result of injuries sustained

¹⁹ Apriadi Gunawan, "Hundreds of 1965 victims request protection, Jakarta Post, 21 May 2016 <http://www.thejakartapost.com/news/2016/05/21/hundreds-1965-victims-request-protection.html>

during torture that were left untreated. One victim spoke of a detainee friend who committed suicide after witnessing the brutal torture of another detainee.

Victims were tortured in order to obtain information, and to punish, threaten, humiliate, and intimidate them or others who shared their political allegiance (or were suspected of doing so). They were accused of plotting rebellion against the government and being members of PKI or its affiliates, including Gerwani (Indonesian Women's Movement).²⁰ The victims were also tortured to force them to change their political loyalties.

Torture and ill-treatment also occurred outside of detention sites. For example, victims were assaulted in public spaces, in their homes, in fields and other places of work, or during the journey to a detention location. Torture and other cruel, inhuman and degrading treatment usually took place when detainees first arrived at a detention centre or during interrogation. It was perpetrated in cells, in front of other detainees, and in specific interrogation rooms or buildings.

Women victims experienced sexual violence such as rape or attempted rape, sexual harassment, forced nudity, being accused of prostitution, and other sexual forms of torture and ill-treatment. For some, this sexual violence caused bleeding and serious injury. Most women victims were accused of being Gerwani members. Gerwani was targeted because some of its members were accused of being involved in the murder of army generals as part of the so-called attempted communist coup. The women were beaten, stripped and groped as soldiers claimed to be searching for a Communist hammer and sickle tattoo on their bodies.

The following acts of torture and other cruel, inhuman, and degrading treatment were commonly used by security forces:

- Kicking: Victims were kicked, including around the head, eyes, face, hands, and feet, usually by men wearing heavy military or police boots.
- Punching and slapping
- Beating with an object: Objects included a belt, large wooden ruler, wooden club, tree branch, rattan, rifle butt, electric cables, chains, the tail of a stingray, and a stick covered in barb wire. Some victims were forced to beat each other.
- Electrocutation: Victims received electric shocks, including by electric chair.
- Forced labour without rest: Victims were forced, for example, to farm in gardens and rice paddies, build roads, dig trenches, clear forest, work on construction sites, including building a dam, and work in the houses of security personnel.
- Whipping
- Crushing: Victims' toes were placed under the leg of a chair or table that one or more people then sat on.
- Pulling hair
- Victims were forced to eat hot chilli peppers and rotten, dirty food, sometimes mixed with rocks or glass shards
- Being soaked in a river or cold water

²⁰ Gerwani aimed to achieve "equal labor rights for women and equal responsibilities with men in the struggle for full national independence and socialism". *The Birth of the New Order State in Indonesia: Sexual Politics and Nationalism, Journal of Women's History*, Saskia Weringa (2003).

- Burning: Victims reported being burned on their cheeks and fingers with cigarette butts.
- Stoning: Some victims were stoned with pebbles and rocks.
- Sexual violence: Women victims experienced rape or attempted rape, sexual harassment, groping, and being stripped naked.

In addition to physical abuse, detainees were subjected to mental and psychological cruelty, including:

- Arrest without trial
- Indefinite detention without access to family and friends
- Extended periods in solitary confinement or in dark cells with poor ventilation
- Verbal abuse that included insults (including degrading remarks about a victim's religion), threats (such as threatening to torture victims in front of other victims), harassment, intimidation, and scoldings
- Interrogation under the threat of a drawn sword or traditional dagger
- Interrogation or torture in a room with blood-spattered walls
- Forcing victims to beat each other
- Sexual abuse: including sexual harassment, being stripped naked, being accused of prostitution
- Torture of other victims in an adjoining room so that screaming and other sounds of the torture were clearly audible to victims
- Being forced to clean urine or faeces
- Being forced to view the bodies of other victims who had been tortured and killed
- Detention in a small, empty cell without proper light, ventilation, or sleeping mat

Ongoing Stigmatization and Discrimination after Release

Extortion, such as a demand for payment in cash or kind, was often demanded upon a victim's release. Most victims had to report to authorities on a regular basis after their release, sometimes for years, and were also forced to make payments to them. Indeed, official government policies restricted the access of victims and their families to jobs, education, and social services. In 1981, the government issued an instruction (No. 31/1981) that called upon provincial governors and local administrative officials, in coordination with security forces, to conduct surveillance and reconstruction of all aspects of victims' lives, including their attitude, behaviour and all social-cultural, political, and economic activities.²¹ For decades, victims were stigmatized—they were prohibited from voting and from pursuing professions such as the civil service, military, teaching, and journalism. They were also prohibited from engaging in normal civic activities such as meeting with other survivors. Many of them had their homes, land, businesses and/or government pensions confiscated and never returned. They were also subjected to heavy surveillance and travel restrictions. Under various policies, victims of 1965 suffered from purgings of Indonesia's civil service and government agencies, ideological screening, vetting, and disenfranchisement.²²

²¹ Teresa Birks, *Neglected Duty: Providing Comprehensive Reparations to the Indonesian "1965 Victims" of State Persecution*, International Center for Transitional Justice (ICTJ), July 2006, <https://www.ictj.org/sites/default/files/ICTJ-Indonesia-Reparations-Victims-2006-English.pdf>

²² Ibid.

Survivors continue to suffer physical trauma resulting from ill-health and socio-economic deprivation as a consequence of their previous torture and ill-treatment. Indeed some have urgent needs that are not being addressed; for example, they have not received medical assistance and trauma counselling for injuries resulting from violence, torture, and detention. Their children and other family members have also suffered.²³

The continued discrimination of victims was linked to their officially assigned classification: (A) was used to designate a political prisoner, (B) was used to refer to detainees, and (C) meant suspects. They also received a “ET” (former political prisoner) stamp on their identity cards, had their marriage certificates marked as “detainees of the Communist/30th September Movement”, and were not permitted to vote or run for political office. Family members such as the spouses and children of communists or alleged communists also suffered discrimination. They often faced great difficulties in obtaining study and work opportunities. Victims’ property ownership documents and certificates for houses, land, and farms were also confiscated by military officers. In some cases, they were forced to sign a letter stating they had given their land to the state.

The labelling and stigmatization of the 1965 victims was established through the teaching of an undisputed version of history in Indonesian schools, and perpetuated in popular culture through memorials and a state-commissioned film. The film was televised annually and its message incorporated into the standardized school curriculum. Since the reforms of 1998, the film is no longer officially shown. However, since the recent campaign to push for acknowledgement around the 50th commemoration of these atrocities in 2015, military officers, with support from militant anti-Communist groups, have started showing it again.²⁴

Rehabilitation Still Denied²⁵

Although the government has yet to provide victims with holistic reparations, some civil society groups have worked to ensure that victims receive basic services and assistance from government agencies. Some victims’ groups are challenging regulations that deny them rights, particularly abuses related to identity; pension claims; and the appropriation of land, buildings and businesses.²⁶

Hundreds of survivors of torture related to the 1965 atrocities recognized as crimes against humanity have been able to access psycho-social support and medical services through the Witness and Victims’ Protection Agency. This is mainly because the National Human Rights Commission completed a pro-justicia investigation of these cases and has formally recognized them as victims of human rights violations, including torture.

²³ Policy briefing: Indonesia’s Obligations to Provide Reparations for Victims of Gross Human Rights Violations, www.ictj.org/sites/default/files/ICTJ-Indonesia-Reparations-Policy-Briefing-2011-English.pdf, ICTJ IKOHI and KPK, 2011.

²⁴ Abraham Utama & Hafid Mukti, “Beredar Dugaan Surat Perintah Pemutaran Film G30S,” CNN Indonesia, 13 September 2015, <http://www.cnnindonesia.com/nasional/20150930150051-20-81850/beredar-dugaan-surat-perintah-pemutaran-film-g30s/>,

²⁵ *Rehabilitation as a Form of Reparation under International Law*, Redress, December 2009, <http://www.redress.org/downloads/publications/The%20right%20to%20rehabilitation.pdf>

²⁶ Teresa Birks, *Neglected Duty*, ICTJ, July 2006; Menyusun Puzzle Pelanggaran HAM 1965: Sebuah Upaya Pendokumentasian [Constructing the Puzzle of 1965 Human Rights Violation: A Documentation Project, KontraS and ICTJ, 2012.

In Palu, Central Sulawesi, SKP-HAM together with a victims' association works with the mayor of Palu to help the city provide redress and services to victims of torture related to the 1965 atrocities. This has included assistance such as home repairs, scholarships, and access to government health services, sanitation facilities, clean water, and economic empowerment training for victims.²⁷ In Maluku, victims of torture received new official marriage certificates, to replace those that had identified them as as "ET"—former political prisoner. In Yogyakarta, some victims of torture have received medical assistance from the local government.

As important as they are however, these initiatives are still just a drop in the ocean.

6. Recommendations

Considering the large scale and systemic nature of the torture and ill-treatment as documented in Appendix A and elsewhere, the near complete impunity with which these crimes were conducted, and the lack of a comprehensive administrative reparations program for victims, AJAR and its partners respectfully request the Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment to urge the government of Indonesia to:

- Urgently acknowledge and rehabilitate victims of torture that began in 1965 as victims of ongoing suffering and discrimination by establishing a presidential committee on truth and justice, reparations, and institutional and judicial reform.
- Expedite the finalisation of an amendment to the Indonesian Penal Code and deliberation of the Bill on the Crime of Torture to strengthen the legal framework relating to torture. The amendment to the Penal Code must ensure that all acts of torture are offences (as required by Article 4 CAT) and include provisions that require effective punishment for perpetrators of torture. The Bill on the Crime of Torture should include comprehensive protection from and prevention of torture, and redress for victims.
- Ensure that the Office of the Attorney General takes rapid and effective steps to prosecute those individuals implicated as perpetrators of torture in the crimes against humanity of the 1965/66 incident based on formal inquiries that have been conducted by the National Human Rights Commission.
- Fulfil its obligations to provide reparations, including rehabilitation and trauma healing, by establishing programs that will assist victims of torture to repair and rebuild their lives. This should involve the Witness and Victims' Protection Agency and the National Commission on Violence against Women.
- Implement recommendations to the Government of Indonesia already made by UN bodies, particularly recommendations in the report of the UN Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Manfred Nowak (2007 and 2010), the Universal Periodic Review 2012, and recommendations from the UN Human Rights Committee in 2013 as an indication of Indonesia's commitment to the promotion of accountability and the prevention of all forms of torture and other cruel, inhuman or degrading treatment or punishment.

²⁷ Jeremy Kutner, "A City Turns to Face Indonesia's Murderous Past," *International New York Times*, 12 July 2016, <http://www.nytimes.com/2015/07/13/world/asia/a-city-turns-to-face-indonesias-murderous-past.html>.

We respectfully request that the Special Rapporteur also:

- Continue engagement with the Government of Indonesia on reports regarding the practice of torture in Indonesia, including the demand for fulfilment of international obligations to prevent the use of torture and effectively prosecute those responsible.
- Continue to closely monitor the situation in Indonesia, including allegations of torture and government responses to situations in which torture has been reported.
- Actively promote the need for truth, justice, and the prevention of torture as fundamental principles that ensure accountability.
- Support civil society organizations that are courageously engaged in documenting cases of torture, in providing psycho-social support to victims, and in advocating for effective steps to promote justice for victims.

Appendix: Case Studies of Victims of Torture from the 1965 Atrocities in Indonesia

Most victims of torture continue to suffer discrimination, poverty, psychological trauma, and health problems long after their release from detention. Thousands throughout Indonesia continue to struggle alone against ongoing discrimination in politics and society as they become increasingly elderly and infirm. Some victims still struggle to make a living, as many were prohibited from resuming their careers as teachers, writers, educators, artists etc. Instead, they survive using skills they learned in detention centres, including Pulau Buru and Plantungan, such as acupuncture, cooking, sewing and farming.

Sexual Torture and Gender-based Violations in Detention

Case 1²⁸

MMK was first arrested in December 1965 in Yogyakarta. She was detained without trial until April 1966 and then released without explanation. She returned to her studies and teaching until she was arrested again in 1968. She was accused of joining *Gerwani*, the Indonesian Women's Movement linked to the *PKI*. Her father was also detained. She was held at the CPM (military police) headquarters where she was tortured:

In 1968, at 2am one morning, I was arrested again. They surrounded my house. I had kept my letter of release from the first time and they became angry that I had hidden my IPPI [Indonesian Student Union] membership.

During the investigation I was stripped naked on a table. They burned my pubic hair and the hair on my head. I passed out and when I woke up I was herded to the Military Police Corp jail in Yogyakarta at four in the morning. I was put in a cell and handcuffed to a man who was in there. On the second day we were interrogated together. They said whether we confessed or not we were political agitators and we would be forced to admit that we were PKI. They stripped both of us. I was ordered to sit on his lap naked, or confess. Then they picked me up and put me on his lap in a sexual position. They laughed in satisfaction.

MMK was moved to Wirogunan jail, Yogyakarta where she stayed until 1971. She was regularly called back to the military police to be interrogated:

One time when I was called back, I was forced to confess that I had implemented political guerrilla acts. In that interrogation I faced great inhumanity; I was stripped and my head was forced down. They ordered me to kiss their genitals one by one, all eight people in the room. My spirit was broken and I couldn't walk, but they forced me to. Then they lay me down in the middle of the room and shaved my head. I couldn't do anything but beg the Lord for strength.

In '71 I was moved to Plantungan camp with 500 women from Java. In Plantungan there was no more physical torture, but rather psychological terror. We were seen as immoral human beings, insurgents. We didn't like the supervisor of mental health at Plantungan; he got one of the prisoners pregnant and she had two children. How

²⁸ Testimony at public hearing of National Coalition of Justice and Truth (KKPK) with the theme "Violence Against Women," Jakarta, 25 Nov. 2013.

could we trust a supervisor like that? There were so many intolerable things. eventually we were thrown into Bulu Jail in Semarang because they said we couldn't be instructed.

She was released on 27 September 1978.

Case 2²⁹

SW was an artist, a *ketoprak* dancer,³⁰ singer and actor with Lekra (*Lembaga Kebudayaan Rakyat*), a cultural organisation associated with the Indonesian Communist Party and banned in 1965. SW was moved from one detention center to another for five years.

Her ordeal began late one night in 1965, when at about 11pm a group of soldiers surrounded her home in Gowongan, Yogyakarta and broke down the door. She was dragged outside and ordered on to a waiting truck. The truck took her to the Jefferson building, formerly a library owned by the US Embassy (USIS), then seized by the military and used as a facility to interrogate and torture detainees. She was questioned there briefly and then taken to the military police post. She was ordered to sit up all night and stay awake. If she fell asleep, an officer would beat her. At 8am the next morning she was brought to Vredenburg Fort where she was held for a week. She was held with hundreds of others in each of these detention centers.

After a week she was taken back to the Jefferson building. She was accused of being at the infamous mass grave known as *Lubang Buaya* (Crocodile Hole) and participating in the torture of the army generals there before murdering them.³¹ She remembers how the interrogators questioned her:

“Were you at that well? What was it called, the Lubang Buaya?” I was just quiet because I did not know. I was hit with the butt of a gun. They hounded me, “How many people did you put inside Lubang Buaya?” I was just quiet.

She was taken to the Jefferson building three times and tortured each time. Her face and head were beaten, she was kicked by soldiers wearing army boots, electrocuted, and burned with cigarettes. She was stripped and told to turn around so they could look for the Communist hammer and sickle mark. According to the officials, women who were associated with *Gerwani*, a progressive women's movement, were marked with this tattoo on their bodies. Her back and waist were beaten with a rifle butt so many times that she now has a permanent disability and difficulty walking. During this time her husband never came to visit her and eventually he left her.

SW was sent back to Vredenburg Fort and held there for three months, then sent to Wirogunan Prison in Yogyakarta (one month), Ambarawa prison (7-8 months), and finally to Bulu Semarang prison in Central Java (five years).

²⁹ *Enduring Impunity*, 40-42.

³⁰ *Ketoprak* is a theatrical genre from Java where actors sing to the accompaniment of the gamelan.

³¹ *Lubang Buaya* is the site where seven generals of the Indonesian army were murdered on 1 October 1965 as part of an attempted coup. The army circulated a false story saying that members of *Gerwani*, a left-leaning women's organization, performed sexual torture before and after killing the generals.

In Wirogunan I cried and cried . . . When I was beaten I didn't cry, but in Wirogunan I cried. Why did I cry? Outside the door where we all slept, there was a can and a gutter. The gutter was full of excrement, so when we went out, you know, the filth was just unbearable. The stench. That's what made me cry.

Food was scarce. Detainees counted the kernels of boiled corn they ate every day: 115 kernels. They were also given old cabbage. SW was so hungry that she had to eat it, but she washed it and wrung it out first. SW was tasked with cooking in the kitchen at Bulu Semarang. She recalls over 1000 women were held there at the same time as she.

In Bulu Semarang she slept on a wooden platform with no mattress. One room held up to 60 women with over 30 on each platform:

So, for example if you were asleep at night and you were tired [of lying on one side] . . . you would say to your friends, "Come on, turn over! Count 1, 2, 3, then turn to the left." Later, if you were tired [of lying on your other side], ya, turn to the right. You had to turn in coordination.

In 1970 she was released and returned to her house in Gowongan. *I keep my release letter even though it is already ragged.*

Case 3³²

YHD joined *Gerwani*, the Indonesian Women's Movement, in 1962 and became head of the Kupang chapter of East Nusantara Province in 1963. In 1966 she was dismissed from the civil service (as a primary school teacher) with no pension. When she asked the head of the school what she had done wrong, he replied that it was an order from his superiors. In 1966 she was arbitrarily arrested and taken to the district military headquarters where she was interrogated. She was held for a day without any food or drink before she was sent home.

Not long afterwards, two soldiers took her from her home to Kupang's Freedom Stadium where she was illegally detained for two weeks. Because authorities did not provide detainees with food, her children had to deliver food to her. During this detention she was taken to the Wirasakti Military Hospital where she was stripped naked and examined by a male doctor who did not find the hammer and sickle tattoo that he searched her body for. She was then released to return home, but was required to regularly report to military headquarters.

In 1975 YHD was arrested again, and this time was taken very far away, together with two other women, to Pekambingan Prison in Denpasar, Bali. She wanted to take her eight-month-old baby with her, as she was still breastfeeding, but the soldiers said that her husband would have to care for the baby.

When I was taken my husband was not at home because he worked on a ship . . . I had to leave my baby with my 14-year-old daughter. I didn't know what they would give my baby to drink because I was still breastfeeding.

During her three-year detention in Bali, from 1975-1977, YHD suffered greatly:

³² *Enduring Impunity*, 77-79 with supplemental data from JPIT.

I really suffered because I thought about my child who I was still breastfeeding. The women in Bali helped me with my sore breasts whenever it was time for me to breastfeed, but I couldn't breastfeed.

In December 1977 she and the two other women detainees were sent back to Kupang where YHD had to remain under house arrest. Since she was never reinstated to her teaching position and given no benefits, she started sewing and making cakes to sell in order to support her children. She had a small pool of savings from money she was allowed to earn from the sale of embroidery while in prison in Bali.

YHD's children cared for her as her health deteriorated and she developed cataracts, rheumatism, and heart and stomach problems. Her physical suffering was exacerbated by trauma that persisted for years and years after her experience of gender-based violence and ill-treatment during the 1960s and 70s. In 2011 she said:

My experiences of violence in 1965 continuously haunt me. I am still traumatised, feel scared, and have no self-confidence.

Her fear was painfully apparent when she refused the gift of a book that featured her story along with stories of other women who suffered violations in 1965-66.

If suddenly people searched my house and found that book, what would happen?

YHD passed away in her sleep in 2014. She died never having fully shared her experiences with her children. They knew their mother as an often bitter, angry woman, but never understood the source of their mother's trauma.

Case 4³³

ADM was accused of being a member of *Gerwani*, and her husband of being a member of *PKI* on Sabu Island, NTT. Her husband was dismissed from his teaching job without reason. ADM remembers:

Suddenly there was news that my husband had been dismissed from his job as a teacher—who knows what he had done wrong, I don't know—and no longer received a salary. My children were six years, four years, 20 months and my youngest had just been born.

In November 1965 her husband was detained at the the house of the head of *PKI*, and then a few months later ADM herself was detained.

*In January 1966 I was called to come before an interrogation team of people in the Sabu community, like the church minister, head of the sub-district office, heads of political parties [other than *PKI*], police, and the school principal. who were seeking clarity about the 30 September 1965 Movement. I was punched in the nose. Why, I don't know.*

³³ *Enduring Impunity*, 80-81.

In March 1966, soldiers from Kupang arrived in Sabu. ADM's husband and other detainees were moved to a jail, and then one night they were shot and buried. ADM was told by a member of the interrogation team and also the chief of police that he had been killed.

On hearing the news I was so heartbroken. I wanted to cry, but couldn't. I could only surrender to God.

Two days after her husband was taken she was called to the hospital, where her hair was shorn. In Sabunese culture, shorn hair is a punishment for women who commit adultery.

I still remember that the person who cut my hair was one of my husband's students. He was also the one who took my husband to his execution site.

It was through this man that ADM's husband left her the traditional woven cloth that he had been wearing right up to his grave. He asked that it be given to ADM to help her survive as it was no longer of use to him.

After her hair was shorn, ADM was marched with others to the office of the interrogation team where 10 people were waiting for them. They mocked and ridiculed the woman and called them *Gerwani* dogs. They also subjected them to verbal threats and innuendo. The sub-district head of West Sabu said:

Wow! How pretty they are. Choose one! They no longer have husbands!

ADM's four children, the youngest only 10 days old, were all taken and detained with her for 10 days. After her release, ADM was ordered to report regularly to authorities. She was devastated.

I only cried inside. Only God knows everything. Oh my, I was so sad at that time, also about the difficulties of finding food. Ten days I was detained; then they released me and told me to go home.

ADM faced great hardship upon her release. She had no pension and could only tie and dye threads for other people to weave traditional cloth, work in the garden and fields, and help people to plant their rice fields.

Oh, I really suffered. I no longer had my husband, we had no one to depend on. We were made to live like animals.

Forced Labour

Case 5³⁴

HM worked in the Indonesian Navy and was a Deputy Chair of the Unified Movement of Indonesian Students (CGMI). He was arrested in February 1973 on Cisanggiri Street, Santa Market, Kebayoran Baru, Jakarta. Cisanggiri was used specifically as a place for the torture of Indonesian Navy officers. HM was arrested because he had joined CGMI and was active in study groups in the organization.

³⁴ Interview by KontraS, Jakarta, March 2015.

They tortured me in a standing position. They wanted to hit my penis with wood, but I blocked the blow with my hand. They burned me with cigarette butts. They did this every interrogation. I still remember the name of the perpetrators. They were military officers as well. After I was interrogated, they put me in an isolation room for 40 days. After that, they put me in the detention centre in Salemba. The torture continued. I still have problems with my ears because of the torture I experienced.

HM was released in 1975. He tried to earn a living by sporadically joining various projects. He never received a pension. He also hid his life story from his children.

Case 6³⁵

GB was a peasant in Oesao, East Kupang. In 1965, *PKI* promised land to the people in Oesao. People in contact with *PKI*, including GB, were then accused of being members of *PKI*. GB was arrested in the village meeting hall of Oesao. He was arrested and held with other detainees for several months. He was forced to work, cleaning roads and gardens every day without receiving any food. His family had to bring him food when they visited.

One day fully-armed military officers arrived in cars. GB witnessed how armed soldiers forced those whose names were called onto a truck. Some of these men were killed behind the Oesao Maket and others were killed at Ikan Foti and Pantai Laut. After his release, GB was required to report to state officials. To survive he began to sell small snacks from a cart, a job that continues to this day.

Although he wasn't a member of *PKI*, the accusation meant that GB has been the object of ongoing stigma from his community and even from members of his family.

Case 7³⁶

SGT was arrested because he was suspected of being a member of *PKI*, even though he had a very low level of formal education (he completed elementary school only) and knew nothing about politics. He was arrested at his home in 1965, and interrogated in the village. For the next several years he was moved from one detention centre to another in Central Java. He was taken from his village to a detention centre in Yogyakarta where he was detained for six months, then moved to the Nusakambangan detention centre where he was held for two years, before being moved once again to the detention centre in Ambarawa. He was finally taken to Buru Island in 1970.

I received physical violations at the detention centre. They hit my eyes, so I still cannot see properly. I only ate twice a day; bad food. In the mornings, they only gave me 50 kernels of corn.

SGT's hard manual labor on Buru Island varied—he felled trees and tilled land. In 1978, in a mass marriage organized by the military, he married the daughter of another political prisoner being held on Buru Island. However, the couple had to vow that they would live in Buru. TT was released in 1979, and still lives on Buru Island. TT experienced trauma again during the

³⁵ Interview by JPIT, Oesao, Kupang District, 5 Sept. 2014.

³⁶ Interview by LAPPAN, Maluku, 2014.

religious conflict in Maluku in 1999 that also engulfed Buru Island. When he saw the crowds and the burning houses he became very afraid.

Case 8³⁷

JMY was 16 in 1965, and a member of the drum band at the People's Youth training centre in Kretek, Bantul, Central Java. His father was a member of the Indonesian Farmers' Movement (*BTI*). Both JMY and his father were arrested in December 1965. They were made to report to authorities and were indoctrinated in line with the government's anti-Communist position. During that time, they were forced to build a dike and dig a trench for the district office.

JMY was released in December 1967, but in February 1968 he was accused of being a member of the "Night Indonesian Communist Party" and re-arrested. He was taken to the Military District Command office and sentenced to Bantul Camp for two weeks.

I was stripped and hit with dried cows' genitals. My penis was pulled out by one of the women political prisoners. If she refused, she would be hit.

JMY was moved to the Wiragunan Detention Centre where he was held from 1968-1970. In 1970 he was moved again. After his picture and fingerprints were taken, he was boarded on a ship and transported to Buru Island. One day, when a pet parrot of the commander at Buru Island escaped from its cage, JMY was blamed and tortured. In 1979, JMY was released and brought to Semarang on the north coast of Central Java. He received only Rp. 1.000,- (at the time the equivalent of only about \$1.50). He lived in Sentolo, Kulonprogo, close to Yogyakarta, and worked for the Bumi Putra Insurance company until 1995. Currently he works shoveling manure and his wife is a farm worker.

Case 9³⁸

BU was a third year student at the Teacher's Education School in Pemasang, Pekalongan (Central Java) when he became secretary of the Indonesian Student Youth Association (*IPPI*). In 1965 his father was arrested as a communist supporter. BU dropped out of school and worked for his family.

In 1970, when BU was 22 years old, two civilians arrested him and took him to Gedung Kalong in Gunung Sahari, North Jakarta. He was interrogated and placed in a small cell. The 3x2 metre cell held 20 prisoners, all of whom slept on the floor. During his detention BU heard the screams of victims being tortured and he too was tortured.

I was tortured. I was shocked . . . they wrapped a cord on my left and right index fingers; the cable was connected to some sort of engine battery. [The shock caused] an unusual taste and I became unconscious. My armpits felt like they were being hit repeatedly. My clothes were stripped. I was also beaten and whipped. They used rattan, the tail of a stingray, and chains to hit me.

³⁷ Interview by KIPPER Yogya, Yogyakarta, 2014.

³⁸ Interview by KontraS, Jakarta, March 2015.

BU and the other detainees were fed only three scoops of rice a day. The rice was very dirty—yellow and full of unhulled kernels and sand. In addition they were given some tempeh and ate spinach they had grown themselves. Because of his deprived living conditions and torture, BU developed beriberi and could not walk. He was allowed only 15 minutes outdoors each day.

In 1971, BU was moved to the Salemba Detention Centre in Jakarta and in 1972 to Tangerang (west of Jakarta) where detainees were forced to farm 110 hectares of land, care for livestock, and operate a workshop. BU had to begin work each morning at 5am. At first the detainees had to pull weeds and cut bushes by hand, even if all they had were blunt sickles. Their hands bled.

BU was released on 24 October 1979. However, he had to regularly report to authorities at the military commander office. BU's national identity card was marked "ET", identifying him as a former political prisoner. However, BU discarded this ID card in the early 1980s and, after applying in a different location, successfully obtained a new ID card without the 'ET' identifier..