



January 2008

country summary

## Indonesia

Two Constitutional Court decisions and efforts toward accountability for the murder of human rights defender Munir Said Thalib marked good progress on human rights in Indonesia.

However, threats and intimidation against human rights defenders significantly increased in Papua and West Papua, while efforts at military reform stalled. The killing of four civilians by marines in East Java exemplified continuing human rights violations associated with security force involvement in private business activity.

### Impunity

Some progress was made in addressing human rights crimes of the Soeharto era. In December 2006 Indonesia's Constitutional Court declared unconstitutional a law establishing a Truth and Reconciliation Commission (TRC) in Indonesia. The law empowered the TRC to award amnesties to perpetrators of past crimes and barred victims from taking any future legal action against them. Reparations to victims were made contingent upon victims signing formal statements exonerating the perpetrators. The Court declared that provisions of the TRC law violated Indonesia's international obligations and domestic laws. The decision came after two years of legal challenges by Indonesian human rights groups.

In July 2007 prosecutors filed a civil suit against former Indonesian dictator Soeharto, seeking return of US\$440 million allegedly stolen from the state during his 32 years in power and seeking US\$1.54 billion in damages. The suit claims that the former president funneled money from the state to his own accounts through the Supersemar Foundation. In September the United Nations and the World Bank placed Soeharto at the top of a global list of political leaders accused of stealing state assets.

## **Military Reform**

The government has not completed key military reforms. It has yet to end military business practices, as required under a 2004 law, or ensure accountability for abuses. In May 2007, 13 marines shot and killed four civilians of whom two were women, and wounded eight in Pasuruan, East Java. The incident was sparked by a long-running dispute over land that a Navy cooperative, jointly with an Indonesian company, wanted to develop into a plantation against the wishes of local residents. Military chief Air Marshal Djoko Suyanto defended the marines' actions, claiming self defense. These assertions were disputed by media, witnesses, and a subsequent investigation by the national human rights commission, Komnas HAM.

## **Aceh**

In December 2006 Irwandi Yusuf, a former spokesperson for the Free Aceh Movement (GAM), won the gubernatorial election in Aceh. His running mate for vice-governor was Muhammad Nazar, a former political prisoner and head of the Aceh Referendum Information Center (SIRA), which campaigned on a referendum for Aceh independence. Irwandi and Nazar were installed in office on February 8, 2007.

The December 11, 2006 polls (district and provincial) were the first-ever direct local elections in Aceh, and first elections after the August 2005 Helsinki peace agreement between the Indonesian government and GAM, and the first in Indonesia allowing independent (non-party affiliated) candidates to stand.

To date there is no progress on accountability for past human rights violations in Aceh. The 2006 Law on Aceh Governance set out to establish a TRC and an ad hoc court to look at crimes committed after the August 2005 peace agreement. In 2007 there was little movement toward either, and since the national TRC was declared unconstitutional the status of the Aceh branch remained uncertain.

## **Papua and West Papua**

Peaceful political activists in Papua and West Papua continue to be classified as separatists, facing arrest and criminal conviction for their activities. In the central highlands both army troops and police units, particularly mobile paramilitary police

units, engage in largely indiscriminate village “sweeping” operations to pursue suspected militants. Excessive, often brutal force is used against civilians.

In 2007 Col. Burhanuddin Siagian was appointed as regional military commander in Papua. Colonel Siagian has been indicted by the United Nations for crimes against humanity in East Timor, including forming militias responsible for human rights violations.

## **Death Penalty**

In August 2007 Indonesia’s Supreme Court threw out a final appeal against the death penalty for Amrozi, one of the convicted 2002 Bali bombers. Verdicts for the other two Bali bombers on death row, Imam Samudra and Mukhlas, are still pending at this writing.

In April an Indonesian man was executed by firing squad for a 1999 murder conviction in Kalimantan. At least 90 other people remain sentenced to death in Indonesia.

## **Freedom of Expression and Press**

In July the Constitutional Court declared unconstitutional legal provisions prohibiting free expression. Articles 154 and 155 of Indonesia’s Criminal Code criminalize the “public expression of feelings of hostility, hatred or contempt toward the government” and prohibit “the expression of such feelings or views through the public media.” Despite the ruling, those sentenced to prison under these provisions remained there, and no progress was made on removing the articles from Indonesia’s new draft criminal code.

In April the court case against the editor-in-chief of *Playboy Indonesia*, Erwin Arnada, for violating indecency provisions of the criminal code was dismissed.

In August Indonesia’s Supreme Court awarded Soeharto one trillion Rupiah (US\$106 million) in damages for a defamation lawsuit brought against US-based *TIME* magazine over a May 1999 article alleging he had amassed a fortune in overseas

bank accounts. Press associations criticized the ruling as a violation of media freedom, asserting that the *TIME* article had been fair, with Indonesia's Press Council declaring the decision an "evil omen" for local journalists covering corruption stories.

In March 2007 Indonesia's attorney general banned a number of history books over their presentation of the events surrounding the 1965 coup in which Soeharto came to power. This was on the grounds that the books did not mention the alleged role of the PKI, the Indonesian Communist Party.

### **Freedom of Religion**

Religious extremists forcibly closed more places of worship of religious minorities, with little response from local authorities. On June 3 a large group of people stormed a Sunday school session of a Christian congregation in Soreang, West Java, assaulting the pastor's wife and a teenager, and destroying church property. A week later the same group attacked a church in Garut, forcing the pastor and his congregation to flee for safety to another village.

In September in Malang, East Java, 41 people were convicted of blasphemy against Islam and each sentenced to five years' imprisonment. The defendants had been arrested in May for making a videotape denouncing the Quran. Those convicted were all members of the Lembaga Pelayanan Mahasiswa Indonesia, a mainly student organization active in disaster relief.

### **Child Domestic Workers in Indonesia**

An estimated 700,000 to 1 million children, mainly girls, work as domestic workers in Indonesia, representing up to one-fifth of the country's domestic workers. Typically recruited between the ages of 12 and 15, often on false promises of decent wages and working conditions, girls may work 14 to 18 hours a day, seven days a week, and earn far less than the prevailing minimum wage. In the worst cases, child domestics are paid no salary at all and are physically and sexually abused.

As informal workers, domestics are not protected by traditional labor laws. At this writing, draft legislation that would mandate an eight-hour work day, a weekly day of

rest, and an annual holiday remained under discussion in government and had not yet been presented to parliament. The current draft contains no sanctions against employers or recruiting agencies that violate its provisions.

## **Indonesian Migrant Workers**

Approximately two million Indonesians work abroad, of whom the vast majority are women. Many migrate as domestic workers to the Middle East and other parts of Asia, where they are subject to a wide range of labor abuses (see Saudi Arabia and Malaysia chapters). Poorly monitored labor recruiters often deceive workers about their jobs abroad and impose excessive recruitment fees, placing these migrants at risk of trafficking and forced labor.

Migrants' groups protested against the continued operation of "Terminal 3" at Soekarno-Hatta Airport in Jakarta, where returning migrant workers are diverted to a separate terminal and subject to inflated charges and extortion.

## **Human Rights Defenders**

Three years after the assassination of leading human rights defender Munir Said Thalib, no one has been convicted for murder. Following the acquittal of Pollycarpus Priyanto, a Garuda Airways pilot linked to intelligence officials, for Munir's murder, in April police arrested two new suspects, Indra Setiawan (former president-director of Garuda Indonesia) and Rohainil Aini (former secretary to the chief pilot for Garuda). Their trial for murder started in October. In August the Attorney General's Office filed new evidence to the Supreme Court and requested a review of Priyanto's acquittal.

In May a Jakarta civil court found Garuda guilty of negligence for failing to take adequate action to prevent Munir's death. The court ordered \$73,800 damages to his widow, who nevertheless appealed seeking stiffer penalties and an apology.

In Papua and West Papua human rights defenders face increasing intimidation including death threats, arbitrary detention, and surveillance by Indonesian security forces. The head of the Papua branch of Indonesia's national human rights commission, Alberth Rumbekwan, was subjected to such intimidation throughout the second half of 2007.

In June the UN Secretary-General's Special Representative on Human Rights Defenders Hina Jilani visited Indonesia including Aceh and Papua. She noted that while prospects for promoting human rights had considerably improved, there remained resistance and little commitment to eliminate impunity for past and ongoing human rights violations. Of particular concern was the lack of protection for those engaged in socially sensitive issues such as the rights of lesbian, gay, bisexual, and transgender persons or public awareness on HIV/AIDS.

### **Key International Actors**

In addition to Hina Jilani, UN High Commissioner for Human Rights Louise Arbour visited Indonesia for five days in July. Both Jilani and Arbour expressed concern about the Munir case and the lack of progress in dealing with past human rights violations. In November UN Special Rapporteur on Torture Manfred Nowak visited Indonesia. In May Indonesia was elected for a second term on the UN Human Rights Council.

US Congressman Eni Faleomavaega, chairman of the House Foreign Affairs Subcommittee on Asia, the Pacific and the Global Environment, led a delegation to Indonesia in July to investigate conditions in Papua. The Indonesian government denied him permission to the province but he met several Papuan leaders in Jakarta, as well as President Yudhoyono and other government officials.

In efforts to decrease its perceived over-reliance on US military cooperation, in April Indonesia ratified a security agreement with India. The agreement paved the way for the joint production of military equipment and cooperation on issues including combating terrorism and piracy.

The Indonesia-Timor-Leste bilateral Truth and Friendship Commission extended its mandate in June for a further six months. In July UN Secretary-General Ban Ki-moon effectively enforced a UN boycott of the Commission by stating that UN staff would not testify unless the amnesty provision of the Commission's mandate was changed to not include perpetrators of serious crimes. In September the Commission held its fifth and final public hearing in Dili.