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Indonesia: *Pro-justicia* inquiry a key opportunity to address past abuses in Aceh

The decision by the National Human Rights Commission (Komnas HAM) to set up a *pro-justicia* inquiry into five cases of serious human rights abuses in Aceh is a welcome step towards addressing impunity for past abuses committed during the conflict. Komnas HAM should conduct its investigations promptly, effectively and transparently. Any cases that it decides to submit to the Attorney General's Office must be fully investigated without political interference. Where there is sufficient evidence, those suspected of the crimes must be prosecuted in fair trials without the death penalty.

In May-June 2013, a team from Komnas HAM carried out an investigation into past abuses in Aceh province. The team, which made its initial findings public on 1 August, reportedly found that "gross human rights abuses" – a term used in Indonesian law to define crimes against humanity or genocide – were committed by the Indonesian security forces during the conflict in Aceh. Their conclusions were based on an investigation into five cases of abuse in Aceh, including torture that occurred between 1997 and 1998 at *Rumoh Geudong*, a tactical post of Indonesia's Army Special Forces (*Kopassus*) in Pidie district; the *Simpang KKA* incident in May 1999 when the military opened fire on hundreds of protesters in North Aceh district; the 2001 Bumi Flora massacre in Eastern Aceh, which left at least 31 dead; a mass grave which was found in Bener Meriah district in 2002; and the 2003 *Jamboe Keupok* killings in South Aceh district.

On 4 October 2013, Komnas HAM decided at their plenary meeting to form an *ad hoc* team to conduct a *pro-justicia* inquiry as provided for by the Law on Human Rights Courts (No. 26/2000). This initiative – aimed at addressing past crimes in Aceh – is the first one for a long time, but also one of many. There have been a range of fact-finding investigations – by the government, parliament and Komnas HAM – into the Aceh conflict since 1998. Disappointingly though, very few have led to trials of those responsible for past crimes, and none of the final reports of official investigations have been made public.

With this new inquiry, it is essential that hopes of victims and their families are not dashed one more time, and that this renewed opportunity to deliver on justice and reparation is fully met. Komnas HAM will need to ensure that victims, their families and representatives, civil society organizations, and other relevant stakeholders can contribute to the investigation free from threats and harassment. Further, they should ensure that victims and their families are regularly informed about the progress of the investigation. Finally the final *pro-justicia* report, with the names of victims, witnesses and potential perpetrators retracted, should be made available to the public and distributed widely to contribute to establishing the truth about what happened in the past.

Amnesty International also calls for all cases identified by Komnas HAM to be fully investigated by the authorities, without any political interference. So far, the Attorney General's Office has failed in many cases to fully investigate and prosecute human rights violations submitted by Komnas HAM, which has contributed to impunity. Whenever sufficient admissible evidence exists, those suspected of the crimes should be prosecuted in proceedings which meet international fair trial standards and which do not impose the death penalty.

Flaws and barriers in the legal framework also support impunity and must be addressed. In particular, under the Law on Human Rights Court, Komnas HAM may only conduct *pro-justicia* inquiries into acts of genocide and crimes against humanity. War crimes, torture, extrajudicial executions, enforced disappearances and other serious human rights abuses that do not amount to these two crimes are not included and cannot be prosecuted by Human Rights Courts.

Amnesty International recommends that the House of Peoples' Representatives amend the Law on Human Rights Courts so that Komnas HAM can conduct *pro-justicia* inquiries into all serious human rights violations and abuses committed in Indonesia. The law should ensure that Komnas HAM and victims are kept informed of the status of investigations; that Komnas HAM is able to submit its cases to an independent prosecutor; and that victims can seek legal review of any decision not to investigate or prosecute crimes under international law.

Indonesia has an obligation under international law to provide justice, truth and reparation to victims and their families. Addressing these past crimes in Aceh would not only contribute to healing the open wounds of the civilian population, it would also help strengthen the rule of law in the country, and help secure the peace process in the long-term.

The Aceh conflict between the armed pro-independence movement (*Gerakan Aceh Merdeka*, GAM) and the Indonesian government dated back to 1976, and peaked during military operations from 1989 until 2005. It took a brutal toll on the population there, leaving between 10,000 and 30,000 dead, many of them civilians.

An Amnesty International report published in April 2013 found that victims and survivors of abuses committed during 29-years of violence are still waiting for the government to establish the truth about what happened to them and continue to demand justice and reparation. Amnesty International and other human rights groups have documented a range of crimes committed by members of the security forces and their auxiliaries against the civilian population, including unlawful killings, enforced disappearances and torture – crimes which have gone largely unpunished. Human rights abuses by GAM included hostage taking and the targeted killings of those suspected of ties to the government. Many of the violations and abuses committed by both sides in the context of the non-international armed conflict may amount to war crimes. Many of the violations directed by Indonesia's forces and their auxiliaries against civilians as part of the policy of suppressing the independence movement appear to have formed part of a widespread or systematic attack and may amount to crimes against humanity.