

KONTRAS (The Commission of Disappeared and Victims of Violence)

URGENT APPEAL: Government should enforce the law regarding student activists disappearances of 1997/1998

INDONESIA: Government should enforce the law regarding student activists disappearances of 1997/1998

Dear Friends,

**The Commission of disappeared and victims of violence (KONTRAS) writes to inform you that the Plenary Session of The House Of Representative Made a Recommendation to president to establish an ad hoc Human Right Court
Case Details:**

On October 2006, the National Human Right Commission released the report of inquiry result that mentioned several human rights violation to victims such as arbitrary and arrest detention, torture and enforced disappearance and the last about reparation for the victims and families. Then the report submitted to Attorney General. Until the middle of year 2007, the Attorney General (AG) has not followed up by reason that an ad hoc Human Right Court is not established by parliament. Since for the reason, the debate came up and down between the National Commission for Human Right and the Attorney General.

On January 5, 2007, the AG sent a letter to the Chair of Komnas HAM saying that his office cannot proceed with the cases because there is no Ad Hoc Human Rights Tribunal referring to article 43 of Law No. 26/2000 on Human Rights Tribunal. The Chair of Komnas Ham responded to the AG's letter saying that the further process does not need an Ad Hoc human rights tribunal. A copy of this letter was furnished to the President, the Chair of the Parliament and the Third Commission.

On February 27, 2007 the House of Representative established the Special Committee regarding the case of abduction and enforced disappeared of student activists 1997 – 1998. In fact, this Special Committee wasn't effective and then on October 2008 the House of Representative reestablished the Special Committee. During at that time, the Special Committee had held meeting with victims and family victims, some human right NGOs and the Attorney General. However, the Special Committee failed to present the representative from governments.

Meanwhile on February 21, 2008, the Constitutional Court (MK) issued its decision through Decree No. 18/PUU-V/2007 based on their discussion on Law No. 26/2000 article 43. The MK cited that Article 43 verse 2 is valid and a part of its decree is as follows: “..in deciding whether it is needed to establish an ad hoc human rights tribunal on a particular case according to *locus* and *tempus delicti*, this requires the involvement of a political institution representing the people, which is the Parliament.

Then, on September 15, 2009 the Special Committee of the House of Representative regarding the case of abduction and enforced disappeared of student activists 1997 – 1998 released some recommendations. The recommendations are *first*, to recommend the president to establish an ad hoc Human Right Court, *second*, to recommend the President including all government institutions and other related parties to immediately find out 13 people who was announced by National Commission for Human Right that they are still missing, *third* to recommend the President to facilitate

the rehabilitation and satisfy compensation for victims and family of the disappeared, *forth*, the Government to immediately ratify the International Convention for the Protection of All Person from Enforced Disappearances. Eventually, On September 28, 2009 The Plenary Session of The House of Representative agreed to the Special Committee's recommendation and made a decision and recommendation to president to establish an ad hoc Human Right Court.

BACKGROUND INFORMATION:

Between 1997 and 1998 24 students and other activists had been abducted by the Army Special Forces Command because of their activism in the struggle for change and democracy in the New Order government. This movement finally led to the reformation of the Indonesian state towards a modern democracy and the victims that gave their lives for this cause deserve justice for the human rights violations they suffered.

Late 1998, a military court was held to prosecute 11 members of Kopasus (Mawar Team) who admitted the crime out of their own conscience. This team admitted of kidnapping 9 activists but was unable to reveal the whereabouts of the other 14 victims. The team also denied of torturing the victims. The defendants were sentence 15 to 26 months of imprisonment and release from TNI.

On May 24, 2007 the Supreme Court announced the appeal decision was Mahmilti II (The high military tribunal II) *incraht van gewijc* because no appeal. In fact, only one defendant of 11 members of the Mawar team got additional the dismissal penalty. A few months after tribunal, there were several personnel who received promotions and campaigns.

SUGGESTED ACTION: Please write letters to the Indonesian authorities requesting their intervention (**please see attachment the sample letter**) to:

1. Mr. Susilo Bambang Yudoyono President Republic of Indonesia Presidential Palace Jl. Medan Merdeka Utara Jakarta Pusat 10010 INDONESIA Fax: + 62 21 231 41 38, 345 2685, 345 7782 Tel: + 62 21 3845627 ext 1003 E-mail: presiden@ri.go.id

2. Mr. Hendarman Supandji

Kejaksanaan Agung RI

(Office of The Attorney General)

Jl. Sultan Hasanudin No. 1 Kebayoran Baru, Jakarta 12160

Telp. (021) 720-8577, 725-1403
Fax. (021) 725-1277

Sample Letter to President

October 10, 2009

Mr. Susilo Bambang Yudoyono President Republic of Indonesia Presidential Palace Jl.
Medan Merdeka Utara Jakarta Pusat 10010 INDONESIA

Your Excellency,

.....(inform briefly on your organizations)

(Name of organization).....would like to address issue regarding the recommendation of the Plenary Meeting of the House of Representative with you. On February 27, 2007 the House of Representative established the Special Committee regarding the case of abduction and enforced disappeared of student activists 1997 – 1998. The first session of the Special Committee was held on March 13, 2007 and elected Panda Nababan as Chair. So far, nothing followed after this. The Plenary Meeting of the Parliament agreed Special Committee would review the cases.

Eventually, on October 2008 the House of Representative reestablished the Special Committee. During at that time, the Special Committee had held meeting with victims and family victims, some human right NGOs and also conducted meeting with the Attorney General. But the Special Committee failed to present the representative from governments.

Then, on September 15, 2009 the Special Committee of the House of Representative regarding the case of abduction and enforced disappeared of student activists 1997 – 1998 released some recommendations. The recommendations are *first*, to recommend the president to establish an ad hoc Human Right Court, *second*, to recommend the President including all government institutions and other related parties to immediately find out 13 people who was announced by National Commission for Human Right that they are still missing, *third* to recommend the President to facilitate the rehabilitation and satisfy compensation for victims and family of the disappeared, *forth*, the Government to immediately ratify the International Convention for the Protection of All Person from Enforced Disappearances. Eventually, On September 28, 2009 The Plenary Session of The House of Representative agreed to the Special Committee's recommendation and made a decision and recommendation to president to establish an ad hoc Human Right Court.

For the above reasons I urge the new leadership of President Yudhoyono and Vice President Boediono to take the following actions:

1. To release the Presidential Decree on the establishment of the Ad Hoc Human Rights Court for abduction and enforced disappearances of student activists of 1997 - 1998
2. To establish the independent Commission that mandates to look for the 13 people who are still missing.

3. To fulfill the victim's right such as compensation, restitution and rehabilitation because the inquiries by the National Commission for Human Rights have clearly mention that this case was gross violation of human right

4. To ratify the International Convention for the Protection of All Persons from Enforced Disappearance.

5. To ensure the Attorney General's Office as investigation institution can initiate such investigation for the case of enforce disappearance 1997-1998

Sincerely,

Cc.

1. Mr. Hendarman Supandji

(Head of The Attorney General Office)

2. Marzuki Alie, SE. MM

Chairman of Parliament (DPR RI)

Sample

Letter to Attorney General

Oktober 10, 2009

Mr. Hendarman Supandji
Kejaksaan Agung RI

(Office of The Attorney General)
Jl. Sultan Hasanudin No. 1 Kebayoran Baru, Jakarta 12160
Telp. (021) 720-8577, 725-1403
Fax. (021) 725-1277

Your Excellency,

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For the above reasons I urge the Attorney General to take the following actions to follow up the process of investigation as your mandate in the Law. As the Recommendation of the Plenary Session of the House of Representative that has made a recommendation and one of the recommendation urges you to conduct investigation regarding the case of abduction and enforced disappeared of student activists 1997 – 1998.

Sincerely,
Cc:

1. **Mr Soesilo Bambang Yudhoyono the President Republic of Indonesia**
2. Mr. Agung Laksono the Chairman of Parliament (DPR RI)