

Past Human Rights Violations¹

Submitted by:

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Tanjung Priok, 1984



Tanjung Priok was the site of a severe case of human rights violation on 12 September 1984, during which the Indonesian military opened fire upon thousands of people who were attending a mass prayer. On that day, the routine sermon was about the community's refusal to accept the *Pancasila* as the sole ideology of the country. At the same time, some members of the congregation went to the Military District Operations Command (Kodim) of North Jakarta to demand the release of Musholla As Saadah officials and were detained after

¹ SAPA TFAHR, Hiding Behind Its Limits, A Performance Report of the First Year of The ASEAN Intergovernmental Commission on Human Rights (AICHR), 2009-2010, FORUM ASIA: 2011, pp. 97-118

a riot erupted in response to a soldier who posted a government pamphlet on a mosque wall using gutter water, and without taking off his shoes.

Indiscriminate shooting at the crowd caused the victims to run in all directions. Those who suffered from gunshot wounds were collected at RSPAD. Other victims were arbitrarily arrested as they escaped to other parts of Indonesia, all at once at the dawn of the following morning. Among the victims were also those who were not involved in the incident, but were actively preaching about it. Without any notification to the families, the victims were detained and tortured, whether in Kodim North Jakarta, Military police area office (Mapomdam) Guntur or RTM Cimanggis. Many underwent a court process and were sentenced to between one and three years of prison, on charges of subversion and resisting arrest.

After the incident, the victims experienced stigmatisation from the community, who considered them criminals against the nation. Many of the victims lived in poverty because they lost their jobs or had difficulty finding jobs or continuing school.

The victims and the community demand for resolution of the case was only heard in 1998, when the National Commission on Human Rights (Komnas HAM) of Indonesia formed a special team to investigate the case. This was followed by the formation of a commission of inquiry on the human rights violation at Tanjung Priok (KP3T) in year 2000. Through these two investigation processes, one of which was *pro justitia*, Komnas HAM found that severe human rights violations occurred, including killing, arbitrary detention and arrest, torture and forced disappearance. Komnas HAM's report concluded that the incident was the responsibility of the armed forces, not only the perpetrators on the field but also the operational command and including (higher) command responsibility.

Komnas HAM submitted its final report to the office of the Attorney General. The investigation at the Attorney General's office was only finished in July 2003. In September 2003, the human rights court was established. The court charged 15 defendants who were responsible as the field perpetrators and as operational commanders. The case, however, excluded President Soeharto as the highest military commander, LB Moerdani as the Commander of ABRI (armed forces) and Tri Sutrisno as Pangdam Jaya.

At the same time, during the investigation process, monetary gifts were distributed as part of Islamic "reconciliation" by the perpetrators to several victims of Tanjung Priok case beginning on 1 March 2001. As the result, while the hearings were in progress, many victims changed their testimony in favor of the perpetrators. However, some victims remained consistent with their fight to uphold the law through a fair court process to fulfil the quest for truth and justice for the victims.

In 2003, the first trial for the Tanjung Priok case was held with Sutrisno Mascung and 10 members, including Pranowo, R. A. Butar-Butar and Sriyanto as defendants. In 2004, the ad hoc trial in the first level sentenced RA Butar-Butar to 10 years in prison and Sutrisno Mascung to three years in prison, and two years each to soldiers under his command. Meanwhile, the prosecutor failed to prove the guilt of Pranowo and Sriyanto. In second level of trials in 2005, the judge released RA Butar Butar and Sutrisno Mascung. However,

by 2006, Supreme Court released all defendants. On the first level of the trials, the fulfilment of compensation for the victims affected the sentencing. However, in the second level of the trial and the Supreme Court, the impact of reparation is less clear. Significantly, the judge did not make any mention of the victims' rights in the release sentences. In fact, the guilt of the defendants depended on the fulfilment of compensation, although it is not a part of the main rights claims of the victims.

In 2007, an effort to fulfil victim's rights was made by a group of victims in an appeal to the Central Jakarta Court for compensation for the victims of the Tanjung Priok Massacre. They appealed for compensation of 658 million Indonesian rupiah (IDR), and immaterial costs of 357.5 million IDR, totalling 1.015 billion IDR in claims. The court became confused with this appeal, since this was the first time for the judges to receive this type of a request. Unfortunately, the court did not grant the defendants' demand because the primary source of the appeal came from the statement of human rights court of Tanjung Priok which stated that the court already annulled the matter at the level of the high court and Supreme Court.

On 26 March 2008, several members of the victim's families—representatives of tragedy Semanggi I, May 1998 Riots, 1997 disappearance activist, the Tanjung Priok massacre 1984 and KontraS—reported directly responsibility for all these cases. In response, the President said he would conduct a special cabinet meeting to be attended by all ministers and Presidential assistants on how to handle and resolve human rights cases. In the meeting, President also promised to ask clarifications from the Attorney General, Mr Hendarman Supanji, about the matter of the lost documents of Trisakti Semanggi, as well as the statement of the Minister of Defence, Mr Juwono Sudarsono who said that it was not essential for military officers and former members of TNI to fulfil of Komnas HAM invitation to be a witness in the inquiry team.

On July 1, 2008 KontraS and Ikatan Keluarga Orang Hilang Indonesia (IKOHI or Indonesian Association of Families of the Disappeared) visited the Third Commission of the Parliament and demanded that the Attorney General (AG) be called upon to explain why he is not implementing the MK decision to conduct further investigation on the four cases of gross human rights violations. Specifically, the group's calls were: (1) Demand the AG to investigate enforced disappearance cases which occurred in 1997-1998 especially that of 13 persons who remain missing up to this day. Since these cases are continuing crimes, these should be handled by the permanent human rights tribunal and not necessarily by an ad hoc tribunal; (2) The President must establish an ad hoc human rights tribunal for past cases based on the documents which Komnas HAM submitted to the AG. The victims' families and surfaced victims are now closely monitoring the developments related to their calls.

Talangsari Massacre in Lampung, 1989

On 7 February 1989, the military launched an attack in the residential village of Talangsari in Lampung province, resulting in arbitrary arrests and detentions, torture, and forced disappearances. In the attack, the shooting resulted in hundreds of casualties in terms of deaths, injuries and disappearances. The Talangsari residence was also burnt down and closed to the public. After the attack, hundreds of persons were unfairly prosecuted and were charged with subversion. This applied to all victims of Lampung incidents who are in Lampung, Jakarta, Bandung, Central Java, East Java and West Nusa Tenggara.

In 1998 after the national political scene experienced change, some of the victims and their families started litigation against past abuses to demand for justice. The fight for justice is carried out through various efforts such as meetings members of Indonesia's House of Representatives and the government, or by pressuring the National Commission on Human Rights (Komnas HAM) to conduct investigations. In its course, this fight encountered many obstacles, especially those political in nature. Furthermore, there is a strong effort by perpetrators to use divide and conquer politics to escape culpability. For instance, those responsible took advantage of the victim's poverty by offering them money made available through the Islamic "reconciliation" principles. Even if others insist on a legal process as the proper solution, some of those who accepted money tried to stop other victims from demanding the resolution of this case. Government efforts to stop the case resolution included the appointment of AM Hendropriyono as the head of National Intelligence Body (BIN) in 2001. As a result, there have been interventions from military officials to close the case. Later, local military and civil officials, active or retired, started to visit the victims, telling them not to bring up the case ever again. Village officials who took part in the guerrilla movement in Talangsari also visited other victims one by one and asked them to forget about resolving the case while they handed money to the victims.

In 2001, Komnas HAM formed the Inquiry Team for the Talangsari Massacre of 1989, with Mr. Koesparmono Irsan as chairperson. The investigations, however, were not immediately started. Among the many obstacles to resolving the case of Talangsari were the deals made with the victims by parties responsible for the massacre which were based solely on "islah," or Islamic peace agreements in the form of monetary compensation. While some victims received "islah," others preferred to resolve the issue in the legal arena.

In January 2004, the inquiry process for Talangsari began and Komnas HAM appointed Hasballah M. Saad as the new chairperson. By early 2005, the Inquiry Team failed to make progress beyond analyzing pre-existing data. In February 2005, Komnas HAM proceeded to re-establish the Inquiry Team under law No.39/1999. The team included members Enny Suprpto, Samsudin, Ruswiyati Suryasaputra and Muhamad Farid. The group conducted field research around Talangsari Lampung and began interviewing witnesses. After preliminary witness interviews, the team determined that human rights violations had occurred in the form of summary killings, torture, arbitrary detention and arrest, as well as violations of the freedom of expression. The team did not finish their report until 2006 as they were waiting for replies from the Military Sub-Area Command (Korem) Garuda Hitam and the Commander of Military Area Command Sriwijaya.



Survivors and relatives of victims of Indonesia's unresolved cases of human rights violations joined the case submission to AICHR.

The *pro justitia* Inquiry Team resumed work in June 2007, as specified by a letter from the Head of Komnas HAM (National Commission on Human Rights) No: 15/Komnas HAM/V/2007 dated 1 May 2007 (later modified by Letter No: 28/Komnas HAM/IX/2007 dated 12 September 2007).

During a six-month period beginning in June 2007, the team determined that there were at least 94 victims of the massacre in Lampung, Central Java and Jakarta. The team is currently waiting for permission from the Attorney General to begin an exhumation process in Talangsari Village in search of additional victims. The Inquiry Team called former members of the military and police department to serve as witnesses in their continuing investigation. Individuals who have answered the team's call include B. Suyitno (former Vice Head of Local Police in Lampung), Edward Aritonang (former Head of Regional Police of South Sumatera) and Soedome (former Chief of Command for the Restoration of Security and Order/Pangkobkamtib). Soedome's account indicated that the Military Sub-District Command (Koramil), the Military Sub-Area Command (Korem), the Military Area Command (Kodam), the former Chief of Armed Forces Staff (KSAD) and the former Commander of Armed

Forces (Panglima ABRI) were responsible for the events of the Talangsari Massacre of 1989. Soedome stated that he did not know exactly what had occurred in the field but placed the blame on Mr Hendropriyono, acting Commander of Military Sub-Area Command at the time.

Subsequently, the Komnas HAM Inquiry Team called three military officials as witnesses: Wismoyo Arismunandar (former Chief of Military Area Command of Diponegoro), Mr. Hendropriyono (former Commander of Military Sub-Area Command 043 Garuda Hitam) and Try Soetrisno (former Commander of Armed Forces). However, despite multiple calls, none of these individuals appeared before the inquiry.

There has been an effort by Komnas HAM to subpoena the witnesses under Law No. 39/1999 of the National Commission on Human Rights article 95 and the Law No. 26/2000 on the Human Rights Court. The Central Court of Jakarta as a body in the general judicial system has authority to implement subpoena. Komnas HAM has met with the Head of Central Court Jakarta, Mrs. Andriyani Nurdin, three times, most recently on 25 June 2008. In the June 25th meeting, Mrs. Andriyani stated that the Central Jakarta Court does not have authority to implement a subpoena, but the Human Rights Court does.

In a meeting with several victims and members of Komisi Untuk Orang Hilang dan Korban Tindak Kekerasan (KontraS) on 26 March 2008, President SBY gave his support to efforts to resolve cases of past abuse, including the Talangsari Massacre of 1989. However, the campaign still faces opposition as evidenced by the warning by the Minister of Defense to former military officers not to attend the meeting with the Komnas HAM Inquiry Team for the lack of legal jurisdiction in the Talangsari case.

On July 1, 2008, KontraS and Ikatan Keluarga Orang Hilang Indonesia (IKOHI or Indonesian Association of Families of the Disappeared) visited the Third Commission of the Parliament. The group demanded that the Attorney General (AG) be called to explain why he was not implementing the MK decision to conduct further investigation on the four gross human rights violations. Specifically, the group's calls were: (1) Demand the AG to investigate enforced disappearance cases which occurred in 1997-1998 especially that of 13 persons who remain missing up to this day. Since these cases are continuing crimes, these should be handled by the permanent human rights tribunal and not necessarily by an ad hoc tribunal; (2) The President must establish an ad hoc human rights tribunal for past cases based on the documents which Komnas HAM have already submitted to the AG. The victims' families and surfaced victims are now closely monitoring the developments related to their calls.

On 23 June 2008, KontraS sent a letter to Komnas HAM to ask the progress of the Inquiry Team of the Talangsari case. KontraS took note that Komnas HAM still faced obstacles in terms of delivering subpoena in order to call the former official military and police at the time.

May 1998 Tragedy

May 1998 was a dark period in Indonesia's history. There were mass riots in almost all parts of Indonesia during which shops were destroyed and robbed; houses, vehicles and other possessions were burnt; forced disappearances and killings occurred; and abuse and rape were committed against the Chinese ethnic minorities. These incidents cannot be separated from the context of Indonesia's political situation and dynamics, which were 1997 general

election, kidnapping of several activists, monetary crisis, General Meeting of People's Consultative Assembly, and massive student demonstrations. The May 1998 riots were closely related to the shift in allegiance of the political elites at that time which was followed by Soeharto's stepping down as President on 21 May 1998--a victorious moment for reformation movement.

Many in the local and international community demanded the government to resolve the case. In 1998 Tim Gabungan Pencari Fakta or Fact Finding Joint Team was formed with the task of revealing the facts and the background of the incident. This team concluded that not only was the riot not an accidental or isolated incident but part of a political shift, exhibiting a similar pattern pattern of incidents occurring all over Indonesia. There was an early indication of severe human rights violations especially crimes against humanity. A lack of follow up to this report made the victims, victims' families, accompanying NGOs, several community organizations, political parties and press groups demand Komnas HAM to investigate the case.

In 2003 Komnas HAM formed an Ad Hoc Team for the investigation of 13-15 May 1998 riots, working *pro justitia*. In this report, it stated that this incident was an inseparable part of repressive ways employed by Soeharto's New Order regime in managing the nation's problems, with the aim of eliminating all potential opposition from the community groups. It had to be seen as part of a long series of intelligence operations during the end of New Order power. Considering the wide and systematic nature of these incidents, and their sequence, it can be seen that there was a deliberate and designed riot which occurred in 88 locations in all Jakarta, Bogor, Tangerang and Bekasi (Jabotabek).

The systematic nature can be seen from the attacks against a certain ethnic group, discriminatory policies and various criminal acts. The riots followed a certain pattern: the trigger is provided by a group of people with similar characteristics appearing at every riot location; and the pattern of official ignorance towards the riots could be seen from the fact that many officials are absent at these locations, thus allowing the riots to continue. It is therefore necessary to demand a legal accountability of the parties suspected to be responsible for the crimes against humanity in May 1998 incidents, which are TNI, Polri and civil officials.

Komnas HAM report was then submitted to the Attorney General's office. Early January 2004, the Attorney General's office stated that the investigation report was incomplete and would be returned to Komnas HAM because there was no explanation on the probable responsibility of the parties mentioned. In mid 2005, Komnas HAM submitted the inquiry report to the Attorney General, but it cannot be followed up because the case was deemed "too political" and limitations on legal technicalities, since no explanations on the responsibility of the parties was provided. This stagnation of the inquiry continued until two years ago.

On 26 March 2008, there were several of victim's families who met with President Susilo Bambang Yudhoyono. The representatives of Semanggi I tragedy, May 1998 Riots, disappeared activists 1997, 1984 Tanjung Priok massacre and KontraS reported directly to President about the difficulties to resolve the case and to determine the responsibility of all

cases that occurred. In response to their report, the President said would conduct a special limited meeting of cabinet members to be attended by all ministers and other assistants of president who handle the human rights cases. At the meeting, President also promised to ask clarifications from Attorney General Hendarman Supanji about his statement on the loss of documents related to Trisakti Semanggi, as well as the statement of Defence Minister Juwono Sudarsono for saying that it was not essential for military officers and former members of TNI to fulfil of Komnas HAM invitation to be witnesses in the inquiry team.

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