

**THE INDONESIAN
NATIONAL COMMISSION ON HUMAN RIGHTS
(overview of achievements and priorities)**

1. Purpose, Status and Scope of the Indonesian National Commission on Human Rights

The Indonesian National Commission on Human Rights was first established pursuant to Decree of the President of the Republic of Indonesia No. 50 of 1993 dated June 7, 1993 as a means to protect and uphold human rights in Indonesia at a time when an extremely repressive government was in power and there were a great many violations of human rights, especially civil and political rights.

Amidst growing democracy heralded by the era of reform that began in 1998, Law No. 39 of 1999 on Human Rights was enacted, which established the reformation of the Indonesian National Commission on Human Rights as an independent organisation with a position equivalent to that of other state institutions.

The establishment of the Indonesian National Commission on Human Rights aimed to:

- a. develop conditions conducive to the execution of human rights, in accordance with Pancasila, the 1945 Constitution, the United Nations Charter, and the Universal Declaration of Human Rights; and,
- b. improve the protection and upholding of human rights in the interests of the personal development of the Indonesian people as a whole and their ability to participate in various aspects of life.

To achieve these aims, the Indonesian National Commission on Human Rights carries out the functions of human rights research, study, education, monitoring and mediation.

This strengthening of its mandate was to enable the Indonesian National Commission on Human Rights to carry out its functions more effectively and independently, and to bring it in compliance with international standards as set forth in the 1991 Paris Principles.

These standards include:

- a. Establishing the Indonesian National Commission on Human Rights as an independent organisation separate from Government and Parliament and that has no affiliation with political parties or other organisations.

This independence is represented by:

- 1) Its establishment by statute as an independent organisation and the statutory regulation of the implementation of its activities as an independent organisation.
 - 2) Its membership drawn from public figures who are professional, dedicated, have a high level of integrity, who fully comprehend the aspirations of a democratic and welfare state based on justice, and who respect human rights and obligations. Members are appointed through a transparent selection process by the House of Representatives. The broad degree of pluralism and diversity and wide range of sociologies and practices reflected by its membership help to guarantee its independence.
 - 3) Its budget, which derives not from government but is determined independently by law pertaining to the state spending and development budget.
- b. The Indonesian National Commission on Human Rights also has the authority to receive complaints from the public, monitor and investigate human rights abuses, and act as mediator in the resolution of human rights related conflicts. It also has access to government organisations, the Indonesian military and police to provide recommendations for resolving cases of human rights violations.
 - c. To make its work more effective and efficient, the Indonesian National Commission on Human Rights may work in cooperation with other organisations, including governmental organisations, institutes of higher educations, non-governmental organisation, either regional or international, in particular organisations of the United Nations.
 - d. The accountability of the Indonesian National Commission on Human Rights is primarily to the public, and each year it submits an annual report to the President and the House of Representatives.

In addition, pursuant to Law Number 26 of 2000 on Human Rights Courts, the Indonesian National Commission on Human Rights has

the mandate to conduct pro judicia inquiries into gross violations of human rights and submit its findings to the Attorney General for investigation and ruling by a Human Rights Court. The current members of the Indonesian National Commission on Human Rights, whose term of office is from 2002 to 2007, have begun by arranging a more professional and effective organisation, including establishing rules and regulations, a code of ethics and a strategic plan, as well as building the capacity of its personnel.

The work of the Indonesian National Commission on Human Rights is carried out by sub-commissions, which consist of the Sub-Commission for Political and Economic Rights, the Sub-Commission for Economic, Social and Cultural Rights, and the Sub-Commission for the Protection of Vulnerable Peoples. In addition, the Indonesian National Commission on Human Rights may form ad hoc teams, including ad hoc teams involving other public figures to conduct pro judicia inquiries into gross violations of human rights.

To expand its public service, the Indonesian National Commission on Human Rights has established representative offices in Nanggroe Aceh Darussalam and Maluku and has representatives in West Sumatra, West Kalimantan and Papua. At the present time, priority is given to regions of conflict where there is potential for violations of human rights.

2. The Work of the Indonesian National Commission on Human Rights in General

Pursuant to Law No. 39 of 1999 on Human Rights, the functions of the Indonesian National Commission on Human Rights are to carry out research, education, monitoring and mediation.

Work of note done in carrying out these functions includes:

a) In Research

- 1) Study of decisions of the (Provisional) People's Legislative Assembly pertaining to human rights and decisions submitted to the People's Legislative Assembly for ratification.
- 2) Study and recommendations for ratification of international human rights instruments, including the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights.

- 3) Study of the implementation of Law No. 26 of 2000 on Human Rights Courts, in particular study of the widespread and systematic element of gross violations of human rights.
- 4) Study of various other legislation, such as the bills on the truth and reconciliation commission, civil registration and the national criminal code.

b) In Education

Work in this area aims to spread information about human rights among the general public through publications including an anti-violence comic and journals, as well as through campaigns and workshops. To build the capacity of the Indonesian National Commission on Human Rights and its stakeholders, training programmes on basic human rights, capacity building in investigation and mediation, and training in specific human rights, such as economic, social and cultural rights, women’s rights, agrarian rights, etc, have been organised.

To expand its scope, a network of human rights educators, which includes representatives of government, institutes of higher education and NGOs from various regions who have participated in TOT, has been set up. This network facilitates the distribution of training materials that they can develop within their own environments.

c) In Monitoring and Investigation

During 2003, the Indonesian National Commission on Human Rights handled more than 1,500 individual and group complaints of human rights abuses.

These complaints can be classified as follows:

a. Right to life	:	6 cases	=	0%
b. Right to self-improvement	:	1 case	=	0%
c. Right to justice	:	1,035 cases	=	68%
d. Right to liberty	:	19 cases	=	1%
e. Right to security	:	83 cases	=	5%
f. Right to welfare	:	365 cases	=	24%
g. Women’s rights	:	6 cases	=	0%
h. Rights of the child	:	<u>4 cases</u>	=	<u>0%</u>
Total.....	:	1,519 cases	=	100%

Regarding cases proven to be violations of human rights, recommendations have been provided to the relevant institutions, and, in general, these have been responded to and followed up on.

Several cases have required more in-depth investigation and, in general, require more time to resolve, such as:

- 1) The human rights abuses of former president Soeharto
- 2) Human rights abuses perpetrated in the Aceh military emergency zone
- 3) Human rights abuses against the Ahmadiyah community
- 4) Cases of violence against journalists
- 5) Cases of enforced disappearance
- 6) Cases mass eviction

d) In Mediation

Cases of human rights abuses handled using mediation were, in general, cases related to land and labour conflicts. Among the cases handled were:

- 1) Land conflict with PT Newmont, Manado, North Sulawesi.
- 2) Land conflict with PT Lonsum in Bulukama, South Sulawesi
- 3) Forced evictions by Jakarta District Authority
- 4) Labour dispute with PT Dirgantara Indonesia
- 5) Housing underneath high-tension electricity cables with PT PLN

3. Pro Judicia Investigation of Gross Violations of Human Rights

Pursuant to Law No. 26 of 2000 on Human Rights Courts, the Indonesian National Commission on Human Rights is designated as the investigating agency for gross violations of human rights.

The cases of gross violations of human rights that have been handled by the Indonesian National Commission on Human Rights are as follows:

1. Human Rights Abuses in East Timor in 1999

After the Indonesian government offered two options on January 27 1999 for the future of East Timor, i.e. to accept or reject special autonomy, on May 5, 1999 in New York, the Indonesian and Portuguese governments signed an agreement under the

auspices of the United Nations, regarding a referendum for East Timor, which included provisions concerning the protection of peace and security in East Timor.

Observing the developments that then occurred in East Timor, the Indonesian National Commission on Human Rights formed the Commission of Inquiry into Violations of Human Rights in East Timor (KPP-HAM). Based on the facts, documents, statements, and testimonies gathered from various sources, the commission not only found that acts categorised as gross violations of human rights – which are a responsibility of the state – had occurred, but also confirmed that all these gross violations of human rights fell within the scope of universal jurisdiction. In other words, they involved murder, extermination, enslavement, eviction, enforced transfer and other inhumane acts against the civilian population, which constitute gross violations of the right to life, the right to personal integrity, the right to liberty, the right to freedom of movement and residence, and the right to ownership of property.

The involvement of civilian and military forces, including the police, working in cooperation with the pro-integration militia in these crimes against humanity constitutes an abuse of power and authority, which resulted in the involvement of both military and civilian institutions.

The findings of this inquiry by the Indonesian National Commission on Human Rights were submitted to the Attorney General for follow up investigation and ruling by an ad hoc human rights court.

The latest development is that the decisions of the ad hoc human rights court of first instance have been completed and are now in the process of appeal, which means that a final legal ruling on the cases of gross violations of human rights in East Timor has yet to be made.

2. Human Rights Abuses in Tanjung Priok in 1984

The Tanjung Priok incident, which occurred on September 12, 1984, began when a large group of people attempting to free their colleagues who were detained at the North Jakarta police headquarters, were headed off en-route by the security apparatus.

Following failed negotiations for the release of these detainees, the security apparatus fired shots into the crowd, causing death and injury to civilians.

This case was handled by the Indonesian National Commission on Human Rights in 2000. The Indonesian National Commission on Human Rights formed a Commission of Inquiry into Violations of Human Rights at Tanjung Priok. The findings of the inquiry and investigation into violations of human rights during the Tanjung Priok incident were then submitted to the Attorney General, who subsequently requested that the Indonesian National Commission on Human Rights review its inquiry into violations of human rights at Tanjung Priok with regard to the following items:

- a. confirm the 24 deaths reported by exhumation of graves and examination of documents at Gatot Subroto Central Army Hospital;
- b. provide additional testimonies and evidence regarding the loss of life of nine people (members of the Tan Keu Lim family) at the hands of the crowd;
- c. provide the names of the suspected perpetrators and the names of those with command responsibility at the time of the incident;
- d. review its recommendations.

In order to do this, the Indonesian National Commission on Human Rights decided to form a team to follow up the findings of the commission of inquiry into human rights violations at Tanjung Priok, and the results of this inquiry were then submitted to the Attorney General for further investigation and ruling. As recommended by the findings of the inquiry, the Attorney General named 14 (fourteen) people as suspects.

This case is currently being investigated by an ad hoc human rights court in Central Jakarta and a court ruling has yet to be made.

3. Human Rights Abuses in Abepura, Papua

In view of the suspected gross violations of human rights during the Abepura incident on December 7, 2000, the Indonesian National Commission on Human Rights formed an ad hoc team to investigate the Abepura incident on February 5, 2001.

From the findings of this investigation, it was concluded that there were facts and evidence showing a strong indication that systematic and widespread gross violations of human rights had occurred, in the form of torture, summary executions, acts of terror, deprivation of liberty, and arbitrary deprivation of other physical liberties aimed at the civilian population, which constitute crimes against humanity.

The findings of this investigation were then submitted to the Attorney General for follow up, and since then the Attorney General has named 2 (two) suspects in this case, who will be tried before a human rights court in Makassar.

4. Human Rights Abuses during the Trisakti, Semanggi I and Semanggi II incidents

With regard to the Trisakti, Semanggi I and Semanggi II incidents, the Indonesian National Commission on Human Rights, in line with its function and tasks established by Law No. 39 of 1999 on Human Rights and Law No. 26 of 2000 on Human Rights Courts, has conducted investigations into these incidents.

The findings of the investigation by the Indonesian National Commission on Human Rights concluded that there was sufficient preliminary evidence to indicate that gross violations of human rights occurred during the Trisakti, Semanggi I and Semanggi II incidents. These human rights abuses were in the form of planned, systematic and widespread killings, torture, enforced disappearance, deprivation of liberty and deprivation of physical liberties, all of which constitute gross violations of human rights and are classified as crimes against humanity. The findings of this investigation have been submitted to the Attorney General for follow up.

5. The Unrest of May 1998

The social unrest that occurred between May 13 and 15, 1998 involved killings, torture, damage to and burning of property, looting, enforced disappearances, and rape. There are indications that gross violations of human rights occurred during this incident.

Following demands from the public, and convinced of the need to prevent acts of impunity and the importance of resolving gross violations of human rights in accordance with Law No. 26 of

2000, the Indonesian National Commission on Human Rights formed an ad hoc team to investigate the unrest of May 1998.

The findings of this investigation were submitted to the Attorney General via letter No. 197/TUA/IX/2003 dated September 1, 2003 for follow up.

6. Human Rights Abuses in Wamena and Wasior

The Indonesian National Commission on Human Rights is currently in the process of investigating gross violations of human rights in Papua following the armed attack on buildings by the district police in Wamena and related to acts of violence perpetrated by the police against the civilian population in Wasior.

4. 2003 – 2007 STRATEGIC PLAN OF THE INDONESIAN NATIONAL COMMISSION ON HUMAN RIGHTS

As established by Law No. 39 of 1999 on Human Rights, the Indonesian National Commission on Human Rights is an independent body with a position equivalent to that of other state institutions, which strives to carry out its functions and tasks according to statutory laws, maintain its independence and impartiality, and work in cooperation with other stakeholders, either governmental and non-governmental organisations, to create conditions conducive to the promotion, protection, upholding and fulfilment of human rights.

The Indonesian National Commission on Human Rights organised a workshop to discuss its strategic plan for 2003-2007, taking into consideration predictions regarding the human rights condition over the next five years and the necessary responses to this condition, as well as internal reorganisation of the Indonesian National Commission on Human Rights organisation.

The strategic issues identified by this workshop were:

- Improve the performance of the Indonesian National Commission on Human Rights in fulfilling its statutory mandate, including its mandate with regard to decentralisation policy;
- Uphold human rights principles, prevent potential abuses of human rights, and investigate and follow up on past violations;

- Build a network between the Indonesian National Commission on Human Rights and its stakeholders;
- Urge central and regional governments to accommodate human rights principles in development programmes;
- Empower the people in their efforts to uphold, promote and protect human rights; and
- Advocate the ratification of international human rights instruments