

## Measuring Indonesia's Good Faith in Human Rights

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Having been criticized by some leading states in the human rights field such as Canada and the Netherlands during the Universal Periodic Review session, Indonesia's good faith in human rights clearly needs to be questioned once again. **The question that needs to be asked is does Indonesia know the quintessence of human rights?**

On April 9th, 2008, Indonesia was reviewed in the Universal Periodic Review (UPR) session, in Geneva. Indonesia's report is divided into two parts. The first one provides, as quoted from the International Service for Human Rights (IHR), "a brief overview of the domestic legislation, policies and institutions for the promotion and protection of human rights, emphasizing the pivotal role of its National Action Plan on Human Rights and national human rights institution.

The second part of the report outlines Indonesia's key national priorities and the challenges it faces in relation to each. The latter section on civil and political rights is comparatively short and emphasises that Indonesia 'is becoming steadily more united,' politically stable, and reforming its military and police to 'guard democracy and the reforms'. The Community Legal Aid Institute (LBH Masyarakat) is of the view that Indonesia's government report for the UPR session is a blatant attestation that the bleak human rights condition in the country is business as usual.

The severe human rights violation in West Papua which includes torture, repression of freedom of expression, sexual violence, unfair trials and arbitrary detention, has not been properly addressed by the government. The violence against women and protection of children in addition to the issue of trafficking were not thoroughly comprehended. The fact that children are begging from one car to another in the street is vivid Evidence of the true situation.

Furthermore, the widespread cases of torture which occurred for the last year brought Indonesia plunge into a farcical state of human rights. Ratification of human rights treaties is indeed a positive action. Such ratification, however, is absolutely futile if no corresponding national legislation is enacted to fully implement the international instrument, let alone the enforcement.

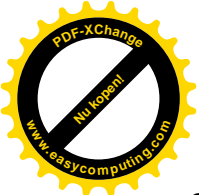
The Convention against Torture which was ratified in 1998 is nothing more than a piece of paper due to the fact that no single law exists to enforce the provisions enshrined in such convention. **As mentiond, abundant torture cases occurred in the past years yet not a single perpetrator has been convicted under the appropriate laws equal to the gravity of the crime. If it is not impunity, then what is it called?**

Indonesia has mentioned in its CAT report in 2001 that the definition of torture would be incorporated in the draft of Indonesian Penal Code, "which will enter into force at the earliest moment possible". However, to-date, such pledge is not likely to be realised any time soon given that no time frame has been set by the government. The Criminal Code, thus, is not a permanent promissory.

In the government's report submitted to the Working Group, the cooperation with UN special procedures has also been stated. **The visits by two UN Special Rapporteurs in 2007, however, prove that there is no such thing as 'cooperation with UN special procedures'**. Hina Jilani, Special Representative on Human Rights Defender, concluded that **"She regrets that she did not get the opportunity of a meeting with His Excellency President Susilo Bambang Yudhoyono."** The refusal by president of Indonesia, to meet her is very much to be regretted. Additionally, Manfred Nowak, Special Rapporteur on the question of torture, concluded that he "regrets that in a number of instances, his unimpeded access to places of detention was compromised including his ability to carry out private interviews with detainees, in contravention of his Terms of Reference."

The LBH Masyarakat strongly believes that 'cooperation' is not just a matter of inviting them to visit the country, but far beyond, it is a mutual relationship in which Indonesia could gain further assistance to improve its human rights predicament; that is, if, Indonesia is sufficiently convinced that there is no human rights violation taking place in their courtyard, which is not correct.

Referring to UK's recommendation to abolish the death penalty, The LBH Masyarakat deeply regrets that such a good recommendation will not be implemented in the coming years given that Indonesian



Constitutional Court's decision last year ruled that death penalty is not unconstitutional. Such decision clearly has no any human rights vista.

The LBH Masyarakat, therefore, calls upon the Indonesian government to fully respect the value and dignity of human rights, in particular the right to life. The death penalty, indisputably, is a breach of the right to life.

The deterrence effect, which always been one of the main arguments of the retentionist, does not depend on the harshness of the punishment; in fact, it relies on the certainty that any crime will be punished after a fair trial.

In light of the above, Indonesia's report for the UPR session shows nothing worth mentioning. From such report, the Indonesia people could measure their government's good faith in promoting and respecting human rights.

So long as the government reckons these issues as business as usual, there will be no substantial enhancement in human rights field. Children will keep begging in the streets. Every one, except the honorary members of the parliament, will be haunted by the practice of torture for the rest of their live.

The Community Legal Aid Institute firmly believes that the government of Indonesia has more obligations to comply with than just succeeding in conducting "peaceful, free and fair national elections in the one of the world's most populated, multi-ethnic and multi-religious countries" to be proud of.

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