

ANNUAL REPORT

THE NATIONAL HUMAN RIGHTS
COMMISSION OF INDONESIA
2006



FOREWORD

The end of the Cold War at the end of 1980s had also ended the conflict between the western and eastern blocks which created a new dimension in international relations. Previously, ideology, military and economic confrontation which had tinted the international relations between the two different blocks of countries has transformed into cooperation for world peace and security, as well as the fulfilment of the welfare of the people according to the principles and purposes of the United Nations as stated in its Charter.

One of the new dimension of international relations in the post Cold War era is the promotion of human rights which has become one of the principle and purpose of the United Nations. This development has impacted the attitude of the international community, especially developed countries, towards human rights problems in Indonesia. It was noted that Indonesian foreign policies could only be accomplished through the settlement of domestic problems, including human rights problems. Indonesia has yet has good track record regarding human rights condition since the New Regime had come to power in 1967. However, during the Cold War era, these problems had missed the attention of the international community since they have been occupied with their own foreign policies regarding the Cold War. The end of the Cold War has placed the problems of the promotion and protection of human rights into the priority agenda of the international community. One of the incidents which drew the international community attention on Indonesia was the Santa Cruz incidents in East Timor (presently Timor Leste) in 1991 which had created bad image of the country in the eyes of the international community.

This condition then had forced the Department of Foreign Affairs of the Republic of Indonesia, supported by the United Nations Representatives in Indonesia, to initiate a seminar to discuss the possibility of establishing a national institution to protect and promote human rights in Indonesia. Based on the recommendation of the seminar, the Government then established a national human rights institution called *Komisi Nasional Hak Asasi Manusia (Komnas HAM)* with the Presidential Decree No. 50 Year 1993 dated 7 June 1993.

The major drawback of the National Commission was the membership system which has rose scepticism on the independency of the Commission. According to the Presidential Decree mentioned above, the first members of the National Commission were elected by the President which process would be further determined in its rules of procedures.

Therefore, in order to strengthen the independency of the Commission to comply with the Paris Principles (1991) and to widen its mandates, the Government enacted the Act No. 39 Year 1999 on Human Rights. This Act contains not only the provisions on human rights, but also provisions that govern the establishment of a National Commission as the replacement of the one established by the Presidential Decree No. 50 Year 1999. The new national commission is called "*Komisi Nasional Hak Asasi Manusia*" or *Komnas HAM*. The principles, aims, membership, organization, and functions, obligations and mandates of *Komnas HAM* are governed in the Act No. 39 Year 1999 on Human Rights. The independency and complicity of *Komnas HAM* with the Paris Principles (1991) is strengthened through the enactment of the Act No. 39 Year 1999 on Human Rights, which governs, among others, that the members of *Komnas HAM* should be selected by the House of Representatives of the Republic of Indonesia based on the recommendation of the National Commission on Human Rights, and validated by the President as Head of State. The Act No. 39 Year 1999 on Human Rights also affirms the four functions of *Komnas HAM*, namely, research and study, education, monitoring and mediation of human rights.

In 2000, in order to deal with human rights violations categorized as "gross" human rights violations, namely, genocide and crimes against humanity, the Government had enacted the Act No. 26 Year 2000 on Human Rights Court on 23 November 2000. The Act No. 26 Year 2000 on Human Rights Court has determined *Komnas HAM* as the institution which has the mandate to conduct *projustitia* inquiry on cases of gross human rights violations.

Therefore, *Komnas HAM* carries out its functions, obligations and mandates based on the two Acts, namely, the Act No. 39 Year 1999 on Human Rights and the Act No. 26 Year 2000 on Human Rights Court. Therefore, this Annual Report on the implementation of the functions, obligations and mandates of *Komnas*

HAM according to the two Acts mentioned above also contains the report of the activities of Komnas HAM Representatives as well as Regional Offices in the regions and the report of the Secretary General of Komnas HAM.

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Chapter I

INTRODUCTION





A. PROFILE

The National Human Rights Commission of Indonesia (Komnas HAM) was established on 7 June 1993 based on the Presidential Decree No. 50 Year 1993 on the National Human Rights Commission of Indonesia. The legal status of Komnas HAM was subsequently strengthened through the Act No. 39 Year 1999 on Human Rights. According to article 1 point 7 of the Act No. 39 Year 1999 on Human Rights, Komnas HAM is an “independent institution, of an equal level to other state institutions and which holds the functions of carrying out research and study, education, monitoring and mediation of human rights”.

The enactment of the Act No. 39 Year 1999 on Human Rights was a follow-up of the Decree of the People’s Consultative Assembly No. XVII/MPR/1998 on Human Rights. The Decree requires every state’s institutions and the government to respect, uphold and promote human rights of all Indonesian people. The Decree also requires the President and the House of Representatives (*Dewan Perwakilan Rakyat* or DPR) to ratify the United Nations human rights instruments in accordance with the Indonesian Five Principles (*Pancasila*) and the 1945 Constitution. Furthermore, the Decree also determined that a lawful national human rights institution should conduct the functions of research and study, education, monitoring and mediation of human rights.

With stronger legal bases, Komnas HAM is expected to improve its functioning in order to accomplish its aims stated in the article 75 of the Act No. 39 Year 1999 on Human Rights, which are: a) to develop conditions conducive to the implementation of human rights in accordance with Pancasila, the 1945 Constitution, the United Nations Charter and the Universal Declaration of Human Rights; and b) to enhance the protection and upholding of human rights for the personal development of Indonesians as human beings in their entirety and their ability to participate in various aspects of life (article 75). To achieve these goals, Komnas HAM has the mandates to conduct research and study, education, monitoring and mediation of human rights. The Act No. 39 Year 1999 on Human Rights also provides Komnas HAM with *sub-poena* power in order to resolve cases of human rights violations.

The authority of Komnas HAM was increased with the enactment of the Act No. 26 Year 2000 on Human Rights Court. This Act has appointed Komnas HAM as the only institution to have the mandate to carry out inquiries of gross human rights violations. According to the Act gross human rights violations consist of genocide and crimes against humanity.

Commissioners or members of Komnas HAM are professional who have high integrity, dedication, who respect the idea of legal and welfare state based on justice, and who respect human rights and fundamental freedoms. According the law, Komnas HAM could have 35 members who are elected by the House of Representatives based on Komnas HAM's recommendation. They will be inaugurated by the President as the Head of State. The working period of Komnas HAM members are five years with one time re-election.

The 2002–2007 membership working period of Komnas HAM was determined by the Presidential Decree No. 165/M Year 2002 dated 31 August 2002. The Decree had appointed 23 members of Komnas HAM who were elected by the House of Representatives. Since then, Komnas HAM had lost three of its commissioners, Mansour Faqih (passed away on 16 February 2004) and Salahuddin Wahid (resigned to be nominated as a candidate for vice presidency in the national election in 2004) and Yuwaldi (passed away on 21 June 2006).

In order to carry out the function of research and study, Komnas HAM has the following duties:

- a. to conduct study and research of various international human rights instruments with the purpose of providing recommendations on possible accession to or ratification of such instruments;
- b. to conduct study and research of various legislations with a view to providing recommendations for the drawing up, amendment or revocation of legislation concerning human rights;
- c. to publish the results of research and study;
- d. to conduct literature studies, field studies and comparative studies in other countries;

- e. to discuss various issues relating to protection, upholding, and promotion of human rights; and
- f. to conduct research and study in cooperation with organizations, institutions or other parties, at the national, regional and international levels, in the field of human rights.

In order to carry out the function of education and public information, Komnas HAM has the following duties:

- a. to disseminate human rights principles and information to Indonesian public;
- b. to endeavour to enhance public awareness of human rights through formal and non-formal education institutions and various other circles; and
- c. to cooperate with organizations, institutions, and other parties at the national, regional and international levels in the field of human rights.

In order to carry out the function of monitoring, Komnas HAM has the following duties:

- a. to monitor the implementation of human rights and make reports of the result of the observations;
- b. to investigate and examine incidents which by their nature or scope may reasonably be assumed that violations of human rights have taken place;
- c. to call on complainants or victims and those who are subjects of complaints to make statements;
- d. to call on witnesses to give testimony and request the complainants witness to submit the necessary evidence;
- e. to conduct surveys of the locations of incidents and at other locations which are deemed necessary;
- f. to call on concerned parties to provide written statements or submit necessary documents in accordance with their originals with the agreement of the Chair of the Court;

- g. to examine sites such as houses, yards, building and other places occupied or owned by certain parties with the agreement of the Chair of the Court; and
- h. to provide, on the basis of the agreement of the Chair of the Court, views on particular cases undergoing judicial process, in the event that violations of human rights in public issue and examination process by the court are found and the views of The Indonesian National Commission on Human Rights have to be made known to the parties by the judge.

In order to carry out the function of mediation, Komnas HAM has the following duties:

- a. to promote peaceful settlement between the two parties;
- b. to resolve cases by means of consultations, negotiations, mediations, conciliation and expert evaluation;
- c. to provide recommendations to the parties concerned to settle the dispute through court;
- d. to submit recommendations on a particular case of violations of human rights to the Government in order that the settlement may be followed up on; and
- e. to submit recommendations on a particular case of violations of human rights to the House of Representatives of the Republic of Indonesia for follow up action.

In carrying out its duties, a chairperson and two vice chairpersons are acting as coordinators. They are elected by and from the members or commissioners of Komnas HAM. In 2006, Komnas HAM only has a chairperson and vice chairperson due to the resignation of one vice chairperson resigned in 2004. Moreover, the organs of Komnas HAM consist of the Plenary Session (the highest decision makers in Komnas HAM) and Sub-Commissions.

The implementation of Komnas HAM activities were conducted by Sub-Commissions consisted of Sub-Commission of Economic, Social and Cultural Rights;

Sub-Commission of Civil and Political Rights; and Sub-Commission of Special Group Protection. Subsequently, each Commissioner of Komnas HAM was given a specific human rights theme or vulnerable group as his/her responsibility. Hereby is the structure of Komnas HAM membership on 2002–2007:

COMMISSIONERS OF KOMNAS HAM

CHAIRPERSONS



Abdul Hakim Garuda Nusantara

1. Coordinator of the implementation of the Act No. 26 Year 2000 on Human Rights Court.
2. Responsible for inter Sub-Commission themes and external human rights themes.
3. Responsible for the implementation of the amendment of the Act No. 39 Year 1999 on Human Rights and the Act No. 26 Year 2000 on Human Rights Court.
4. Responsible for regional and international relations.



Zumrotin K. Susilo

1. Responsible for human rights educationb.
2. Responsible for the coordination of regional offices and representatives of Komnas HAM.
3. Responsible for the Documentation and Information Centre.

SUB-COMMISSION OF
ECONOMIC, SOCIAL AND CULTURAL RIGHTS



Amidhan

Commissioner for the right of workers and right to social security, and the right to work¹



Anshari Thayib

Commissioner for the right to health and environment



M. Habib Chirzin

Commissioner for the rights to education, science and technology



Saafroedin Bahar

Commissioner for the right of adat law community



Achmad Ali

Commissioner for the right to property

■ ¹ The right to work theme was given after the commissioner who handled the theme passed away on 21 June 2006.

SUB-COMMISSION OF CIVIL AND POLITICAL RIGHTS

**Soelistyowati Sugondo**

Commissioner for the right to justice

**M. Said Nizar**

Commissioner for the right of citizen

**Samsudin**

Commissioner for the right to life

**Enny Soeprapto**

Commissioner for the right to personal safety

**Chandra Setiawan**

Commissioner for the right to personal freedom

**Hasto Atmojo Surojo**

Commissioner for the right to personal development

**MM. Billah**

Commissioner for political right

SUB-COMMISSION OF SPECIAL GROUPS PROTECTION



Ruswiati Suryasaputra

Commissioner for the protection of the rights of women



M. Farid

Commissioner for the protection of the rights of children



Djoko Soegianto

Commissioner for the protection of the rights of elderly and disabled persons



Koesparmono Irsan

Commissioner for the protection of the rights of IDPs and the poor



Hasballah M. Saad

Commissioner for the protection of the rights of migrant workers and peasants



Taheri Noor

Commissioner for the protection of the rights of minorities and adat law community

To facilitate better services to complainants, Komnas HAM had established a Complaint Handling Unit based on Komnas HAM Decree No. 19/KOMNAS HAM/VI/2004 dated 15 June 2004. The responsibility of the Complaint Handling Unit is to provide operational and administrative supports with regard to complaints management, through direct complaints and also complaints by mails, phone, facsimile, or e-mail. The Complaint Handling Procedure of Komnas HAM could be seen in appendix 4. Moreover, to facilitate easy access for the people to file their complaints, Komnas HAM, pending this report, is developing an online complaint handling system. This service is accessible through www.komnasham.go.id.

In carrying out its activities, Komnas HAM also needs a reliable and proper information and documentation system. Therefore, Komnas HAM had established an Information and Documentation Centre based on the Decree of Komnas HAM Chairperson No. 18/KOMNAS HAM/VI/2004 dated 15 June 2004. The Documentation and Information Centre has the responsibility to provide technical and administrative in documentation and information (library), information technology, publication, as well as public relations and media.

Komnas HAM has three regional representatives in West Sumatera, West Kalimantan and Papua, and also three regional offices in Nanggroe Aceh Darussalam (NAD), Maluku and Central Sulawesi. The purposes of the regional representatives and offices are to provide easy access for the people in these areas far from Jakarta, especially victims, to file their complaints with regard to human rights violations to Komnas HAM and to guarantee the protection and promotion of human rights in these regions. Komnas HAM has started the preparation to establish regional offices in Riau and Nusa Tenggara Timur (NTT) in 2005. However, these regional offices have yet to be established in 2006. Furthermore, in 2006 Komnas HAM still strive to increase the status of regional offices in Maluku and NAD into regional representatives.

B. VISION AND MISSION

The vision of Komnas HAM is “The Protection and Enforcement of Human Rights for All”.

The missions of Komnas HAM are:

1. To improve the performance of Komnas HAM as a professional and credible institution at national and international level.
2. To create a conducive situation for the protection and enforcement of the human rights in order to develop an integrated and established Indonesian community so that they can participate in several aspects of life.
3. To establish cooperation networks with stakeholders in order to promote human rights protection and enforcement.

C. STRATEGIC PLANNING 2004–2008

Komnas HAM had formulated its Strategic Planning for 2004–2008. The strategic issues which had been identified are as follows:

1. Improvement of the performance
 - To improve the performance of Komnas HAM to increase public trust.
2. Protection and enforcement of human right
 - To improve Komnas HAM public services for human rights victims.
 - To prevent, protect and resolve human rights violations cases and horizontal conflicts.
3. Law enforcement
 - To recommend the government to ratify international human rights instruments.
 - To monitor the implementation of the international human rights instruments ratified by the Government.

4. Institutionalization
To facilitate the central and local governments in formulating human rights-based development policies.
5. Empowerment
To disseminate human rights values to the public and state apparatus.
6. Networking
To develop, maintain and establish networking with Komnas HAM stakeholders, institutions and human rights defenders.

The strategic objectives of Komnas HAM are as follows:

1. Optimization of the implementation of Komnas HAM functions and obligations, which should be measured by the indicators related to public service quality, management system based on information technology, and appropriate number of organizational resources.
2. Establishing a conducive situation for the protection and enforcement of human rights in Indonesia with the following major indicators:
 - a. Credible human rights tribunals;
 - b. Human rights protection-oriented laws;
 - c. Increased participation and mandates of Komnas HAM regional offices and representatives regional areas;
 - d. Settlement of *gross violations of human rights cases*;
 - e. Comprehensive criteria and indicators of human rights violations provided for Komnas HAM stakeholders;
 - f. Ratification of international human rights instruments;
 - g. Education, counselling and training on human rights on continuous basis; and
 - h. Reconciliation and peace at conflicting areas.
3. Synergy between Komnas HAM and its stakeholders which should be measured by the indicators related to cooperation networking, communication and information management and active participation of Komnas HAM stakeholders in handling human rights cases.

D. RELATIONS WITH OTHER INSTITUTIONS

In implementing its functions, obligations and mandates, Komnas HAM has established relations and/or cooperation with governmental and nongovernmental organizations at national, regional and international levels. These relations and/or cooperation are described as follows:

1. HEARING WITH DPR

In 2006, Komnas HAM had several hearings with the Third Commission of the House of Representatives to discuss human rights issues. Several understanding between Komnas HAM and the Third Commission of the House of Representatives are as follows:

- a. The Third Commission of the House of Representatives requested Komnas HAM to finalize the on-going inquiry on Talangsari incidents according to the Act No. 39 Year 1999 on Human Rights as soon as possible;
- b. The Third Commission of the House of Representatives requested Komnas HAM to continue the monitoring of security officers with regard to the treatment of the people suspected of human rights violations cases such as in the Munir and Poso cases;
- c. The Third Commission of the House of Representatives supported the result of the *projustitia* inquiry on enforced disappearance incidents in 1997-1998 completed by Komnas HAM and will arrange a tripartite discussion about the matter with Komnas HAM and the Attorney General in order to urge the investigation process by the Attorney General;
- d. The Third Commission of the House of Representatives and Komnas HAM urged the President to take immediate actions in order to end possible acts of violence and to return the victims of enforced disappearance in 1997-1998 (13 pro-democracy activists) to their families.

2. THE 11TH ANNUAL SESSION OF ASIA PACIFIC FORUM FOR NATIONAL HUMAN RIGHTS INSTITUTIONS

Komnas HAM had attended the annual session of the Asia Pacific Forum for National Human Rights Institutions (APF) in Suva, Fiji on 31 July to 3 August 2006. The session had determined several agreements, such as, draft of APF Strategic Planning 2007-2009, APF membership in the International Coordinating Committee (ICC) and sub-regional cooperation framework in Asia Pacific.

3. REALIZATION OF CONSULTATION MECHANISM OF ASEAN NATIONAL HUMAN RIGHTS INSTITUTIONS

As a follow-up to the meeting held in Bangkok in October 2004 which established the human rights themes as joint interests in Southeast Asia region, the second meeting was held in Kuala Lumpur, Malaysia. The meeting had decided to strengthen the Bangkok agreement in 2004, as follows:

1. To assign specific country to be responsible for each human rights theme, such as:
 - a) Indonesia for terrorism and also the cooperation framework and institutionalization of the mechanism between ASEAN national human rights institutions;
 - b) Philippines for human rights trafficking;
 - c) Thailand for the right to development and economic, social and cultural rights;
 - d) Philippines and Thailand for human rights education;
 - e) Malaysia for the rights of migrant workers.
2. The ASEAN national human rights institutions (Indonesia, Malaysia, Philippines and Thailand) will strengthen their cooperation through a signing of a memorandum of understanding on the third meeting in Indonesia in 2007.

4. THE UNITED NATIONS HUMAN RIGHTS COUNCIL SESSION

Komnas HAM had attended the third round of the United Nations Human Rights Council session in Geneva, Switzerland on 8 December 2006. In the meeting, Komnas HAM delegation had stated its recommendations in the session to urge the Indonesian Government to support Indonesian people to become members of international treaty bodies, independent experts, special rapporteur and others. Other matter determined in the session was the formulation of rules of procedures for the participation of national human rights institutions in Human Rights Council session, especially with regard to universal periodic review.

5. COOPERATION WITH INTERNATIONAL FUNDING AGENCIES

In 2006, Komnas HAM also conducted several cooperation programmes with the Indonesia Australia Legal Development Facilities (IALDF), such as, conflict mapping, strategic planning for regional representatives and offices, financial training and public campaign. These programmes focused on capacity building of human resources of Komnas HAM, especially in the regional representatives and offices.

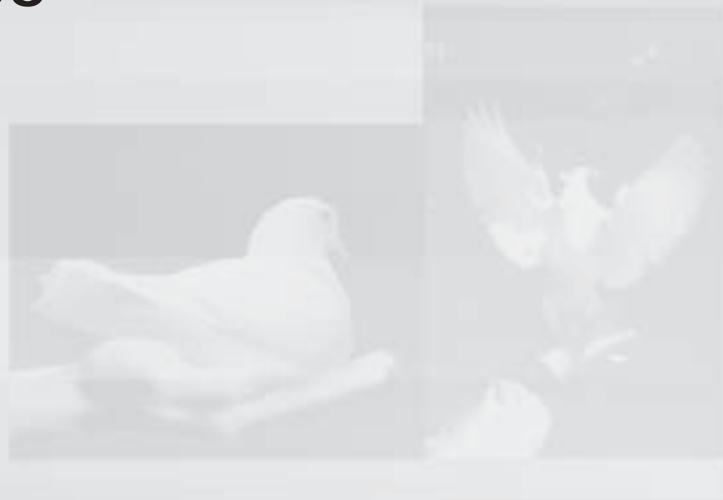
6. THE SECOND ROUNDTABLE DISCUSSION ON HUMAN RIGHTS IN ASEAN

Komnas HAM was also actively involved in the Second Roundtable Discussion on Human Rights in ASEAN: Challenges and Opportunities for Human Rights in Caring and Sharing Community. The meeting was held by the Department of Foreign Affairs of the Republic of Indonesia in cooperation with the ASEAN Human Rights Working Groups in Jakarta in 18–19 December 2006.

The Second Roundtable Discussion had discussed several human rights issues in Southeast Asia region, such as the formulation of the ASEAN Charter to promote and protect human rights in Southeast Asia region. However, several ASEAN member states were still reluctant to discuss the possibility of human rights protection and promotion through sub-regional human rights cooperation framework within ASEAN mechanism which is similar to the human rights mechanisms in Europe, Latin America and Caribbean, and Africa. There are two regional institutions in several of these regions, which are the regional commission on human rights and regional tribunal to solve human rights violations cases.

Chapter II

HUMAN RIGHTS CONDITION IN INDONESIA IN 2006



A. INTRODUCTION

The year 2006 could be considered as a new era for human rights promotion in Indonesia. In October 2006 Indonesia had ratified the International Covenant on Economic, Social and Cultural Rights (ICESCR, 1966) and the International Covenant on Civil and Political Rights (ICCPR, 1966). Both instruments are considered as the International Bills of Rights for the promotion and protection of human rights all over the world. However, looking at the human rights condition in Indonesia in 2006, the condition conducive for the implementation of human rights in Indonesia has yet been fulfilled. In short, these conditions could be seen through, first, the completion of gross human rights violations cases, which are: (a) the discontinued investigation process by the Attorney General with regard to cases with indication of gross human rights violations although the inquiry of these cases had been completed by Komnas HAM for a long time (the Trisakti 1998, Semanggi I 1998 and Semanggi II 1999 incidents (TSS 1998-1999), the May Riot 1998 incident, the Wasior 2001-2002 incident and the Wamena 2003 incident); and (b) the refusal of several members of state apparatus to cooperate with Komnas HAM regarding the implementation of *projustitia* inquiry on alleged gross human rights violations, in this regard, the inquiry on enforced disappearance incidents in the context of crimes against humanity.

Second, some problems still occurred in the implementation and fulfilment of economic, social and cultural rights, such as: (a) increasing number of unemployment which shown the un-fulfilment of the right to work; (b) suffering of people in the regional area because of *busung lapar* which shown the un-fulfilment of the rights to food and health; and (c) the hot-mud flow disaster which covered a large area and caused people to leave their home and lost their jobs. This was considered as a violation to the right to survival and the right to good and healthy environment.

Third, several problems also occurred in the implementation and protection of civil and political rights, among others: (a) The implementation of freedom of speech in public places still followed by acts of violence and even some atrocities; (b) The continued acts of violence either conducted by the state appara-

tus or radical groups in the community. These were considered as violation of the right to personal safety and also the right to the protection of privacy, honour and dignity of a person; (c) The intrusion of the right to personal freedom, such as freedom of religion and to worship according to his/her religion or belief experienced by, among others, the Ahmadiyah adherents; and (d) The prolonged discrimination of particular religious adherents to practice their religion or belief through the determination of the Joint Regulations between Ministry of Religious Affairs and Ministry of State Affairs No. 9 Year 2006 and No. 8 Year 2006 on the Guidelines for Head or Vice Head of Regions to Carry Out Maintenance of Tolerance between Religious Adherents, Empowerment of Religious Adherents Forum and Establishment of Religious Places.

Apart from the three immense problems mentioned above, several matters should also be considered, such as: (a) the suspension of the implementation of several international human rights instruments ratified by the Indonesian government at national level; and (b) the discontinue of Munir case with further investigation as decided by the Central Jakarta District Court which concluded the involvement of other parties in the murder case. These conditions have shown that the state which holds the responsibility of the protection, promotion, enforcement and fulfilment of human rights has yet performed its efforts to truly carry out its obligations.

It should be noted that the attention of international community with regard to the protection, promotion, enforcement and fulfilment of human rights in Indonesia will increase with the implementation of a universal periodic review system by the United Nations Human Rights Council as the replacement of the United Nations Human Rights Commission. Indonesia has been appointed as a member of this Council. In this chapter, the discussion on human rights condition in Indonesia in 2006 will be divided into two sub-chapters, which are the condition of economic, social and cultural rights; and the condition of civil and political rights. The discussion will also entail several major developments of human rights occurred in 2006.

B. CONDITION OF ECONOMIC, SOCIAL AND CULTURAL RIGHTS

MIGRANT WORKERS

The problems faced by migrant workers are complicated and dilemmatic. In essence, the State should not prohibit its citizens who want to work abroad. However, the Indonesian government policies towards migrant workers have yet taking the worker's side. Until the end of March 2006, the Indonesian State has gained US\$ 3.1 trillion income from Indonesian citizens working abroad (mostly Indonesian migrant workers). Regrettably, these workers, especially women workers, are often ill-treated during departure, transit, work places and return. Cases of documents forgery, violations of work contracts, under-paid wages, unpaid wages, fraud, persecution, physical abuse and sexual harassment often occurred. Until the end of 2006, the Government has yet found any solution to this matter.

In 2006, there were 102 undocumented migrant workers who were forced to leave Malaysia. These workers just finished their imprisonment time in Kajang, Malaysia. Meanwhile, the United Nations Special Rapporteur for the Rights of Migrant Workers, Jorge Bustamante, in his report in December 2006, stated that many Indonesian migrant workers have experienced human rights violations. Human rights violations mostly faced by women and children migrant workers. They were raped, forced to become prostitutes and experiencing other types of violence. Some other violations they experienced were long-hours of working without breaks, un-scheduled payment of wages and even unpaid wages, as well as mental abuses.

Other factor which causes vulnerability of Indonesian migrant workers in Malaysia is a clausal in the Memorandum of Understanding (MoU) between the Indonesian and Malaysian governments on migrant workers. The clausal allows employers to keep the migrant workers' passport (identity) working for him/her. The clausal in the Memorandum of Understanding has opened the possibility of human rights violations of these migrant workers. Other finding

also showed that the Malaysian government still applies beating using a whip as punishment for Indonesian migrant workers. Moreover, competition between migrant workers agents both in sending and receiving countries also added to difficulties for legal protection for these migrant workers.

Since it became operational in 31 August 1999, the management of Terminal III at the Soekarno Hatta International Airport in Jakarta has yet tried to improve its services for Indonesian migrant workers. They were often forced to use specific travelling agencies. There lacked of female officers in the Terminal III that has caused difficulties in dealing with mostly female migrant workers. Moreover, access to Terminal III was restricted for public which prohibited the family to directly pick up the member of the family. In 2006, many migrant workers have asked the Government to close this terminal designed specifically for migrant workers because many acts of enforced payment, persecution, fraud and sexual harassment occurred in this terminal.

With regard to the fulfilment of the right to education for the children of migrant workers, Komnas HAM acknowledges the positive efforts conducted by the Department of National Education that sent out 51 Indonesian teachers to Sabah, Malaysia. The programme was part of the implementation of an agreement between the Indonesian President and Malaysian Prime Minister in Bukit Tinggi, North Sumatera in 2005. This number was only the beginning of the planned 500-1000 teachers who will be send to teach the children of Indonesian migrant workers in Malaysia. The programme was facilitated not only by the Indonesian and Malaysian governments, but also by some plantation companies that hired these workers. Until the end of 2006, more than 36 thousand children of migrant workers in Sabah still has yet received education while the Malaysian Government refused these children to be educated in public schools.

HUMAN TRAFFICKING

Due to its organized crimes nature, human trafficking is a complicated problem. Pending this report, there are no exact numbers of victims of human trafficking. It is predicted that the actual numbers are higher that the recorded numbers. Most of the victims are women and children. They became fraud

victims since recruitment process (through false promises of jobs with high wages), in transit areas, as well as at the work places.

The efforts to deal with human trafficking are hindered with the delay in the enactment of the legislation on anti-trafficking in person which has been drafted since 2002. Moreover, related institutions and agencies at national and regional levels have yet coordinated with one another. This coordination, particularly at regional level, is very important since trafficking in persons is trans-borders crimes.

THE PROTECTION AND FULFILMENT OF IDPS RIGHTS POST TSUNAMI DISASTERS IN PANGANDARAN, WEST JAVA AND ALSO THE POST EARTHQUAKE DISASTERS IN YOGYAKARTA AND CENTRAL JAVA

Natural disasters occurred in 2006 which had caused casualties, injuries as well as homeless people. These people have become internally displaced persons (IDPs). The protection and fulfilment of IDPs rights in the post-disasters era was more focused on the rehabilitation of victims and infrastructure reconstruction as the main programmes of the Government and its apparatus through The National Coordinating Agency for IDPs and Disaster Management (*Satuan Koordinasi Pelaksana Penanganan Bencana Alam dan Pengungsi* or Satkorlak PBP). The programmes involved elements of the community in the establishment of disaster command post, building of bathing-washing-toilet facilities, and supplying medicine, clean water, clothing and food. However, the follow-up of the programmes was hindered due to the unclear number of victims.

Other problem in dealing with post-disasters was the unresponsive approach of vulnerable groups such as women, children, as well as disabled and elderly persons. The implementation of policies with regard to victims of natural disasters which often modified, especially the victims of the earthquake occurred in Yogyakarta and Central Java on 27 May 2006, has triggered the filing of a law suit against the Government.

MALNUTRITION AND *BUSUNG LAPAR*

Hunger and malnutrition in several regions has been reported widely by the media. Since January 2006, 206 babies were experiencing bad nutrition and more than 2,000 babies were experiencing malnutrition, such as in Lembata District, Nusa Tenggara Timur as well as other regions. Infant mortality due to *busung lapar* also occurred in 2006.

About 122 district and/or cities in Indonesia were considered as food-vulnerable areas because most of its inhabitants could not afford the 70% daily nutrition index. Ironically, food supply vulnerability happened in regions which produced food since many farmers did not have enough production resources. They did not have enough income to buy food equal to 2.000 kilo-calories and 52 gram-protein per person per day (daily nutrition index). The number of food-vulnerable areas added when Aceh and southern of Java destroyed by tsunami and earthquake. New areas with extreme poverty also emerged in Kalimantan and Sulawesi when flood disasters occurred in these regions. Chronic poverty and poverty caused by natural disasters had made poor families could not afford to buy food in appropriate amount for all family members.

Nutritional decay was not only the problem of lack of food and decreasing purchasing power. It was also related to bad management of the State that the Government could not protect its citizens from hunger. The Government programmes dealing with malnutrition were only *ad hoc* in nature, namely, the rice for the poor programme and direct fund assistance programme (*Bantuan Langsung Tunai* or BLT). *Busung lapar* cases have shown that the Government has not carry out its constitutional obligation with regard to the fulfilment of the rights to food and health.

THE NATIONAL EXAMINATIONS

Problems occurred with regard to the implementation of the National Examinations system in May 2006. Many intermediate school students failed the examinations. As the result, the parents filed law suits against the President, the Vice President, the Minister of National Education and the Head of National

Education Standard Body. The law suits demanded, among others, re-implementation the national examination and revision of the national examination policy. The Government was failed to fulfil the right to education and to protect school children in Indonesia which caused failure of these students to develop themselves with further education. Moreover, the parents also demanded the Government to revise the Act No. 20 Year 2003 on the National Education System and the Government Regulation No. 19 Year 2005 on National Education Standard. They also demanded that the Government should make new additional regulations with regard to standard of passing an examination.

POVERTY AND UNEMPLOYMENT

Poverty and unemployment problems are serious problems which has caused the un-fulfilment of the economic, social and cultural rights as well as civil and political rights of millions of people.

In 2006, the World Bank launched the result of its research which shown that half of Indonesian population were still living in extreme poverty. They have to live with income less than US\$ 2 per day (around IDR 18,000). Furthermore, around 40% of the poor community could not send their children to intermediate school. In 2005, the level of poverty was 35.1 million people or 16.67% of the total population. Meanwhile, according to the population census conducted in May 2006, the level of poverty has reached 39.02 million people or 17.75% of the total population since the increase of fuel prices. In order to provide easy access to health care, the Government has introduced the Health Social Security for Poor Families system (*Jaring Pengaman Kesehatan bagi Keluarga Miskin* or JPK Gakin). With this system, poor families could receive free health care through an insurance system. Moreover, IDR 51 trillion has been allocated for poverty eradication programme. Around IDR 23 trillion of the fund was allocated for the 9-years obligatory education programme. Moreover, School Operational Funding Assistance programme (*Bantuan Operasional Sekolah* or BOS) has yet met the need of the poorest of the poor community.

Furthermore, the Central Statistical Bureau (*Badan Pusat Statistik* or BPS) recorded that until October 2006, the number of unemployment in Indonesia has reached 11.1 million people. The West Java province was in the first place with 3.9 million unemployed people. The second place was Jakarta with 2.8 million unemployed people and the third place was the East Java province with 1.8 million unemployed people. These numbers consisted of 10.8 million constant unemployment (10.21% of the total population) and 29.64 million of part-time unemployment (31.22% of the total population).

HOT MUD-FLOW DISASTER IN SIDOARJO

Hot mud-flow disaster has occurred in the areas of natural gas exploration in Porong, Sidoarjo since 29 May 2006. These areas were operated by PT Lapindo Brantas. As the result, more than 10 thousand people have to evacuate the areas and became internally displaced persons (IDPs). Thousand of workers and farmers became unemployed since the rice fields, plantations and factories where they used to work were flooded by mud. This disaster was worsen with the explosion of gas pipes belonged to Pertamina which cause 13 casualties, 14 injured and one person missing.

The hot mud has flooded at least three villages and hundreds hectares of land. These have caused human rights violations of the population in Porong, Sidoarjo, such as their right to good and health environment, following the destruction of the ecosystem.

Moreover, the violations of the right to environment due to hot mud-flow disasters in Sidoarjo also caused violations of the right to health. The decrease in the quality of health of the people living in the areas happened because their homes were contaminated with mud and gas. As the result, 31,334 people have to be medicated and 650 people have to be hospitalized.

Additionally, the hot mud-flow disasters also caused violations of the right to education. At least 1,662 school children have to study in other schools. They also have to live in refugee's camps that do not have adequate schools.

The hot mud-flow has caused violations of the right to work. At least 20 factories have to close down and stop their operations. As the result, 3,614 factory workers have to stop working and become unemployed. Meanwhile, hundreds of farmers could not work in their lands since about 300 hectares farm lands and 61 hectares sugar-cane plantation were flooded with mud. Moreover, at least 40 micro and middle businesses have stopped production since the disaster occurred.

The hot mud-flow disasters in Sidoarjo also created serious problems with regard to the right to property. According to the record, at least 1,810 homes in five villages were flooded with mud due the continuous hot mud-flow. The people had to leave their homes. They also lost their properties, such as land, house, important documents, households' and electronic equipments and also their animals. The disasters have eliminated land borders and evidences of property ownership. These have created difficulties for the owners since they did not have legal documents which could prove their ownerships of houses and lands. The destroyed important documents such as personal identity, diplomas and certificates have added the complication of the problems of the right to property.

INDIGENOUS PEOPLE (ADAT LAW COMMUNITY)

The violations of the constitutional rights of the indigenous people were not only when violence occurred between the members of the indigenous people groups with security officers with regard to land cases. Violations also occurred during the formulation and enactment of legislations, such as the provisions on requirements of the indigenous people with regard to the acknowledgement of their traditional lands (*tanah ulayat*). For examples, the traditional lands could not be used as guarantee for bank loans. For bank loans, the lands should be converted into lands with licence for business for a period of time. After that, the lands would not directly return to its former status and to the indigenous people. With these practices, in a few years time, all traditional lands in Indonesia would belong to the State and the indigenous people would not own any land anymore.

Other form of violations of the rights of indigenous people was related to the definition on the Act No. 41 Year 1999 on Forestry. The provisions in this Act stated that traditional forests surrounding the indigenous people environment belong to the State. This definition has implicitly negated the meaning of traditional forests as the property of the indigenous people.

Actually, the protection of the rights of indigenous people is guaranteed by article 51 of the Act No. 24 Year 2003 on Constitutional Court. Provisions in this Act stated that indigenous people could forward their complaints to the Constitutional Court when they feel that their constitutional rights have been violated by current legislations.

C. CONDITION OF CIVIL AND POLITICAL RIGHTS

DEATH PENALTY

Until September 2007, 134 prisoners in Indonesia are waiting for the execution of the death penalty. 37 of this number are foreign citizens and 97 are Indonesian. The majority of the prisoners were proven guilty of crimes related to drugs (narcotics). The imminent executions are results of pending reviews (*Peninjauan Kembali*) of the Supreme Court decisions. Meanwhile, the Regional House of Representatives (*Dewan Perwakilan Rakyat Daerah* or DPRD) of Bali had urged the Third Commission of the House of Representatives of the Republic of Indonesia to summon the Attorney General to inquire on the implementation of executions of alleged persons of the First Bali Bombing, namely, Amrozi, Imam Samudra and Muklas.

Moreover, three alleged persons for Poso riot incidents, namely Fabianus Tibo, Marinus Riwu and Dominggus da Silva had been executed on 22 September 2006 in Palu, Central Sulawesi. Even though they were witnesses in the investigation of "Group 16", the death penalty were still executed after their requests of clemency to the President of the Republic of Indonesia were re-

jected on 10 November 2005. Until the end of 2006, Indonesia still has at least 11 legislations which contain death penalty.

The right to life is non-derogable human rights at any condition and by anyone as governed in the 1945 Constitution as well as the Act No. 39 Year 1999 on Human Rights. It should be noted that many countries in the world have banned death penalty in their legal system, or have limited death penalty only for particular cases such as war and other state emergency. In principle, the Second Protocol of the International Covenant on Civil and Political Rights (1988) prohibited death penalty except for particular condition such as war and other state emergency.

AHMADIYAH ADHERENTS

In February and March 2006, the Ahmadiyah adherents in Central Lombok, Nusa Tenggara Barat (NTB) were evicted by the local community. This incidents had caused 141 persons had to fled their homes. Unfortunately, the Regional Government as well as local police officers did not do anything when and after the incidents occurred. The adherents of Ahmadiyah also experienced acts of violence during the eviction. Therefore, the Ahmadiyah adherents claimed that their rights have been violated, particularly since the Government has yet conducted any efforts to solve the problem.

The prohibition of Ahmadiyah adherents in Central Lombok as well as other areas in Indonesia is human rights violations, particularly the right of freedom of religion. Moreover, the eviction of Ahmadiyah adherents from their homes is a violation to their right of freedom to choose the place to stay within the territory of the Republic of Indonesia.

REGIONAL REGULATIONS VIOLATING HUMAN RIGHTS

The regional governments' authority to govern their own territory is part of the implementation of regional autonomy. However, this authority has produced regional regulations related to particular religion and discriminative in nature

on particular groups, which are violating human rights. There are at least 22 cities and districts implementing regional regulations based on Islamic law, among others, "anti pornography" regulation, obligation to wear veil for students and prohibition of women to go out alone at night time.

In Banten, the Tangerang city government had enacted the Regional Regulation No. 8 Year 2005 on the Prohibition of Prostitution on 27 November 2005. However, this regulation had caused the police and/or security officers to act recklessly on the street, particularly arresting women going out alone at night who are being accused as prostitutes. This regulation should be withdrawn because it violates human rights, particularly the freedom of movement. Moreover, the regulation also caused misuse of power and authority of the state apparatus, since there are no specific criteria in defining person(s) who are outside their homes alone at night and the one(s) who are not.

In East Java, the Surabaya city government had enacted the Regional Regulation No. 17 Year 2003 on Street Vendors (*Pedagang Kaki Lima* or PKL). The regulation has violated human rights because it required the street vendors to register their businesses. The requirement had limited the opportunity for people coming from outside Surabaya to conduct businesses as street vendors which has violated the right to work and freedom of movement.

In Jakarta, the regional government had enacted the Regional Regulation No. 11 Year 1998 on Social Order and the Regional Regulation No. 4 Year 2004 on Population Registration. Based on these regulations, the regional government had conducted the *yustisi* operation which arrested people who do not have identity card. These regulations are violating human rights, particularly freedom of movement governed by article 27 of the Act No. 39 Year 1999 on Human Rights.

It should be noted that article 6 of the Act No. 10 Year 2004 on the Enactment of Legislations has governed that one of the principle in creating and enacting a regulation or legislation is "humanity", elucidated as "respect of human rights".

CITIZENSHIP

One of the efforts to amend the policy with regard to citizenship, particularly non-discriminative legislations which protect the right of children of Indonesian mothers who married non-Indonesian citizens, was the enactment of the Act No. 12 Year 2006 on Citizenship. The Act, as a replacement of the Act No. 62 Year 1958, is aimed to solve the uncertainty of the status of citizenship of particular persons and to provide legal protection of the Indonesian citizens. The new Act contains new provisions, among others, the elimination of the phrase "original Indonesian" ("*Indonesia asli*") which has caused many discriminative actions.

The Act No. 12 Year 2006 on Citizenship provides limited double-citizenship for children from multi-citizenship parents. This provision also applies for a child born from of illegal marriage between a mother who is not Indonesian and a father who is Indonesian. The father should acknowledge the child before s/he reaches the age of 18 years old or before s/he gets married. Moreover, the limited double-citizenship also applies to a child born in Indonesian territory while the status of citizenship of the parents is still uncertain. The Act No. 12 Year 2006 on Citizenship also states that a wife who is Indonesian could sponsor her husband who is not Indonesia to apply for permanent residency. Moreover, the Act also determines that every person who has been a citizen of Indonesia her/his birth does not need the Letter of Evidence of Indonesian Citizenship Holder (*Surat Bukti Kewarganegaraan Republik Indonesia* or SBKRI). These changes have shown the efforts to protect the right of every person for her/his citizenship.

However, the Act still poses a threat to the lost of citizenship for an Indonesian who continuously work in foreign countries for five years period who is not under official assignment: (a) which is conducted without legal reason and who intentionally does not affirm her/his intention to become Indonesian citizen before the end of the five years period; and (b) who does not affirm her/his intention to become Indonesian citizen to the Representatives of the Republic of Indonesia during the next five years periods.

D. THE TRUTH AND RECONCILIATION COMMISSION (KOMISI KEBENARAN DAN REKONSILIASI OR KKR)

The Constitutional Court (*Mahkamah Konstitusi* or MK), in its decision No. 006/PUU-IV/2006 in December 2006 had determined that the Act No. 27 Year 2004 on the Truth and Reconciliation Commission did not comply with the 1945 Constitution and that the Act No. 27 Year 2004 on the Truth and Reconciliation Commission did not legally binding.

The decision of the Constitutional Court had created negative impact on the enforcement of justice and human rights in Indonesia, particularly with regard to the settlement of gross human rights violations cases occurred before the enactment of the Act No. 26 Year 2000 on Human Rights Court. However, the decision of the Constitutional Court should not negate the idea of national reconciliation to strengthen the unity of the nation as intended by the People's Consultative Assembly (*Majelis Permusyawaratan Rakyat* or MPR) in its decision No. V/MPR/2000. The reconciliation efforts should be conducted through many methods, among others, through enactment of legislations comply with the 1945 Constitution and international human rights instruments or through political policies regarding rehabilitation and amnesty in general. Therefore, the alternative (non-judicial) process to solve gross human rights violations is still possible according to article 47 of the Act No. 26 Year 2000 on Human Rights Court through the formulation of a new draft of legislation on the Truth and Reconciliation Commission.

However, it should be noted that the reconciliation process as non-judicial alternative settlement of gross human rights violations cases occurred before the enactment of the Act No. 26 Year 2000 on Human Rights Court will need political willingness of all parties. Thus, the only mean to solve gross human rights violations cases happened before the enactment of the Act No. 26 Year 2000 on Human Rights Court is through judicial process governed by the Act.

Chapter III

THE IMPLEMENTATION OF KOMNAS HAM FUNCTIONS BASED ON THE ACT NO. 39 YEAR 1999 ON HUMAN RIGHTS



A. INTRODUCTION

To achieve its objectives as stated in the Act No. 39 Year 1999 on Human Rights, Komnas HAM carried out the functions of study and research, education, monitoring and mediation of human rights. In implementing these functions, Komnas HAM had established three Sub-Commissions, namely, the Sub-Commission on Economic, Social and Cultural Rights; the Sub-Commission on Civil and Political Rights; and the Sub-Commission of Special Group Protection; as well as the Documentation and Information Centre.

This chapter will describe the implementation of the four functions of Komnas HAM in the protection, upholding and implementation of human rights in Indonesia. This chapter will also describe the efforts in dealing with some human rights cases in 2006.

B. IMPLEMENTATION OF THE FUNCTION OF HUMAN RIGHTS STUDY AND RESEARCH

To carry out the study and research functions, Komnas HAM had carried out several activities, such as the mapping of problems related to human rights violations of particular groups and study on several legislation related to human rights issues. Several activities in the study and research in 2006 are as follows:

1. RESEARCH ON THE IMPLEMENTATION OF THE HEALTH AND SAFETY AT WORKPLACE REGULATIONS (*KESEHATAN DAN KESELAMATAN KERJA* OR *K3*)

Workers often faced sexual harassment and accidents at their working places. For that reason, Komnas HAM conducted a research on the implementation of the Health and Safety at Workplace Regulations in three cities, namely, Gresik, Makassar and Samarinda. In each city, the research team took research sample from the Local Government Manpower Offices (*Kantor Dinas Tenaga Kerja*)

and two companies in logging industry which employed more than 100 workers.

The research found that the Health and Safety at Workplace Regulations has yet been implemented properly. For examples, firstly, routine inspection on health condition of the workers was often neglected. Secondly, the management system of the Health and Safety at Workplace Regulations has yet been implemented as the integral part of the companies' management system. Thirdly, there was only limited number of experts in the Health and Safety at Workplace Regulations. Fourthly, monitoring of the implementation of the Health and Safety at Workplace Regulations, both from the companies' management or the Local Government Manpower Offices, was weak. And finally, there was a lack of training with regard to hazardous matters that have negative impact on health and safety of the workers. Moreover, some companies employed their workers beyond the appropriate working hours governed by the Act No. 13 Year 2003 on Employment. They also did not report the number of accidents occurred to the Local Government Manpower Offices.

Some companies have yet implemented the provisions in the Health and Safety at Workplace Regulations because of several obstacles. For example, firstly, many company's owners had only limited knowledge and understanding on the manners to implement the Health and Safety at Workplace Regulations system. Secondly, many workers also have little information on the importance of the Health and Safety at Workplace Regulations because of the lack of orientation and training for them. Finally, the implementation of the Health and Safety at Workplace Regulation was often monitored inconsistently. Furthermore, the Local Government Manpower Offices responsible to monitor the regulation was facing a dilemma in upholding the provisions in the regulation. On one side, strict monitoring in the implementation of the regulation would cause closing-down of some companies which in the end would cause increase in unemployment. On the other side, persuasive manners in the monitoring were interpreted as ambiguous attitude of the Local Government Manpower Offices. Other obstacle faced was the lack of human resources and facilities to perform effective monitoring, as well as the fact that several provisions in the regulation were out-dated.

2. STUDY ON THE FULFILMENT OF THE RIGHT TO ENVIRONMENT IN THE HOT MUD-FLOW DISASTERS OF P.T. LAPINDO BRANTAS

As the response to the hot mud-flow disaster in Sidoarjo, East Java, Komnas HAM had carried out a study on the fulfilment of the right to good and health environment. The study started with preliminary monitoring to the location of the hot mud-flow in Porong, Sidoarjo, East Java. Several findings from the study are as follows:

- a. The operations conducted by P.T. Lapindo Brantas in Porong, Sidoarjo did not have Environmental Impact Assessment (*Analisa Dampak Lingkungan* or AMDAL). The operations were only based on Environmental Activities Planning (*Rencana Kegiatan Lingkungan* or RKL).
- b. Pending the end of the study, P.T. Lapindo Brantas has yet found the main source of the hot mud-flow which has flooded many villages in Porong, Sidoarjo.
- c. The people in the area complained about the lengthy efforts to solve the problem.
- d. The local government of KABUPATEN Sidoarjo district had stated its inability to deal with the problem and the impacts of the problem for the people living in the area.
- e. Pending the end of the study, the central government are still trying to deal with the rehabilitation programme.

The result concluded that the rights of the people living in the surrounding areas have been hindered, restricted, limited and omitted, namely, the right to good and healthy environment, right to health, right to property, right to work, right of workers and right to welfare.

3. STUDY ON THE DRAFT OF THE ACT ON HEALTH

The aim of the study was to provide inputs to the Ninth Commission of the House of Representatives (*Dewan Perwakilan Rakyat* or DPR) that in the process of discussing the draft of the act on health. Some inputs from the study are as follows:

- a. To include the right to health as part of human rights in the draft of the act on health according to the provision in the Act No. 11 Year 2005 on the Ratification of the International Covenant on Economic, Social and Cultural Rights that legalized the Covenant as national legal instrument.
- b. The government should take responsibility on health problems according to the mandate of the 1945 Constitution and article 8 of the Act No. 39 Year 1999 on Human Rights which emphasized that the State, especially the Government, has the obligation to protect, respect and uphold human rights.

4. STUDY ON THE ACT NO 23 YEAR 1992 ON HEALTH FROM HUMAN RIGHTS PERSPECTIVE

The failure of law suits due to insufficient evidence and class actions with regard to environmental problems had urged Komnas HAM to carry out a study on the Act No. 23 Year 1992 on Health from human rights perspective. The aim of the study was to observe on how the act protects the rights of the victims of environmental damages.

The result of the study concluded that the Act No. 23 Year 1992 on Health has yet responded to the fulfilment of the state obligations to respect, protect and fulfil the right to health of its citizens. The result of the study stated that the Act No. 23 Year 1992 on Health has yet accommodated the four elements contained in the General Comment No. 14 of the United Nations Economic, Social and Cultural Committee on the Right to the H Attainable Standard of Health, namely, availability, accessibility, acceptability and quality.

The study recommended, among others:

- a. The Government should amend the Act No. 23 Year on Health to cover the four elements in the General Comment No. 14, namely, availability, accessibility, acceptability and quality.
- b. The Government should develop a free and accessible health service system in the efforts to protect, respect and fulfil the right to health.

- c. The Government should create condition conducive for the fulfilment of the right to health, such as good and healthy environment, availability of clean water and basic sanitation, promotion on food quality and appropriate nutrition as well as health education (preventive methods).
- d. The Government should realize the 5% health budget allocation from the State Budget (*Anggaran Pendapatan dan Belanja Negara* or APBN) and Regional Budget (*Anggaran Pendapatan dan Belanja Daerah* or APBD) to progressively fulfil the right to health.

5. STUDY ON THE FULFILMENT AND PROTECTION OF THE RIGHTS OF INTERNALLY DISPLACED PERSONS (IDPS)

Komnas HAM had carried out a study on the fulfilment and protection of the rights of internally displaced persons (IDPs), caused by conflict or natural disaster, during the period of exile, refugee and post-refugee. The aim of the study was to provide recommendation to the Government, related organizations as well as the public on internally displaced persons (IDPs) problems in Indonesia and their human rights. The research was conducted in several refugee locations in Indonesia, namely, Nanggroe Aceh Darussalam (NAD), Maluku, West Kalimantan, and North Sumatera (Nias Island).

The result of the study provided some conclusions, among others, the dealing with internally displaced persons (IDPs) problems in Indonesia was considered lengthy. The Government seemed to be insincere in the protection and fulfilment of the rights of internally displaced persons (IDPs). This could be seen through the lack of accurate and rapid information from responsible parties on the distribution of help, with regard to the amount as well as quality. Moreover, the main obstacle in dealing with internally displaced persons (IDPs) problems in Indonesia was the absence of a legal instrument able to address internally displaced persons (IDPs) problems comprehensively.

The study recommended, among others:

- a. The Government should prevent the possibility of enforced movement and minimalize the negative impact of such movement;
- b. The Government should increase the national awareness on the internally displaced persons (IDPs) problems in Indonesia;
- c. The Government should collect data on the amount and condition of internally displaced persons (IDPs);
- d. The Government should support training programmes related to the rights of internally displaced persons (IDPs);
- e. The Government should develop a legal framework in protecting the rights of internally displaced persons (IDPs);
- f. The Government should develop national policies on internally displaced persons (IDPs);
- g. The Government should establish a specific institution in dealing with internally displaced persons (IDPs) problems;
- h. The Government should urge national human rights institutions to include internally displaced persons (IDPs) problems in their scope of works;
- i. The Government should guarantee internally displaced persons (IDPs) participation in the decision making process related to the rights of internally displaced persons (IDPs) in Indonesia;
- j. The Government should support durable solutions in dealing with internally displaced persons (IDPs) problems;
- k. The Government should allocated appropriate resources in dealing with internally displaced persons (IDPs) problems;
- l. The Government should guarantee the cooperation with international community in dealing with internally displaced persons (IDPs) problems in Indonesia.

6. MAPPING OF PROBLEMS OF SEXUAL REPRODUCTION AND HEALTH OF WOMEN FROM VULNERABLE GROUPS

The study was carried out to map problems of sexual reproduction of women from vulnerable groups, namely, women, children, elderly persons, disable persons, workers, internally displaced persons (IDPs) and minorities. The aim of the study was to provide more detailed illustration on the implementation of the rights to sexual health and reproduction in the groups mentioned above and problems they faced with regard to the fulfilment of these rights.

The study was conducted through series of workshops in three regions, namely, East Indonesia (Manado), Central Indonesia (Semarang), and North Indonesia (Medan). The objectives of these workshops were as follows:

- a. To monitor the fulfilment of the rights to sexual health and reproduction of women from vulnerable groups.
- b. To map the problems of sexual health and reproduction of women from vulnerable groups.
- c. To increase the synergy between the local government, non-governmental organizations and law enforcement officers in guaranteeing the fulfilment of the rights to sexual health and reproductive of women.
- d. To produce recommendations for appropriate governmental institutions with regard to the fulfilment of the rights to sexual health and reproductive.
- e. To produce follow-up actions for Komnas HAM regarding the rights to sexual health and reproductive.
- f. To develop networks in order to provide protection of the rights to sexual health and reproductive.



► Workshop on the Mapping of Problems of Sexual Health and Reproduction of Women from Vulnerable Groups in Manado, 18-21 September 2006.

The conclusions of the study are as follows:

- a. Gender inequality is the main cause of the problems of sexual health and reproduction of women from vulnerable groups.
- b. Other causes of the problems of sexual health and reproduction of women from vulnerable groups are poverty, sexuality mythology, stereotype and the absence of state policies dealing with improvement of sexual health and reproduction of women particularly budget allocation.
- c. Increasing cases of women and children trafficking because of poverty which are high risk for the problems of sexual health and reproduction.
- d. Insufficient information and services on sexual health and reproduction of women from vulnerable groups.
- e. Women only have limited access in decision making process regarding sexual health and reproduction.

7. STUDY ON EUTHANASIA FROM HUMAN RIGHTS PERSPECTIVE

With regard to current and continuous debate within the society on euthanasia, Komnas HAM had conducted a study on euthanasia from human rights perspective in 2006. The study was conducted through analyzing the complaints received by Komnas HAM, conducting site-visits, distributing questionnaires, as well as conducting interviews and literature study. The study was carried out in Medan, Makassar and Yogyakarta. The aims of the study was to collect data on the opinions of the public and human rights defenders on the euthanasia issue and to prepare an academic paper on the issue based on the data collected. The study continues to 2007.

8. STUDY ON THE DRAFT OF THE ACT ON CRIMINAL CODE (KITAB UNDANG-UNDANG HUKUM PIDANA OR KUHP)

Since 2005, Komnas HAM had conducted a study on the draft of the act on Criminal Code from human rights perspective. The aim of the study was to intensely research on the problems with regard to the draft of the act from the perspectives of protecting individual rights, public interests and state interests. The study continued to 2006.

The conclusion of the study was that the draft of the Act on Criminal Code has yet provided guarantee to the protection of human rights, particularly several civil and political rights. These rights are, among others, the right to privacy, freedom of speech and freedom of expression, freedom of political belief, freedom to participate in government, freedom to seek and impart ideas, as well as information and knowledge.

The study recommended some changes in the draft of the Criminal Code Act to provide more proportional protection of human rights, public interests and state interests. These changes are as follows:

- a. With regard to the importance of human rights protection in the criminal law, the systematic of the Second Book of the Criminal Code Act on criminal acts should be changed.

- b. With regard to the protection of *reputation and honour*, and on the other side, the protection of the *freedom of speech and opinion*, the study recommended that the formulation of the provision should be materiel in nature and the criminal acts should be deleted (decriminalized) as to change it into "*civil defamation*".
- c. With regard to the protection of the *freedom to seek, receive and impart information and ideas of all kinds*, the study recommended that the formulation of the provision should be clear to avoid subjective interpretation.
- d. With regard to gross human rights violations (genocide, crimes against humanity, war crimes), the study recommended that these criminal acts should not be included into the Criminal Code Act but should be governed through separate act, which is the Act No. 26 Year 2000 on Human Rights Court.
- e. With regard to the criminalization of defamation of particular community which formulation of provision was made materiel in nature, the study recommended that elaboration should be develop of the element of "the occurrence of riot in the community".
- f. With regard to the protection of the freedom of religion, the study recommended a clear formulation of provision which provides appropriate meaning to avoid misunderstanding through the provision of *mens rea* (mental element).
- g. With regard to the criminalization of pornography and porno-action, the study recommended that the criminalization should be directed to the distribution of pictures, printed material and others which contain pornography. Meanwhile, the criminalization of porno-action should not be included in the draft of the Criminal Code Act.
- h. With regard to the criminalization of crime against the state, especially related to ideology, the study recommended that the provision on ideology should be eliminated because it in opposition to the human rights law regime in Indonesia.
- i. With regard to the criminalization towards the president and the vice president, and criminalization towards the ruling government, the study

recommended that the provision on defamation of the president and the vice president should be changed into complaint provision, while the provision of the defamation of the ruling government should be eliminated.

- j. With regard to criminal sanctions, the study recommended that the draft of the Criminal Code Act should abolish death penalty as one type of punishment.

9. THE AMENDMENT OF THE ACT NO. 26 YEAR 2000 ON HUMAN RIGHTS COURT

As the follow-up of the process of the amendment of the Act No. 26 year 2000 on Human Rights Court underway since 2005, and to incorporate inputs from series of discussion conducted in 2005 and 2006, Komnas HAM is preparing a new academic paper on the Act as a material for the formulation of the draft of the Act No. 26 Year 2000 on Human Rights Court. The activities continue to 2007.

C. IMPLEMENTATION OF THE FUNCTION OF HUMAN RIGHTS EDUCATION

The function of human rights education of Komnas HAM is an important function in promoting and socializing human rights values in Indonesia. Several activities in the implementation of the function of human rights education in 2006 are described as activities to disseminate the perception of human rights and activities to increase public awareness on human rights.

1. ACTIVITIES TO DISSEMINATE THE PERCEPTION OF HUMAN RIGHTS

The activities to disseminate the perception of human rights in 2006 consisted of publication, development of library, campaign, receiving visit from students and the development of Komnas HAM website.

a. Publication

In 2006, Komnas HAM had published regular as well as incidental publications. The regular publications are Wacana HAM and SUAR. In 2006, Komnas HAM had published 11 editions of Wacana HAM which had taken human rights theme related to day-to-day life. The publication was intended for the general public and distributed for free to schools and public places such as bus terminals, public markets and hospitals in Jakarta and surrounding areas. The number of copies of this publication for each edition was 5000 copies.

The publication of SUAR in 2006 had reached its seventh year and had been published twice. The magazine had taken contemporary human rights issues and distributed for free to government institutions, non governmental organizations, academicians, libraries, mass media and individuals all over Indonesia. The number of copies of this publication for each edition was 2000 copies.

Several incidental publications were in book format, such as:

1. "Manual Pelatihan Dasar Hak Asasi Manusia: Pegangan Fasilitator" (Manual on Basic Human Rights Training: Guidelines for Facilitators);
2. "Potret Buram HAM Indonesia: Kumpulan Tulisan Rubrik Utama Buletin Wacana HAM 2005" (Grave Illustration of Human Rights Condition in Indonesia: Compilation of Main Features of Wacana HAM in 2005);
3. "Kewarganegaraan RI dalam Bingkai Pembangunan Jati Diri Bangsa: *Nation and Character Building*" (Republic of Indonesia Citizenship in the Framework of Developing the National Character: Nation and Character Building);
4. "Kewarganegaraan: Pemahaman dalam Konteks Sejarah, Teori dan Praktik" (Citizenship: Understanding of Historical Context, Theory and Practice);
5. "SBKRI: Analisis dan Hasil Pemantauan" (SBKRI: Analysis and Result of Monitoring);
6. "Kebebasan Beragama atau Berkepercayaan di Indonesia" (Freedom and Religion and Belief in Indonesia);

7. "Penggusuran dalam Perspektif HAM: Studi Kasus di Provinsi DKI Jakarta Periode 2003-2004" (Enforced Eviction from Human Rights Perspective: Case Studies in DKI Jakarta Province during 2003-2004);
8. "Mewujudkan Hak Konstitusional Masyarakat Hukum Adat: Himpunan Dokumen Peringatan Hari Internasional Masyarakat Hukum Adat Se-Dunia, 9 Agustus 2006" (Fulfilling the Constitutional Rights of the Indigenous People: Compilation of Documents from the International Indigenous People Day, 9 August 2006);
9. Masyarakat Hukum Adat: Hubungan Struktural dengan Suku Bangsa, Bangsa, dan Negara (Ditinjau dari Perspektif Hak Asasi Manusia)" (Indigenous People: Structural Relations between Ethnic Group, Nations and the State [Looking from Human Rights Perspective]);
10. "Perspektif HAM dalam Pemenuhan Hak IDPs: Penelitian Awal dalam Tinjauan Ekosob dan Sipol" (Human Rights Perspective and the Fulfilment of IDPs Rights: Preliminary Research in Economic, Social and Cultural Rights and Civil Political Rights).

In 2006, Komnas HAM also published a brochure on Complaint Guidelines of Komnas HAM intended as information for the public on the procedure and handling of complaints on human rights violations to Komnas HAM. Moreover, Komnas HAM also published an animated film titled "Adventure in 1012 World" with right to personal safety as the theme. The film was intended for school children. The ± 25 minutes film was a continuation of a comic publication with the same title in 2005.

b. Development of Komnas HAM Library

Komnas HAM activities related to the library is an effort to provide support of human rights information for the public. The development of Komnas HAM library consisted of: a) collecting, processing and distributing information on human rights for the public in Indonesia and internationally; b) establishing database on human rights literature published in Bahasa Indonesia or English language (index, abstract and analysis); and c) developing human rights infor-

mation network through active participation in information exchange with related institutions.

In 2006, the priority of the library's collection was for economic, social and cultural rights. Until 2006, the number of Komnas HAM library's collections was 4935 books, 382 serial publications and articles, as well as 878 online articles. Komnas HAM library's collection also consists of magazine and working papers on human rights issues written by the commissioners of Komnas HAM. In 2006, Komnas HAM library also developed a serial publication with 11 titles of academic journals which could be accessed through the internet, such as Human Rights Quarterly, Harvard Law Journal and Journal of Democracy. Moreover, the library also had 80 titles of audio-visual collections. The procurement of Komnas HAM library's collection was conducted through purchases, contributions and exchanges with other libraries.

Public services provided by Komnas HAM consisted of, among others, library catalogue, reference/information service, information tracing service, limited loaning service, reading service, copy service as well as other services, such as articles writing on human rights issues for information repackaging.

Users of Komnas HAM library were mostly members and staff of Komnas HAM, students, non-governmental organizations, researchers, journalists and other professions from Indonesia and also abroad. The type of information needed by library users were largely information on national legislations, international human rights instruments, backgrounds of human rights issues including data on human rights violations, newspaper's clipping and other references on human rights.

c. Field Study's Visitations

During 2005, Komnas HAM had received many field study's visits from educational institutions, among others, Vocational High School (*Sekolah Menengah Kejuruan* or SMK) Jayawisata Jakarta; Faculty of Law, Bandung Islamic University; the Student Association of Diponegoro University, Semarang; and the Stu-

dent Association of the Faculty of Social and Political Sciences, National "Veteran" University, Yogyakarta. Moreover, Komnas HAM also received a visit from the participants, coming from Southeast Asian nations, of the Equal Status and Human Rights of Women in South East Asia Training conducted by PAHAM, Faculty of Law, Padjajaran University in cooperation with Raoul Wallenberg Institute. The topics of the discussions during the visits were mostly on role, mandate and function of Komnas HAM in implementing, protecting and enforcing human rights in Indonesia, as well as on human rights problems in Indonesia.

d. Development of Komnas HAM Website

Komnas HAM has developed its website in order to provide information to the public through the internet. Komnas HAM website can be accessed through www.komnasham.go.id. The development of the website used interactive and integrated information technology. Subsequently, the website should provide a link between Komnas HAM and the community at national and international levels. Information contained in the website were, among others, the organization and activities of Komnas HAM, including its Representatives and Regional Offices, regular and incidental publications, national and international human rights instruments, on-line catalogue and up-to-date news on human rights. In 2006, in order to create an easy-access website for the user, Komnas HAM had developed new website outlook.

e. Celebration of International Indigenous People's Day on 9 August 2006

In order to disseminate and socialize the rights of the indigenous people, Komnas HAM had conducted a celebration of the International Indigenous People's Day on 9 August 2006 in Jakarta. The aim of the activity was to campaign the protection and fulfilment of the rights of indigenous people in Indonesia.

The activity was attended by representatives from indigenous people from Indonesia, representatives of regional governments, state institutions, legislative, embassies and non governmental organizations. The result of the activity was the Jakarta Declaration which contained problems faced by indigenous

people in Indonesia, the principles in dealing with violations of the rights of indigenous people and the planning to establish a National Secretariat for the Protection of the Constitutional Rights of Indigenous People.

f. Human Rights Campaign Activities in the Celebration of International Human Rights Day 2006

In line with the theme of human rights campaign on International Human Rights Day 2006, Komnas HAM had carried out several activities to eradicate poverty from human rights perspectives, started since September 2006. The objectives of the campaign were as follows:

1. To disseminate and socialize the human rights values and principles to general public.
2. To increase a better human rights awareness dealing with public policy and practices at the level of government apparatus and community leaders.
3. To promote the theme of international human rights day dealing with poverty eradication.
4. To promote human rights for young people with creative activities, such as photo exhibition, competition, happening arts and music performance, moot court, focus group discussion, theatre, movie presentation, etc.
5. To build networks among students, schools and components of academics to promote human rights at education level.

The activities of the campaign were moot court competition, photography exhibition, series of discussion with school students, launching of book and animation film, film showing and reflection night.

i) Moot Court Competition

The activity was conducted in cooperation with Faculty of Law, Padjajaran University in Bandung. The target of the competition was law students in Indonesia. The objective of the competition was to introduce the judicial process

of gross human rights violations in Indonesia, especially the trial process. The participants of the competition came from eleven universities, among others, University of Indonesia, Jakarta; Trisakti University, Jakarta; University of North Sumatera, Medan; Parahyangan University, Bandung; Padjajaran University, Bandung; Bandung Islamic University, Bandung; and Diponegoro University, Semarang.

The activities started in 15-16 September 2006 with evaluation and assessment on participants' understanding of gross human rights violations concepts, especially crimes against humanity. The participants then followed the final stage which was the moot court competition on 14-16 November 2006 in Padjajaran University, Bandung. The winners of the competition were Faculty of Law, University of Indonesia (first place), Faculty of Law, Parahyangan University (second place) and Faculty of Law, Trisakti University (third place).



► Moot Court Competition in Bandung, November 2006.

ii) Photography Exhibition

The aim of the photography exhibition was to provide visualization of pictures which captures human rights and social-humanity problems in day-to-day life of the people. The exhibition theme was "Human Rights: Past, Present and Future". The photos in the exhibition were the collection of the Social and Political Sciences Institute (*Institut Ilmu Sosial dan Ilmu Politik* or IISP) students joining in the FOK'R students' organization. The exhibition was carried out for a week, from 4 to 10 December 2006. A seminar and film showing with the theme "Photography and Human Rights" was also conducted during the exhibition.

iii) Launching of Animation Film "Adventure in 1012 World"

In 6 December 2006, Komnas HAM had conducted a launching of an animation film "Adventure in 1012 World" with right to personal safety as the theme. The launching was attended by elementary school students from Jakarta and surrounding areas. The objective of the animation film was to provide human rights education material for school children. The message delivered by the film was the importance of respect on differences and avoidance of violence in community.

iv) Thematic Discussions for Junior High School and High School Students

Komnas HAM had carried out series of discussion for students on 7-8 December 2006. The discussion was followed by film showings. The first one was on 7 December 2006 for junior high school students from Jakarta and surrounding areas. The theme was "Sexual Violence in School". The second one was on 8 December 2006 for high school students from Jakarta and surrounding areas with the theme "National Examination and Human Rights".

v) Reflection Night

The conclusion of the human rights campaign to celebrate the International Human Rights Day 2006 was the reflection night. During the activity, Komnas HAM gave a statement on human rights condition in 2006.

2. ACTIVITIES TO INCREASE PUBLIC AWARENESS ON HUMAN RIGHTS

In 2006, Komnas HAM also carried out activities to increase public awareness on human rights through trainings, discussions, seminars, workshops, networking development and lectures.

a. Basic Human Rights Training

To increase the capacity of Komnas HAM staff and members of Komnas HAM Representatives in the regions, Komnas HAM had conducted the VI and VII Rounds of Basic Human Rights Trainings on April-May 2006. The trainings were attended by the Komnas HAM staff in Jakarta and members of Komnas HAM Representatives in the regions.

The objectives of the training was to provide basic knowledge on human rights and its implementation in work place as well as day-to-day life, to develop knowledge and awareness of Komnas HAM staff in understanding the working mechanism of national human rights institutions, to develop competency in human rights study and research, education, monitoring as well as mediation, and to enhance Komnas HAM staff ability to perform public services.



▶ Komnas HAM Basic Human Rights Training, April-May 2006.

Subjects given in the trainings were, among others, human rights in day-to-day life, human rights principles, history of human rights, human rights violations, gross human rights violations, international human rights instruments and mechanisms, and national human rights instruments and mechanism.

b. Projustitia Investigation Training

In relations with Komnas HAM mandate to conduct *projustitia* investigation on the assumption of the occurrence of gross human rights violations based on the Act No. 26 Year 2000 on Human Rights Court, Komnas HAM had conducted a *Projustitia* Investigation Training in August 2006. The aim of the training was to increase the capacity of Komnas HAM staff in conducting *projustitia* investigation. The training was conducted in cooperation with the Norwegian National Human Rights Commission.

The objectives of the training were to increase the knowledge on gross human rights violations mechanism, to increase the capacity to conduct investigation on gross human rights violations, to develop the knowledge and understanding on the concept of international crimes, particularly genocide, crimes against humanity and war crimes, as well as to develop the techniques and skill in gathering and dealing with evidence, interviewing witnesses, analyzing cases and developing *projustitia* investigation report.

The subjects given in the training covered both, theory and practice of *projustitia* investigation. The theories were, among others, human rights principles and their application on international criminal law, experiences of international criminal court, international human rights crimes concepts (genocide, crimes against humanity and war crimes), modes of liabilities in international crimes, gross human rights violations according to the Act No. 26 Year 2000 on Human Rights Court, as well as practice of *projustitia* investigation (dealing with evidence, witnesses, and location; verifying gross human rights violations, witness and victim protection, forensic investigation, documentation, and reporting). Moreover, the participants were also being trained for case-matrix application (documentation system of gross human rights violations) developed by the Office of Prosecutor of the ICC in Den Haag.

c. Human Rights Training for University Students in Jakarta, Bogor, Tangerang and Bekasi

With the aim of increasing human rights awareness among university students, Komnas HAM had conducted basic human rights training titled "Workshop on Civil and Political Rights for University Students in Jakarta, Bogor, Tangerang and Bekasi" on 15-18 May 2006. The training involved 30 university students from several universities in Jakarta, Bogor, Tangerang and Bekasi (Jabotabek). These universities were, among others, University of Indonesia, National University, Indonesian Christian University, Trisakti University, Bung Karno University, University 45, Gunadarma University, Muhammadiyah University in Jakarta, State Islamic University of Syarif Hidayatullah, Bina Sarana Informatika Institute, Jayabaya University, National Science and Technology Institute, Tirtayasa University and Sekolah Tinggi Ilmu Bahasa Asing.

The training was intended as an effort to enhance the knowledge and skill of university students in monitoring human rights violations in their daily lives. The aims of the training were to increase the knowledge on civil and political rights as well as human rights violations and to increase the skill on conducting monitoring of human rights violations. The programme continues to 2007.

d. Training of Trainers on Civil and Political Rights with Gender Perspective

The training was a continuation of human rights training with gender perspectives programmes, through cooperation between Komnas HAM, the National Commission on Violence against Women (Komnas Perempuan), Human Rights Study Centre of Syah Kuala University in Nanggroe Aceh Darussalam and Human Rights Study Centre of Surabaya University in Surabaya, East Java. The programme had started since 2004. The foreign partners of the programme were Raoul Wallenberg Institute (RWI) and the Swedish International Development Cooperation Agency (SIDA). In the second year of the programme, Komnas HAM and the Human Rights Study Centre of Syah Kuala University had conducted a Training of Trainers on Civil Political Rights with Gender Perspective on 19-26 June 2006 in Jakarta. The training was attended by participants from education institutions, government institutions as well as women organizations

from Lampung, East Kalimantan, Central Sulawesi and Central Papua.

The aim of the training was to enhance the knowledge on human rights with gender perspective particularly related to civil and political rights. The objectives of the training were, among others:

1. To enhance comprehensive knowledge on the actual situation of civil and political rights in Indonesia, particularly in relations with women in Indonesia.
2. To enhance the knowledge and skill needed to become effective agents in advocating civil and political rights of women.
3. To support the synergy between the government, academician as well as non-governmental organizations, particularly in relation with the civil and political rights of women.
4. To develop a gender perspective human rights networking in Indonesia.

e. Human Rights Training for Migrant Workers

In 2006, Komnas HAM had conducted series of human rights training for migrant workers in Indonesia. The trainings were conducted in Malang and Lombok. The trainings were carried out as follow-up to series of trainings in 2005 in several transit areas of Indonesian migrant workers to Malaysia, namely, Entikong, Nunukan, Batam and Tanjung Pinang. The participants of the trainings were representatives of non governmental organizations dealing with migrant workers, educational institutions, local governmental agencies and social community organizations.

The aims of the training were to increase the knowledge and understanding on human rights and particularly the rights of migrant workers, to increase understanding on national and international human rights instruments as well as the rights of migrant workers, to increase the synergy between the local governments, non governmental organizations and law enforcement agencies to guarantee the fulfilment of the rights of migrant workers, and to develop human rights networking that support the effort to protect human rights in Indonesia.

f. Basic Training on the Right to Health for Government's Apparatus of the districts and Cities in North Sumatera

To socialize the right to health, Komnas HAM had conducted a Basic Training on the Right to Health for Government's Apparatus of the Districts and Cities in North Sumatera on August 2006. The training was conducted in cooperation with the Provincial Government of North Sumatera and Association of Journalist in Indonesia (*Persatuan Wartawan Indonesia*) in North Sumatera. The participants of the training were representatives from health regional offices, hospitals, non governmental organizations as well as educational institutions.

The objectives of the training were to socialize the right to health as human rights and to increase the awareness on the importance of human rights perspective in developing policies and regulations on health matters. Moreover, the training was also intended to develop human rights networking consisted of representatives from government, particularly those dealing with health issues, and medical officers who are able to actively involve in the fulfilment of the right to health.

g. Mediation Training on the Right to Environment for Victims of Human Rights Violations

In April 2006, Komnas HAM had conducted a Mediation Training on the Right to Environment in Samarinda, East Kalimantan. The training was conducted in cooperation with *Wahana Lingkungan Hidup* (Walhi) of East Kalimantan. The participants of the training were mostly victims of human rights violations, particularly the right to good and healthy environment in East Kalimantan.

The objectives of the training were to socialize the right to environment as human rights and to increase the awareness on the importance of human rights in dealing with environmental problems. Moreover, the training was also intended to develop networking between the victim of violations of the right to good and healthy environment, who were able to actively involve in advocating and monitoring the implementation and fulfilment of the right to environment.

h. Workshop on Public Campaign Strategy “Human Rights ‘Learning by Doing’ Campaign:

To develop a strategy of human rights public campaign, Komnas HAM had conducted a Workshop on Public Campaign Strategy “Human Rights ‘Learning by Doing’ Campaign” in December 2006. The workshop was conducted in cooperation with the Indonesia Australia Legal Development Facility (IALDF) and facilitated by Ogilvy Public Relations. The participants of the workshop were Komnas HAM staff in Jakarta, staff of Komnas HAM Representatives and Representative Offices, as well as representatives from non governmental organizations and governmental agencies.

The objectives of the workshop were to increase Komnas HAM staff capacity and to develop networking with related institutions. In the workshop, the participants were trained to develop basic ideas for public campaign, to determine the target groups of the public campaign, to choose appropriate public campaign funnel (media), and to develop monitoring mechanism and evaluation of public campaign activities.

i. Series of Workshop on Freedom of Religion and Belief in Indonesia

As the follow-up of complaints by particular religious community who experienced acts of violence by other groups of the community on behalf of particular religion of belief, in May to October 2006 Komnas HAM had conducted series of seminars and workshops titled “Freedom of Religion and Belief in Indonesia”. The activities were conducted in six cities, namely, Pangkal Pinang, Makassar, Lombok, Surabaya, Palu and Jakarta.

The aims of the seminars and workshops were to socialize the meaning of freedom of religion and belief according the 1945 Constitution, the Act No. 39 Year 1999 on Human Rights and the Act No. 12 Year 2005 on the Ratification of the International Covenant on Civil and Political Rights; to develop understanding of religious adherents on the need of tolerance and respect between one another; and to promote human rights particularly the right to the freedom of religion and belief.

The series of seminars and workshops recommended as follows:

1. The need of many related parties to continuously strengthen the civil society with cultural values in a multicultural world.
2. The need to re-position the role of the State, particularly the Department of Religious Affairs, in order to guarantee the freedom of religion and belief of its citizens.
3. The need to rectify or withdraw all policies and practices discriminative to the adherents of particular religious or belief.
4. The need of actual actions by the State to settle basic problems related to acts of violence on behalf of particular religion or belief.
5. The need to realize that the quality of religion is not measure through the numbers of religious places of the number of adherents, but mainly through its benefits to humanity and civilization.
6. The need to urge the House of Representatives of the Republic of Indonesia and the Government to produce legislations on freedom of religion and belief.

j. Seminar and Workshop on the Fulfilment and Protection of the Rights of the Elderly

To promote the fulfilment and protection of the rights of the elderly, Komnas HAM had conducted series of seminars and workshops in Bukit Tinggi, Manado and Surabaya in 2006. The aim of the seminars and workshops was to map problems in the fulfilment and protection of the rights of elderly. The participants of the seminars and workshops were representatives of non governmental organizations dealing with problems related to the rights of elderly and the government particularly office for social affairs.

The seminars and workshops concluded that the problems in fulfilling and protecting the rights of the elderly covered the right to good standard of living; the rights to appropriate social welfare, assistance and protection; the right to freedom from discrimination based on age and other status; the right to

health; the right to be treated with dignity; the right to protection from neglect and physical and mental abuses; the right to full and active participation in political, economic, social and cultural aspects of life; and the right to full and active participation in decision making related to the welfare of the elderly.

The problems faced by the elderly were basically caused by the approach in the formulation of policies and legislations to guarantee the fulfilment of the needs of the elderly which was not based on the fulfilment and protection of the human rights of the elderly.

k. The Seminar and Workshop on Free and High Quality Basic Education through the Realization of 20% National Education Budget of the State Revenues and Expenditures and Regional Revenues and Expenditures

The Constitutional Court (*Mahkamah Konstitusi* or MK) had decided that 20% of the State Revenues and Expenditure (*Anggaran Pendapatan dan Belanja Negara* or APBN) and the Regional Revenues and Expenditures (*Anggaran Pendapatan dan Belanja Daerah* or APBD) should be allocated for education budget. The State is responsible for the execution of this decision. With regard to this matter, in cooperation with the Legal Aid Institute for Education (*Lembaga Bantuan Hukum Pendidikan*), Komnas HAM had conducted a seminar and workshop on Free and High Quality Basic Education through the Realization of 20% National Education Budget of the State Revenues and Expenditures and Regional Revenues and Expenditures on 5-6 June 2006. The participants of the seminar and workshop were representatives of government institutions, universities, political parties and non governmental organizations working in education.

The objectives of the seminar and workshop were: a) to understand on the State responsibility to fulfil the right to education, particularly free basic education, and to provide the instruments of education; b) to formulate the recommendation on the enhancement of the quality of basic education through the full realization of the 20% national education budget of the State Revenues and Expenditures and Regional Revenues and Expenditures; c) to establish the justiciability of the 20% national education budget from the State; d) to recom-

mend an accountable and transparent expenditure mechanism; and e) to establish monitoring mechanism of the spending of the 20% education budget of the State Revenues and Expenditures and Regional Revenues and Expenditures. The seminar and workshop also discussed the measures taken by the Department of National Education in developing programmes and strategic planning to increase the current 9.1% education budget allocation to fulfil the 20% education budget of the State Revenues and Expenditures and Regional Revenues and Expenditures.

I. The Seminar and Workshop on the Protection and Fulfilment of the Rights of Part-time Workers in Big-Scale Projects

To identify and develop a critical review of the legislations and policies on the protection and fulfilment of the rights of part-time workers in big-scale projects, Komnas HAM in cooperation with the Advocacy and Legal Aid Institute (*Lembaga Advokasi dan Bantuan Hukum* or LABH) Yogyakarta had conducted a Seminar and Workshop on the Protection and Fulfilment of the Rights of Part-time Workers in Big-Scale Projects on 24-25 April 2006 in Yogyakarta.

The participants of the seminar and workshop were representatives of government institutions, worker unions, non governmental organizations dealing with the rights of workers issues, universities and business associations. The objectives of the seminar and workshop were: a) to identify and criticize government legislations and policies related to employment, particularly with regard to part-time workers; b) to review the realization of the protection and fulfilment of the rights of part-time workers on big-scale projects; and c) to criticize the effectiveness of the protection and fulfilment efforts of the rights of the part-time workers on big-scale projects.

The subjects introduced in the two days seminar and workshop were critical review on the protection of the rights of part-time workers on government legislations and policies, realization of the protection and fulfilment of the rights of part-time workers on big-scale projects, and the effectiveness of the efforts to protect and fulfil the rights of part-time workers on big-scale projects.

m. Socialization on the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

The socialization on the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment was a continued programme started since 2005. In 2006, Komnas HAM had conducted the socialization in Kupang on 21 September 2006 and in Manado on 22 November 2006. The participants of the socialization programme were representatives from the Indonesian National Military (*Tentara Nasional Indonesia* or TNI), police, attorney general office, correctional institutions, government agencies, universities, non governmental organizations, community organizations and mass media.

Komnas HAM has received a lot of complaints on torture cases happened in many areas in Indonesia. This has shown the lack of awareness and understanding on the obligation of the Indonesian Government to fully implement the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment ratified through the Act No. 5 Year 1998. Therefore, Komnas HAM considered that it was necessary to socialize the Convention, particularly its relations with the Indonesian Criminal Code (*Kitab Undang-Undang Hukum Acara Pidana* or KUHAP). The aim of the socialization programme was to enhance the knowledge and awareness on torture as human rights violation as well as criminal act.

n. Socialization on the Right to Health

In 2006, Komnas HAM had conducted series of socialization of the right to health in Banda Aceh, Palembang, Palu and Ambon. The aims of the activities were to socialize the importance of the right to health as part of human rights and to conduct a mapping on cases related to the right to health in each of the region. The activities recommended on the necessity to develop a networking on the right to health and to establish a mechanism of the justiciability of the right to health.

o. Socialization on the Ratification of the International Labour Organization (ILO) Conventions on the Rights of Workers

In April 2006, Komnas HAM had conducted a Focus Group Discussion (FGD) to socialize 15 ILO Conventions ratified by the Indonesian Government. Of the 15 conventions, eight conventions are on the freedom of union and negotiation, two conventions are on the prohibition of forced labours, two conventions are on prohibition of child worker, and two conventions are on the prohibition of discrimination.

The participants of the discussion were representatives of worker unions, business associations, government agencies especially the Office of Workforce and Transmigration and non governmental organizations. The discussion recommended on the need to revise the Act No. 13 Year 2003 on Employment, particularly related to outsourcing system and employment agreement which were considered violating the rights of workers.

p. The Panel Discussion on “The Implication of the Ratifications of the International Covenant on Economic, Social and Cultural Rights (ICESCR) and the International Covenant on Civil and Political Rights (ICCPR) to the Government of the Republic of Indonesia”

Indonesia had ratified the two international covenants, namely, the International Covenant on Economic, Social and Cultural Rights (ICESCR) and the International Covenant on Civil and Political Rights (ICCPR) in October 2005. As a follow up to the ratifications, Komnas HAM had conducted a panel discussion on 21 February 2006 in Jakarta. The participants of the discussion were representatives of the public, academician, state institutions, government agencies, law enforcement agencies, security and defence officers and non governmental organizations.

The objectives of the panel discussion were:

1. To review the basic features of the ICESCR and ICCPR as well as the complementary and supporting instruments, and their relations with na-

tional legislations on human rights, particularly the 1945 Constitution, the Act No. 39 Year 1999 on Human Rights and the Act No. 26 year 2000 on Human Rights Court;

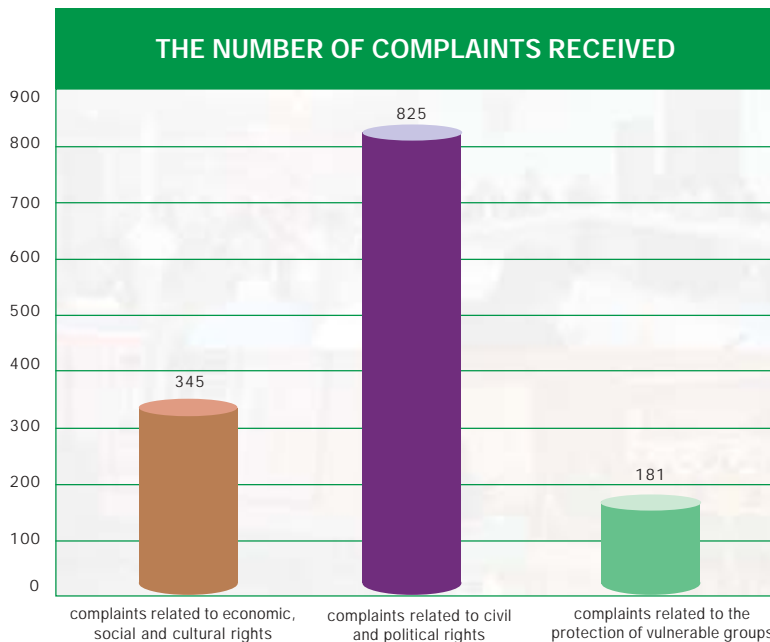
2. To assemble opinions and suggestions on effective measures to socialize the ICESCR and ICCPR as well as the complementary and supporting instruments, and to increase the awareness of related parties on the importance of the respect and implementation of ICESCR and ICCPR as the State responsibility according to the national and international laws;
3. To prepare the State as well as the public on the follow-up measures of the ratification of ICESCR and ICCPR;
4. To assemble opinions on effective measures to implement the ICESCR and ICCPR at national level, both of legal-formal as well as practice.

The panel discussion raised several issues, namely, the State responsibility according to ICESCR and complementary or supporting instruments and its implications to the State responsibility, particularly the Government, in the protection, promotion, enforcement and fulfilment of the economic, social and cultural rights; the implications of the ratification of the ICCPR on the protection and implementation of human rights and fundamental freedom; to immediately prepare the State on fulfilling its responsibility according the constitution and the national legislation as well as the international law in the protection, promotion, enforcement and fulfilment of human rights; and to develop effective public participation in the protection, promotion, enforcement and fulfilment of human rights.

D. IMPLEMENTATION OF THE FUNCTION OF HUMAN RIGHTS MONITORING

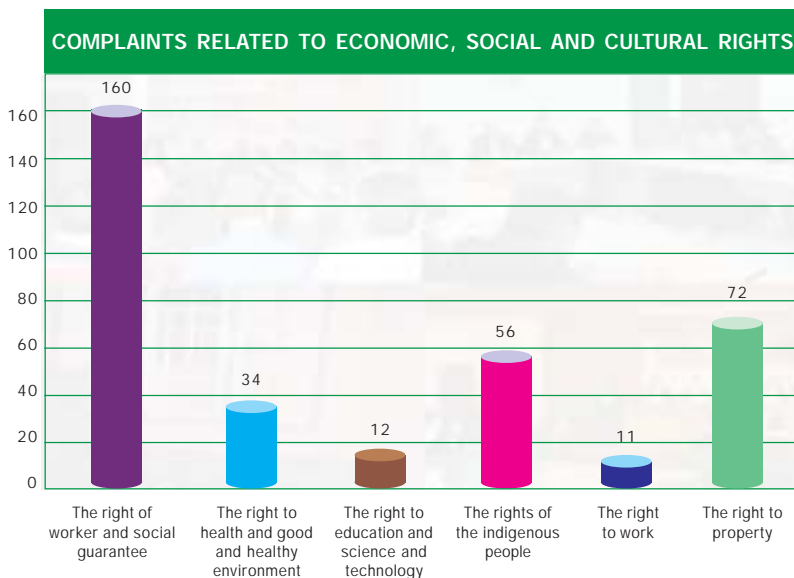
According to complaint statistical data in 2006, the number of complaints received by Komnas HAM is 1351 complaints, consisted of 345 complaints related to economic, social and cultural rights; 825 complaints related to civil and political rights; and 181 complaints related to the protection of vulnerable groups. (See diagram 1).

DIAGRAM 1



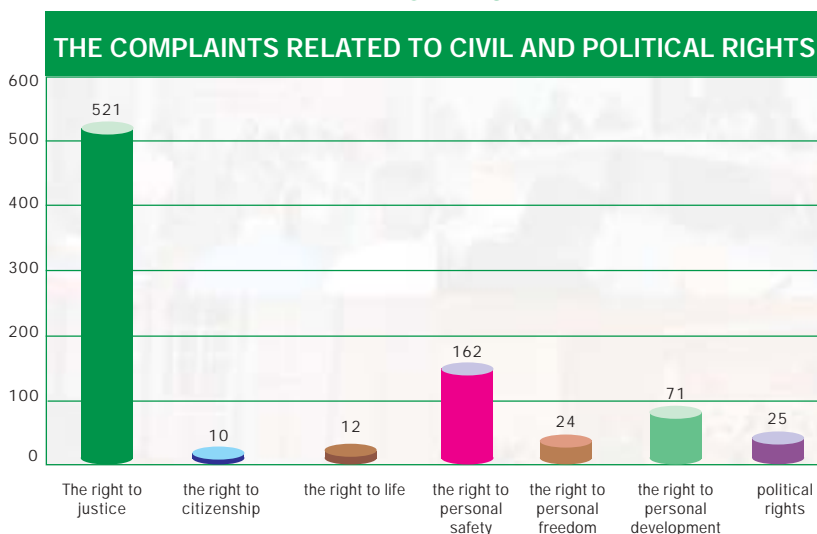
The complaints related to economic, social and cultural rights consisted of 160 complaints on the right of worker and social guarantee, 34 complaints on the right to health and good and healthy environment, 12 complaints on the right to education and science and technology, 56 complaints on the rights of the indigenous people, 11 complaints on the right to work, and 72 complaints on the right to property. (See diagram 2).

DIAGRAM 2



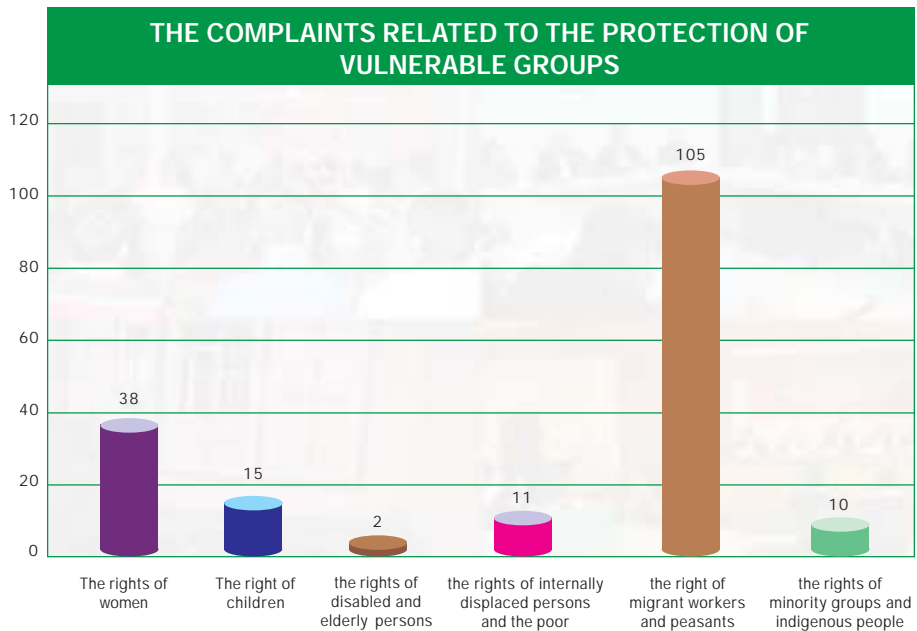
The complaints related to civil and political rights consisted of 521 complaints on the right to justice, 10 complaints on the right to citizenship, 12 complaints on the right to life, 162 complaints on the right to personal safety, 24 complaints on the right to personal freedom, 71 complaints on the right to personal development, and 25 complaints on political rights. (See diagram 3).

DIAGRAM 3



The complaints related to the protection of vulnerable groups consisted of 38 complaints on the rights of women, 15 complaints on the right of children, 2 complaints on the rights of disabled and elderly persons, 11 complaints on the rights of internally displaced persons and the poor, 105 complaints on the right of migrant workers and peasants, and 10 complaints on the rights of minority groups and indigenous people. (See diagram 4).

DIAGRAM 4



Several cases handled by Komnas HAM in 2006 with regard to the implementation of the function of human rights monitoring are described as follows.

1. MONITORING ON CONFLICT OF FARMERS IN CISOMPET

The case originated from a complaint put by the Agrarian Reform Consortium (*Konsorsium Pembaruan Agraria* or KPA) on the open conflicts occurred between Pasundan Workers Association (*Serikat Pekerja Pasundan* or SPP) and the Plantation Workers Association (*Serikat Pekerja Perkebunan* or SP BUN) of P.T. Perkebunan Nusantara (PTPN) VIII Bumi Sari Hendra on 31 May 2006 at

Cisompet Sub-District, Garut. The problems were triggered by land ownership conflict between farmers in SPP and PTPN VIII Bumi Sari Hendra.

As the results of the incidents, one member of SPP was shoot, around 40 members of SPP disappeared (unknown of their whereabouts until 2 June 2006), 14 houses and 30 small-houses belonged to the people burned, and around 10 hectares of the people's land were damaged by the members of SP BUN. Komnas HAM findings on the incidents had been submitted to the Regent of Garut and the Chief of Garut Resort Police on 16 June 2006 through a meeting attended by representatives of the Regional House of Representatives and regional government agencies in Garut. In the meeting, Komnas HAM requested the Regent of Garut to settle the problem through consultation meeting between conflicting parties with the intention that the farmers could still work on their land. Moreover, Komnas HAM also requested the Chief of Garut Resort Police to investigate the perpetrators conducting the attacks and destruction of vegetations belonged to the community.

2. MONITORING OF THE FULFILMENT OF THE RIGHT TO EDUCATION IN YOGYAKARTA AND KLATEN POST-EARTH QUAKE DISASTERS

To guarantee the fulfilment of the right to education after the earth quake disasters in Yogyakarta and Klaten, Komnas HAM had conducted site-visits to Brebah Sub-District, Bantul District; Sewugalur, Lendah and Sentolo Sub-Districts, Kulon Progo District; and Wedi, Bayat, Cawas and Delanggu Sub-Districts, Klaten District.

The monitoring was conducted through visits to tent-schools and emergency schools at refugee camps, and to destroyed or damaged school buildings, as well as through interviewing the teachers, school guards, community members and school students. In the monitoring Komnas HAM also had a meeting with the Head of National Education Regional Office for Special Region Yogyakarta Province.

3. INQUIRY ON AHMADIYAH INCIDENTS

The attack by a group of people of Ahmadiyah adherents in these last couple of years, such as the attack of Mubarak Campus in Parung, Bogor, the attacks of five villages at Cianjur District, at Ketapang Village, Gegerung Village, West Lombok, the attacks of several houses belonged to the members of Ahmadiyah in Praya, and also evictions of Ahmadiyah adherents in Bulukumba, Jeneponto and Gowa, South Sulawesi, had received attention from many parties. The objective of the monitoring of these incidents was to conduct inquiry on these incidents and to identify the occurrence of the acts of violence as well to identify whether or not human rights violations had occurred in these incidents.

In the monitoring Komnas HAM had visited the locations of the incidents and interviewed 210 witnesses, 54 police officers, security guards and military officers, as well as 18 state officials. Komnas HAM recommendations with regard to the incidents are as follows:

1. Komnas HAM urges the Government, in this regard the Department of Law and Human Rights, to review all decisions made by government agencies which are not in conformity with legal-normative and human rights principles.
2. Komnas HAM urges the Government to withdraw decisions that prohibited the Ahmadiyah doctrine.
3. Komnas HAM urges the regional government to immediately restore and fulfil the rights of the eviction victims.
4. Komnas HAM urges the central and regional governments to return and protect the right of property of members of Ahmadiyah adherents, and provide assistance in helping them to restore their properties.
5. Komnas HAM urges the law enforcement agencies to investigate perpetrators involved in the incidents and to provide protection to the victims.



► Location of a house of member of the Ahmadiyah which was damaged in the attack in Loteng, West Lombok in March 2006.

4. MONITORING OF PRISONERS AT CORRECTIONAL INSTITUTIONS AND DETENTION PLACES IN INDONESIA WITH REGARD TO THE POSSIBILITY OF INTERVENTION IN JUDICIAL PROCESS

Komnas HAM had received complaints regarding the rights of prisoners and detainees, particularly with regard to unfairness that might occurred in the process of extending imprisonment period, conducted by the investigator, prosecutor and judges, which considered as violation to article 29 paragraph (2) and (3) of the Indonesian Criminal Code (*Kitab Undang-Undang Hukum Acara Pidana* or KUHAP). Therefore, Komnas HAM had conducted monitoring of several correctional institutions and detention places in Medan (Binjai), Jakarta, Batam, Banda Aceh (Jantho), Bandung, Manado, Cirebon, Purwokerto, Cilacap (Nusa Kambangan) and Yogyakarta.

In conducting the monitoring, Komnas HAM also coordinated with the Directorate General of Correction of the Department of Law and Human Rights, Judi-

cial Commission and the Supreme Court. The objectives of the monitoring are as follows:

1. To fulfil the human rights of the people going through judicial process, particularly imprisonment.
2. To uphold the law according to the legislation which apply the principle of law supremacy.
3. To indicate human rights violations of person(s) due to imprisonment without legal court decision.
4. To find measures to prevent imprisonment without legal bases.
5. To formulate guidelines for law enforcement officers to perform their duties according to the prevailing legislation.

Several findings of the monitoring are, among other, as follows:

1. An alleged person lost his right for cassation due to the delay in the submission of all legal documents of the District Court and High Court, which had hindered the person to prepare the necessary documents for cassation.
2. The Attorney General and the alleged person have yet received the decision of the Supreme Court, which has delayed the execution of the punishment of the alleged person. As the result, the alleged person lost his right to remission, visitation from family members, and other rights.
3. The delay in the execution of death penalty of the alleged person, although he has been imprisoned for 36 years in Batu Correctional Institution in Nusa Kambangan. Meanwhile, his second request of clemency since 1995 has yet received response from the President.
4. Lack of coordination between the correctional institutions and/or detention places with the District Court, the High Court and the Supreme Court.

5. COMPLAINT OF THE FAMILY OF FABIANUS TIBO, MARINUS RIWU AND DOMINGGUS DA SILVA FROM POSO

Komnas HAM had received a complaint from the family of Tibo cs. from Poso, Central Sulawesi, advocated by the Advocacy Institute for Justice and Peace (*Lembaga Pelayanan Advokasi untuk Keadilan dan Perdamaian* or PADMA). The complainants were stating their uncertainty to the trial process at Poso District Court. According to the complainants, the lawyers and prosecutors had requested the accused to accept the allegation in order to evade heavy penalties. Meanwhile, the accused had constantly denied the allegation. During the trial process, the accused revealed 16 names involved in the murder. The accused had requested the police to further investigate the matter. The names of the 16 persons involved in the murder were noted in the judge decision of the court.

As a follow up to the complaint, Komnas HAM had recommended as follows:

1. Komnas HAM requested the Attorney General to postpone the execution of the death penalty of Tibo cs. pending the completion of the investigation on the 16 revealed names.
2. Komnas HAM requested the Chief of the Indonesian Police to conduct professional investigation in line with the prevailing laws.
3. Komnas HAM requested the Supreme Court to consider the request of a review (*Peninjauan Kembali*) by Tibo cs. on the basis of humanity.

6. MONITORING ON CASES OF ACTS OF VIOLENCE IN POSO

Although the mass communal conflicts in Poso had stopped since 2002, the impact of these conflicts were still shown in 2006 because the Government has yet solved these cases through the legal system. Acts of violence still occurred such as shooting, bombing, mutilation or individual robbery. As the response to these acts of violence, the Indonesian Police has intensively conducted investigation in Poso and has determined 29 persons in the wanted list (*Daftar Pencarian Orang* or DPO).



» Demonstration on Poso Case in Komnas HAM Office on 14 September 2006.

In October 2006, during the search of the persons in the wanted list, a civilian had died and several others were injured of gun-shoots by the police. To investigate and monitor the possibilities of human rights violations in the search process of the police in Poso, Komnas HAM had visited Poso in November 2006 and had sent a letter to the Chief of the Indonesian Police to demand the respect of human rights in the police investigation process. The monitoring continues to 2007.

7. MONITORING ON ABEPURA RIOT INCIDENTS IN PAPUA

Open conflict between security officers and demonstrators occurred in a mass demonstration demanding the closing of P.T. Freeport on 16 March 2006. As the result, five police and military officers died (four police officers from the Papua Police District and one military officer from the Air Forces of the Indonesian National Military). Moreover, four members of the Indonesian Police were heavily injured while 24 others and four demonstrators were injured. With

regard to the incidents, security officers had arrested several members of the community accused of involvement in the act of violence. The security officers were also continuing the search for perpetrators to be legally processed.

As a response to the incidents, Komnas HAM had visited the area on 21-24 March 2006, involving the Representative of Komnas HAM in Papua. In the visit, Komnas HAM also conduct a meeting with the Papua Police District with the objectives as follows:

1. To ensure that the perpetrators will be processed through prevailing legal system.
2. The search of the perpetrators should respect the principles of human rights since the process could create fear in the community which is a violation to the right to personal safety.
3. The Papua Police District should facilitate the implementation of Komnas HAM in the monitoring process of the incidents.

Moreover, Komnas HAM monitored the condition of the members of the community accused of being involved in the Abepura incident. They were detained in Papua Police District in Jayapura. According to the Papua Police District information, the Papua Police District has detained 15 accused perpetrators of the Abepura incidents until 22 March 2006. Komnas HAM had emphasized the importance of respecting the human rights of the detainees to the Papua Police District by avoiding the use of torture on the detainees. To this request, the Papua Police District had stated that they did not torture any of the detainees.

According to Komnas HAM monitoring, some conclusions were as follows:

1. There were some indication that violation to right to personal safety have occurred after the Abepura incidents on 15 March 2006, especially when the security officers conducted search of the perpetrators of the incidents.
2. The death of the members of the Indonesian Police in the incidents was criminal acts conducted by civilians involved in the incidents.

3. The perpetrators of the incidents should go through the prevailing legal process.
4. The implementation of the right to free speech in the form of demonstration in Abepura had violated the prevailing law which caused victims and casualties of security officers.

E. IMPLEMENTATION OF THE FUNCTION OF HUMAN RIGHTS MEDIATION

Mediation function is a function conducted by Komnas HAM to follow up the result of monitoring, particularly to peacefully solve human rights violations cases through extra-judicial process. The peaceful and extra-judicial settlement could be conducted in many forms, such as mediation, which is defined as the settlement of civil cases outside the court based on agreement of the conflicting parties. Several Komnas HAM activities in mediation according to the definition are as follows:

1. MEDIATION ON THE CASE OF COLOL INDIGENOUS PEOPLE IN MANGGARAI, NUSA TENGGARA TIMUR

In 2004, the Regent of Manggarai had ordered the cutting down of all vegetation planted by the people living in Colol, Manggarai, Nusa Tenggara Timur. The area was considered as protected forests. The response of the community to the Regent's decision had caused acts of violence conducted by the state apparatus. Six people died and a number of people were injured as the result. To reach a peace settlement between the regional government of Manggarai and the local community, Komnas HAM has begun the mediation process in 2005. The process continued in 2006, which has resulted several agreements between the conflicting parties. One of the agreements was that the regional government permitted the Colol community to work on the disputed land. However, the issue of protected forest and traditional land would be discussed further. A suggestion had been made to this matter, which in-

volved the reconstruction of the forest area and natural conservation and development of the land as community forest areas.

2. MEDIATION ON THE CONFLICT BETWEEN P.T. FIRST MUJUR PLANTATION & INDUSTRY WITH SIMANGAMBAT COMMUNITY AND LUHAT UJUNG BATU COMMUNITY IN SIBOLGA, NORTH SUMATERA

Komnas HAM had conducted a mediation process to reach a peaceful agreement between the communities in Luhut Ujung Batu and Luhut Simangambat, Central Barumen Sub-district, South Tapanuli District, North Sumatera Province with P.T. First Mujur Plantation & Industry (P.T. FMP&I). The conflict between the two parties has started since 1993. The communities had put their complaints to Komnas HAM in 2003, which basically accused that P.T. FMP&I had cultivated more lands belonged to the people. Therefore, the communities had asked that the lands should be returned to the indigenous people.

The mediation process started since 2003 has yet achieved peaceful settlement between the conflicting parties. Another mediation effort was conducted in 2005 which reached an agreement between the conflicting parties which in 2005 was registered to the Padangsidempuan District Court.

3. MEDIATION ON THE CONFLICT BETWEEN P.T. ASIATIC PERSADA AND SUKU ANAK DALAM INDIGENOUS PEOPLE IN JAMBI

In 2006 Komnas HAM also conducted mediation to settle the conflict between Suku Anak Dalam indigenous people in Batanghari District, Jambi Province with P.T. Asiatic Persada. The indigenous people complained that the areas of the oil palm plantation are traditional land of Suku Anak Dalam. The mediation process has reached several agreements, among others, that Suku Anak Dalam would make a list of the people who claim the land and P.T. Asiatic Persada would provide 1,000 hectares land for the indigenous people.

Chapter IV

CASES HANDLED BY KOMNAS HAM BASED ON THE ACT NO. 26 YEAR 2000 ON HUMAN RIGHTS COURT



A. INTRODUCTION

Apart from the functions mentioned in the previous chapter, according to the Act No. 26 Year 2000 on Human Rights Court, Komnas HAM is also the only institution that has the mandate to conduct inquiry on gross human rights violations. The scope of the inquiry is *projustitia* investigation. Hence, Komnas HAM is a part of the judicial process for gross human rights violations since the result of Komnas HAM inquiry is a legal document which should be followed-up with an investigation by the Attorney General.

Gross human rights violations are extra ordinary crimes which, at the national and international levels, have massive consequences. These violations were not ordinary criminal acts as regulated in the Indonesian Criminal Code (*Kitab Undang-Undang Hukum Pidana* or KUHP). Therefore, these violations could not be solved through the usual judicial mechanism. They should be judicially processed through a specific mechanism, the human rights courts.

The disclosure of gross human rights violations cases is different with ordinary criminal acts. Consequently, they need particular judicial instruments (*lex specialis*). The distinctiveness of the handling of gross human rights violations could be noticed from:

1. The possibility to establish an *ad hoc* tem, to appoint *ad hoc* investigators and *ad hoc* prosecutors, and to elect *ad hoc* judges apart from career judges;
2. Komnas HAM is the only institution that has the mandate to conduct inquiry, while the investigators do not have the mandate to receive report or complaints made by other institutions than Komnas HAM as regulated in the Indonesian Criminal Code (KUHP);
3. The provision that regulates special time-schedule to complete the investigation and to prosecute, as well as to complete the trial process;
4. The provision that regulates victims and witnesses protection;
5. The provision that affirms that gross human rights violations do not expire;

6. The provision that regulates retroactive nature of the Act No. 26/2000.

Hereby some description of gross human rights violations cases handled by Komnas HAM in 2005, and also the development of some cases which reports had been submitted to the Attorney General to be investigated. Moreover, this chapter will also describe some cases which already processed by ad hoc human rights courts and by human rights courts in 2006.

B. THE ENFORCED DISAPPEARANCE INCIDENTS IN 1997-1998

To follow-up the result of the study according to the Act No. 39 Year 1999 on Human Rights, Komnas HAM according to its function based on the Act No. 26 Year 2000 on Human Rights Court to conduct a *projustitia* inquiry had established an Ad Hoc Team as mentioned above. The Ad Hoc Team on the Inquiry of Gross Human Rights Violations on Enforced Disappearance Incidents in 1997-1998 worked since 1 October 2005 to 30 October 2006. The team had interviewed 77 witnesses, consisted of 58 victims' witnesses, victims' families and the public, 18 active or retired members of the Indonesian Police, and one retired member of the Indonesian National Military (*Tentara Nasional Indonesia* or TNI).

1. DESCRIPTION OF THE INCIDENTS

Before and during the Plenary Session of the People's Consultative Assembly (*Majelis Permusyawaratan Rakyat* or MPR) in March 1998, enforced disappearance happened to Desmond J. Mahesa, Pius Lustrilanang, Haryanto Taslam and Suyat. Others enforced disappearance cases continued to be reported, namely, Raharja Waluya Jati, Faisol Riza, Aan Rusdianto, Mugiyanto, Nezar Patria and Andi Arief. Another information on enforced disappearance cases since 1997 emerged under the names of Dedi Hamdun, Noval Alkatiri, Ismail, Yani Afrie and Sony. A few days later, some of these victims returned home and

gave information to the public regarding their disappearance. According to these people, there was another person who was being detained at the same place, Lucas da Costa.

During the May 1998 riots, several persons were reported missing, namely, Ucok Munandar Siahaan, Hendra Hambali, Yadin Muhidin and Abdun Nasser. Moreover, an activist, Leonardus Nugroho or Gilang, was found dead in Solo with the predicted time of death just a moment after the Soeharto withdrawal from presidency. The cause of death was because of stabbing of sharp objects. The death of Gilang had triggered the opinion of the existence of a specific group who had political motive to murder pro-democracy activists.

In the enforced disappearance incidents in 1997-1998, at least 13 persons were reported as victims of enforced disappearance whose whereabouts are unknown pending the end of the working period of the Ad Hoc Team. They are: Yani Afrie, Sony, Herman Hendrawan, Dedi Hamdun, Noval Alkatiri, Ismail, Suyat, Petrus Bima Anugerah, Wiji Thukul, Ucok Munandar Siahaan, Hendra Hambali, Yadin Muhidin and Abdun Nasser. Ten other pro-democracy activists who were released are Mugiyanto, Aan Rusdianto, Nezar Patria, Faisol Riza, Raharja Waluyo Jati, Haryanto Taslam, Andi Arief, Pius Lustrilanang, Desmond J. Mahesa, and "St" (initial).

2. CONCLUSIONS

1. The Ad Hoc Team did not find preliminary evidence of the occurrence of genocide.
2. The Ad Hoc Team found substantial preliminary evidence of the occurrence of gross human rights violation of the enforced disappearance incidents in 1997-1998 in the forms of murder, arbitrary deprivation of physical liberty, torture, ill-treatment and enforced disappearance of civilians. Moreover, the actions were part of direct attack on civilians, which was series of actions taken against civilians in follow up to policy of an authority. Since the actions were also widespread and systematic in nature, the forms of the actions could be categorized as crimes against humanity.

3. The type of acts of the crimes against humanity in the enforced disappearance incidents in 1997-1998 was divided into two periods. First, the incidents before the enactment of the Act No. 26 Year 2000 on Human Rights Court (on returned victims) and second, the continuous incidents (on victims whose whereabouts were still unknown).

The type of acts of the crimes against humanity on the incidents before the enactment of the Act No. 26 Year 2000 on Human Rights Court (on returned victims) is as follows:

- a. Murder

The number of civilian who had become murder victims as the result of the operation conducted by the state apparatus is at least one person, Leonardus Nugroho Iskandar or Gilang.

- b. Arbitrary deprivation of freedom or other physical liberties

The number of civilians who had become the victims of arbitrary deprivation of freedom or other physical liberties conducted by the state apparatus is at least 10 persons, namely, Mugiyanto, Aan Rusdianto, Nezar Patria, Faisol Riza, Raharja Waluya Jati, Haryanto Taslam, Andi Arief, Pius Lustrilanang, Desmond J. Mahesa and "St".

- c. *Torture*

The number of civilians who had become the victims of torture conducted by the state apparatus is at least 9 persons, namely, Mugiyanto, Aan Rusdianto, Nezar Patria, Faisol Riza, Raharja Waluya Jati, Haryanto Taslam, Pius Lustrilanang, Desmond J. Mahesa and "St".

- d. Ill-treatment

The number of civilians who had become the victims of ill-treatment conducted by the state apparatus is at least 10 persons, namely, Mugiyanto, Aan Rusdianto, Nezar Patria, Faisol Riza, Raharja Waluya Jati, Haryanto Taslam, Andi Arief, Pius Lustrilanang, Desmond J. Mahesa and "St".

e. Enforced disappearance

The number of civilians who had become the victims of enforced disappearance conducted by the state apparatus is at least 10 persons, namely, Mugiyanto, Aan Rusdianto, Nezar Patria, Faisol Riza, Raharja Waluya Jati, Haryanto Taslam, Andi Arief, Pius Lustrilanang, Desmond J. Mahesa and "St".

The type of acts of the crimes against humanity which still continues to present day (on victims whose whereabouts were still unknown) is as follows:

a. Arbitrary deprivation of freedom or other physical liberties

The number of civilians who had become the victims of arbitrary deprivation of freedom or other physical liberties conducted by the state apparatus is at least 9 persons, namely, Yani Afrie, Sony, Herman Hendrawan, Dedi Hamdun, Noval Alkatiri, Ismail, Suyat, Petrus Bima Anugerah and Wiji Thukul.

b. Torture

The number of civilians who had become the victims of torture conducted by the state apparatus is at least 2 persons, namely Yani Afrie and Sony.

c. Ill-treatment

The number of civilians who had become the victims of ill-treatment conducted by the state apparatus is at least 2 persons, namely, Yani Afrie and Sony.

d. Enforced disappearance

The number of civilians who had become the victims of enforced disappearance conducted by the state apparatus is at least 13 persons, namely, Yani Afrie, Sony, Herman Hendrawan, Dedi Hamdun, Noval Alkatiri, Ismail, Suyat, Petrus Bima Anugerah, Wiji Thukul, Ucok Munandar Siahaan, Hendra Hambali, Yadin Muhyidin and Abdun Nasser.

4. Person(s) responsible for the crimes against humanity as mentioned above are:
 - a. Commander or superior who did not prevent, terminate, or deliver the perpetrators to the authorized officials for inquiry, investigation and prosecution.
 - b. Direct perpetrator(s) who caused the occurrence of the crimes and perpetrators who did the crime together with other person(s) (joint criminal enterprise).
5. According to the facts mentioned above, victims identified and cross-examination of evidence, the team concluded that 27 persons are responsible for the criminal acts in the enforced disappearance incidents in 1997-1998, namely:
 - a. 11 persons allegedly conducted the acts of crimes against humanity directly.
 - b. 10 persons alleged of command responsibility.
 - c. 6 persons alleged of joint criminal enterprise.

3. OBSTACLES

In conducting its duties, the Ad Hoc Team had faced several obstacles, among others:

1. The refusal and unwillingness of several victims to answer to Komnas HAM request to become witnesses to the inquiry.
2. The postponement of attendance of several active and retired members of the Indonesian Police to answer Komnas HAM summons, although eventually all of them came to give their testimonies.
3. The refusal of the Indonesian National Military (*Tentara Nasional Indonesia* or TNI) to answer to Komnas HAM summons with the argument that Komnas HAM does not automatically has the authority to conduct a *projustitia* inquiry. According to the Indonesian National Military, Komnas HAM could only conduct the *projustitia* inquiry after the establishment of

an ad hoc human rights court through a decision of the President on the recommendation of the House of Representatives of the Republic of Indonesia.

4. The refusal of the Attorney General to publish an order on behalf of Komnas HAM to call on experts and to visit locations or places of detention.
5. The refusal of the Chair of the Central Jakarta District Court to authorize Komnas HAM to use its *sub-poena* power for several witnesses who refused to answer to Komnas HAM summons.



» Press Conference on the Submission of the Report of the Ad Hoc Inquiry Team on Gross Human Rights Violations of Enforced Disappearance Incidents in 1997-1998 at Komnas HAM Office on 10 November 2006.

4. FOLLOW-UP

Based on the conclusions of the Ad Hoc Team as mentioned above, Komnas HAM had conducted several follow-ups, as follows:

1. Komnas HAM has requested the Attorney General to follow-up the result of the inquiry with investigation through the submission of the whole documents and report to the Attorney General on 13 November 2006.
2. Komnas HAM has requested the Government to confirm the whereabouts of the un-retained victims.
3. Komnas HAM has requested the House of Representatives of the Republic of Indonesia to establish an Ad Hoc Human Rights Court to start the prosecution process of the enforced disappearance incidents in 1997-1998.

C. PROGRESS OF THE WASIOR AND WAMENA INCIDENTS, MAY RIOT 1998 INCIDENTS, AND THE TRISAKTI, SEMANGGI I AND SEMANGGI II INCIDENTS

Komnas HAM had completed the *projustitia* inquiries of the Wasior 2001-2002 incidents and the Wamena 2003 incidents (both in Papua) in 2004. The result of the inquiry had been submitted to the Attorney General office through a letter No. 290/TUA/IX/2004 dated 3 September 2004. However, the Attorney General had returned the documents through a letter No. R-209/A/F.6/11/2004 dated 30 November 2004, which stated that the result of Komnas HAM inquiry was not complete. In response, Komnas HAM had returned the inquiry findings to the Attorney General through a letter No. 376/TUA/XII/2004 dated 29 December 2004, which firmly stated that according to article 20 paragraph 3 of the Act No. 26/2000, the investigator can only return the inquiry findings to the inquirer when the inquiry findings are insufficient, which defined as "not sufficient to meet the conditions for a gross violation of human rights to be followed up by investigation".

Meanwhile, the result of the inquiry on May Riot 1998 incidents had been submitted to the Attorney General through a letter No. 197/TUA/IX/2003 dated 19 September 2003 for further investigations. In its development, the documents were returned to Komnas HAM several times. It was returned for the last time to the Attorney General in 6 January 2005 through a letter No. 09/TUA/I/2005. The letter stated that according to article 20 paragraph 3 of the Act No. 26/2000, the investigator can only return the inquiry findings to the inquirer when the inquiry findings are insufficient, which defined as "not sufficient to meet the conditions for a gross violation of human rights to be followed up by investigation". To accelerate the judicial process of the case, Komnas HAM had held a meeting with the Chairpersons of the House of Representatives of the Republic of Indonesia on 27 October 2003 to urge the House of Representative of the Republic of Indonesia to recommend the establishment of an ad hoc Human Rights Court because the incidents occurred before the enactment of the Act No. 26 Year 2000 on Human Rights Court. The House of Representatives had assigned the Commission III to conduct a research and study of the incidents.

With regard to Trisakti, Semanggi I and Semanggi II incidents, the result of the inquiry concluded that gross human rights violations had occurred in these incidents. The documents of the inquiry had been submitted to the Attorney General in June 2002 which had been returned several times. For the last time, Komnas HAM had returned the documents to the Attorney General through a letter No. 10/TUA/I/2005 dated 6 January 2005. The letter highlighted that according to article 20 paragraph 3 of the Act No. 26/2000, the investigator can only return the inquiry findings to the inquirer when the inquiry findings are insufficient, which defined as "not sufficient to meet the conditions for a gross violation of human rights to be followed up by investigation". The follow-up of the case had not known for certain since the Attorney General still considered that the House of Representatives of the Republic of Indonesia had determined that the Trisakti, Semanggi I and Semanggi II incidents were not gross human rights violations.

With regard to the Attorney General opinion, Komnas HAM had sent a letter on 19 March 2003 to the Chairpersons of the House of Representatives of the Republic of Indonesia to review its previous decision. Komnas HAM had also

met with the Chairpersons of the House of Representatives of the Republic of Indonesia on 29 October 2003 to discuss the matter.

During the hearing with Third Commission of the House of Representatives on 30 November 2004, Komnas HAM had once again inquired on the follow-up of Komnas HAM request. However, due to the lack of a carry-over process from the 1999 – 2004 working period to the 2004 – 2009 working period of the members of the House of Representatives of the Republic of Indonesia, the Chairperson of Third Commission of the House of Representatives of the Republic of Indonesia had suggested Komnas HAM to re-submit the problem to the Chairperson of the House of Representatives of the Republic of Indonesia. Therefore, Komnas HAM had sent another letter to the Chairperson of the House of Representatives of the Republic of Indonesia No. 363/TUA/XII/2004 dated 9 December 2004. As a follow-up, the Third Commission of the House of Representatives of the Republic of Indonesia had concluded its study on the matter and had recommended the Plenary Session of the House of Representatives of the Republic of Indonesia to review its decision regarding Trisakti, Semanggi I and Semanggi II incidents.

In 27 February 2006, Komnas HAM had sent a letter to the Chairpersons of the House of Representatives of the Republic of Indonesia to discuss the follow-up of the Wasior and Wamena incidents, May Riot 1998 incidents and the Trisakti, Semanggi I and Semanggi II incidents which documents of inquiries had been completed by Komnas HAM but have yet follow-up with investigations by the Attorney General. Moreover, Komnas HAM also had sent a letter to the Chairpersons of the House of Representatives on 13 March 2006 to recommend the President to establish an Ad Hoc Human Rights Courts for these three incidents.

Pending the end of 2006, the Attorney General as well as the House of Representatives of the Republic of Indonesia have yet done anything to follow-up the results of the inquiries conducted by Komnas HAM with regard to Wasior and Wamena incidents, the May Riot 1998 incidents and the Trisakti, Semanggi I and Semanggi II incidents.

D. PROGRESS OF ABEPURA INCIDENTS

The result of Komnas HAM inquiry on gross human rights violation of Abepura incidents in December 2000 had been submitted to the Attorney General in 2001. This case had been investigated, which determined two defendants, Daud Sihombing and Jhony Waenal Usman. The two defendants had been tried in human rights courts. The Human Rights Court in Makassar had decided to free Daud Sihombing on 8 September 2005 and Jhony Waenal Usman on 9 September 2005. In the trial process one judge, Kabul Supriyadi gave his dissenting opinion on the court decisions. With regard to the court decisions, the Attorney General has requested a cassation to the Supreme Court. The cassation was still in process in 2006. Here is the recapitulation of the court's decisions of the Abepura incidents.

COURT CASE	ACCUSED	CHARGES	VERDICT			
			DISTRICT COURT	APPEAL	CASSATION	REVIEW
I	JOHNY WAINAL USMAN, Former Commander of Abepura Police Mobile Brigade Unit.	10 years imprisonment.	Released	-	-	-
II	DAUD SIHOMBING, Former Chief of Abepura Police Resort.	10 years imprisonment.	Released	-	-	-

Source : Kontras

E. PROGRESS OF TANJUNG PRIOK INCIDENTS 1984

The result of Komnas HAM inquiry on gross human rights violations of Tanjung Priok incidents in 1998 had been submitted to the Attorney General in 2001. The case had been investigated and determined 14 defendants. They had been put into trial. In 2006, the judicial process of the case had been completed in the cassation level. Here is the recapitulation of the court's decisions of the Tanjung Priok 1984 incidents:

COURT CASE	ACCUSED	CHARGES	VERDICT			
			DISTRICT COURT	APPEAL	CASSATION	REVIEW
I	SUTRISNO MASCUNG Former Commander of Group III Yon Arhanudse 06.	10 years imprisonment, Compensation, Restitution and Rehabilitation.	3 years imprisonment, Compensation for the 13 victims and their beneficiaries.	Released	Released	
	FORMER MEMBERS OF GROUP III YON ARHANUDSE 06: 1. Asrori 2. Siswoyo 3. Abdul Halim 4. Zulfatah 5. Sumitro 6. Sofyan Hadi 7. Prayogi 8. Winarko 9. Idrus 10. Muchson	Each, 10 years imprisonment.	Released	Released	Released	
II	RUDOLF ADOLF BUTAR-BUTAR Former Commander of Military District 0502/ North Jakarta.	10 years imprisonment.	Compensation for victims and beneficiaries.	Released	Released	
III	PRANOWO Former Military Commander of the Regional Military Command V Jaya.	5 years imprisonment Compensation, Restitution and Rehabilitation.	Released	-	Released	
IV	SRIYANTO Former Operational Unit Chief of District Military Command 0502/ North Jakarta.	10 years imprisonment Compensation, Restitution and Rehabilitation.	Released	-	Released	

Source : Kontras

F. PROGRESS OF EAST TIMOR INCIDENTS IN 1999

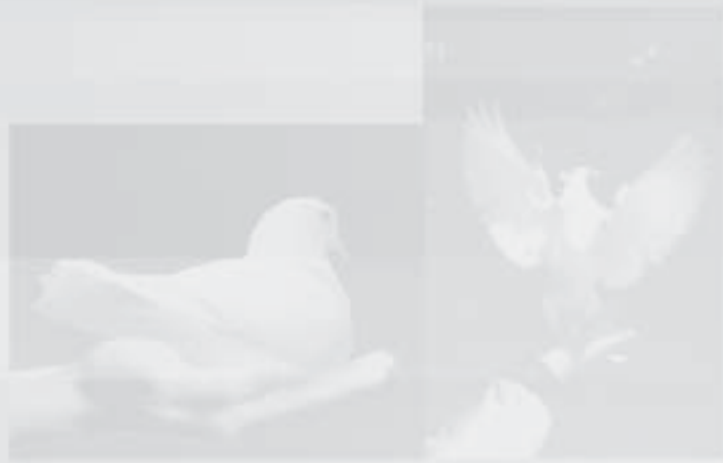
The result of Komnas HAM inquiry on gross human rights violations of East Timor incidents in 1999 had been submitted to the Attorney General in 2001/2000. The case had been investigated and determined 18 defendants. They had been put into trial. In 2006, the judicial process of the case had been completed in the cassation level. Here is the recapitulation of the court's decisions of the East Timor 1999 incidents:

COURT CASE	ACCUSED	CHARGES	VERDICT			
			DISTRICT COURT	APPEAL	CASSATION	REVIEW
I	TIMBUL SILAEN Chief of East Timor Regional Police.	10 years 6 months imprisonment.	Released	-	Released	
II	ABILIO JOSE SOARES Former Governor of East Timor.	10 years imprisonmen.t	3 years imprisonment.	3 years	3 years	Released
III	HERMAN SEDYONO Former Regent of KDH Level II Covalima.	10 years imprisonment.	Released	-	Released	
	LILIEK KOESHADIANTO Former Suai Commander of Military District	10 years 6 months imprisonment.	Released	-	Released	
	GATOT SUBIYAKTORO Former Chief of Suai Police Resort	10 years 3 months imprisonment.	Released	-	Released	
	ACHMAD SYAMSUDIN (Former 1635 Suai Kasdim).	10 years imprisonment.	Released	-	Released	
	SUGITO (Former Suai Sub-district Military Commander).	10 years imprisonment.	Released	-	Released	
IV	ASEP KUSWANI (Former Commander of Liquisa Military District).	10 years imprisonment.	Released	-	Released	
	ADIOS SALOPA (Former Chief of Liquisa Police Resort).	10 years imprisonment.	Released	-	Released	
	LEONITO MARTIN (Former Regent of Liquisa).	10 years imprisonment.	Released	-	Released	
V	ENDAR PRIYANTO (Former Commander of Dili Military District).	10 years imprisonment.	Released	-	Released	
VI	SUDJARWO (Former Commander of Dili Military District).	10 years imprisonment.	5 years imprisonment.	Released	Released	
VII	HULMAN GULTOM (Former Chief of Dili Police Resort).	10 years imprisonment.	3 years imprisonment.	Released	Released	
VIII	EURICO GUTERRES (Former Commander of Military of Aitarak – pro integration).	10 years imprisonment.	10 years	5 years	5 years	
IX	ADAM DAMIRI (Former Commander of Regional Military IX/ Udayana).	Released	3 years imprisonment.	Released	Released	
X	TONO SURATMAN (Former Commander of Wiradharma Military Command).	10 years imprisonmen.t	Released	-	Released	
XI	NOER MUIS (Former Commander of Wiradharma Military Command).	10 years imprisonment	5 years imprisonment.	Released	Released	
XII	YAYAT SUDARAJAT (Former Commander of Intelligent Taskforce Tribuana VIII).	10 years imprisonment.	Released	-	Released	

Source: Kontras

Chapter V

REPRESENTATIVE/ REGIONAL OFFICE OF KOMNAS HAM



A. INTRODUCTION

Considering the scope and areas of Komnas HAM mandate in creating condition conducive for the implementation, protection and enforcement of human rights, article 76 paragraph 4 of the Act No. 39 Year 1999 on Human Rights endows Komnas HAM with the opportunity to establish its representatives in regional areas. To fulfil this provision and to provide better and wider access to the people living in regional areas, particularly victims of human rights violations, Komnas HAM had established the representatives and regional offices of Komnas HAM in Nanggroe Aceh Darussalam (NAD), West Sumatera, West Kalimantan, Central Sulawesi, Maluku and Papua.

Representatives of Komnas HAM are institutions established by Komnas HAM to carry out delegated functions, duties and mandates of Komnas HAM. Regional offices of Komnas HAM are institutions established to assist Komnas HAM in implementing its function, duties and mandates in regional areas. In 2006 Komnas HAM had established its newest Regional Office in Central Sulawesi. Meanwhile, the intention to establish regional offices in Riau and Nusa Tenggara Timur launched since 2005 has yet been fulfilled in 2006.

B. KOMNAS HAM REGIONAL OFFICE IN NANGGROE ACEH DARUSSALAM

Nanggroe Aceh Darussalam is a conflict area with potential human rights violations. Based on this fact, Komnas HAM had established the Regional Office in Nanggroe Aceh Darussalam in September 1999. The aim of the establishment of the Regional Office is to provide better and wider access for victims of human rights violations to submit their complaints to Komnas HAM. The objectives of Komnas HAM Regional Office in Nanggroe Aceh Darussalam are as follows: a) to ensure people's access to Komnas HAM public services according to its functions and mandates based on the Act No. 39 Year 1999 on Human Rights and the Act No. 26 Year 2000 on Human Rights Court; and b) to achieve condition conducive for the implementation of human rights in Nanggroe Aceh Darussalam.

Several activities conducted by the Regional Office in Nanggroe Aceh Darussalam are as follows:

1. The Regional Office in Nanggroe Aceh Darussalam were actively involved as resource persons in several activities, namely, training, workshop, seminar and discussion conducted by government agencies as well as non governmental organizations in Nanggroe Aceh Darussalam.
2. In 2006, the Regional Office in Nanggroe Aceh Darussalam had conducted 9 monitoring activities based on assignment from Komnas HAM in Jakarta, namely: monitoring of civil ad political rights in Eastern Aceh (March, May, August, December), Northern Aceh (April, November-December) and Aceh Jaya (December); and monitoring of economic, social and cultural rights in Western Barat (March, Mau) and Aceh Jaya (December).
3. Several cases handled by the Regional Office in Nanggroe Aceh Darussalam are as follows:

CASES HANDLED BY THE REGIONAL OFFICE IN NANGGROE ACEH DARUSSALAM

NO	TYPE OF CASE	TOTAL	FOLLOW-UP
1.	Violations of the right to property.	1	In the process of requesting clarification from related parties.
2.	Violations of the right to personal safety.	6	<ul style="list-style-type: none"> • Completed [1 case]- • Discontinued because of incomplete administrative requirement; lack of written statement from the complainants [2 cases]. • Discontinued because the case had been settled through other legal mechanism [1 case]. • On-going process [2 cases].
3.	Domestic violence.	1	Providing recommendation to the Nanggroe Aceh Darussalam Police District; the case was outside the mandate of Komnas HAM [1 case].
TOTAL CASES		8	

C. REGIONAL OFFICE IN MALUKU

Given that the Island of Maluku is also a conflict area, especially horizontal conflict, with potential human rights violations, therefore, in order to optimally monitor and handle cases of human rights violations in this area, Komnas HAM had established the Regional Office in Maluku in 2001.

In 2006, several activities conducted by the Regional Office in Maluku are as follows:

1. The Regional Office in Maluku was actively involved as resource persons in human rights education activities. The subjects given in these activities were, among others, human rights in general, domestic violence, rights of children, women rights as well as human rights related to environmental issues and indigenous people.
2. The Regional Office in Maluku had received 21 written complaints. From these complaints, the Regional Office in Maluku had completed 8 cases, 3 cases needed to be followed-up with mediation processes, and 10 cases continued to be monitored. Cases handled by the Regional Office in Maluku are as follows:

NO.	CASES (COMPLAINTS)	LOCATION	FOLLOW-UP
1.	Violations of workers right to appropriate wages.	Ambon.	Reported to related institution and Ambon Police Resort.
2.	Fulfilment of the rights of children after the conflict.	Amahai Sub-district, Central Maluku District.	Submitted to Komnas HAM in Jakarta and has been further investigated.
3.	Damage of properties and murder attempt of street vendors by member of the Maluku Police District.	Batu Meja, Sirimau Sub-district, Ambon.	Handled by the Maluku Police District and case had been closed.
4.	Attack, murder and plundering.	Negeri Wamkama, South Buru Sub-district, Buru Island District.	Case completed with the arrest and punishment of the perpetrator.
5.	Violations of the right to land property (refugees from Negeri Wakolo could not come back to their homes).	Negeri Wakolo Lisabata, Taniwel Sub-district, North Seram District.	Submitted to Komnas HAM in Jakarta, to be followed-up with mediation process.

NO.	CASES (COMPLAINTS)	LOCATION	FOLLOW-UP
5.	Violations of workers right to appropriate wages.	Ambon.	Reported to related institution and Ambon Police Resort.
6.	Acts of violence on a child, grade II elementary school student, by a teacher during school time.	Public Elementary School (Sekolah Dasar Negeri SDN) 7 Tulehu, Central Maluku District.	Case handled by the Head of School of SDN 7.
7.	Rape conducted by member of the police.	Suli Indah Hotel, Negeri Suli.	Case completed, the alleged person were punished for 8 years imprisonment.
8.	Domestic violence.	Batu Meja, Sirimau Sub-district, Ambon.	Submitted to Komnas HAM in Jakarta, case handled by the Maluku Police District.
9.	Violations of the rights of internally displaced persons in Negeri Waiheru (38 families).	Negeri Waiheru, Baguala Sub-district, Ambon.	Case completed by the Regional Office for Social Affairs.
10.	Land dispute and attack which caused injured victims and house's burning.	Negeri Horale and Negeri Saleman, Wahai Sub-district, Central Maluku District.	Submitted to Komnas HAM in Jakarta and has been further investigated.
11.	Violation of the right to property (claiming of traditional land by private company)	Negeri Haruku, Haruku Sub-district, Central Maluku District.	Submitted to Komnas HAM in Jakarta and has been further investigated.
12.	Violation to women rights, a decision of the Ambon Religious Court to separate a child from the mother	Negeri Batu Merah, Sirimau Sub-district, Ambon.	Submitted to Komnas HAM in Jakarta and recommended to put a complaint to the Ombudsman.
13.	Violation to the rights of internally displaced persons regarding payment of BBR and returning fund.	Internally displaced persons from Negeri Paso, Batu Gong, Eri, Hutumuri, Halong, Negeri Lama, Talake, Waihoka, Benteng Atas, Negeri Batu Merah and Buru Island.	Reported to the Maluku Provincial Government.
14.	Alleged murder case.	Buru Island waters.	Reported to Maluku Police District, on-going process and autopsy of the victim's body.
15.	Violation of the economic right of the members of Koperasi Prediksi Jaya.	Negeri Laha (Pattimura Airport).	Case handled by the Regional Office for Small Economic Enterprises Affairs and KUKM of the Maluku Province.
16.	Ill-treatment which had caused death of a person by three members of the Maluku Police District in Benteng Police Post.	Benteng Police Post, Ambon.	Processed by the Maluku Police District, the perpetrators were arrested pending decision of the court.
17.	Separation of a child from the mother.	Ambon.	Reported to RPK Unit of the Maluku Police District.
18.	Indication of misuse of power of the Chairperson of Koperasi Unit Desa (KUD) Senyum Hutumuri and corruption of the rights of the members.	Hutumuri Village, Baguala Sub-district, Ambon.	Case submitted to the Minister of KUKM in Jakarta.

NO.	CASES (COMPLAINTS)	LOCATION	FOLLOW-UP
19.	Ill-treatment of three persons by the members of BKO Satgas Yonif 310 Siliwangi.	Negeri Tihulale, Kairatu Sub-district, North Seram.	Case handled by POMDAM XVI Pattimura.
20.	Sexual harassment by Kasat Intelkam East Seram District on 13 years old child.	East Seram.	Case handled by the Maluku Police District, on-going monitoring.
21.	Incident in the Waiheru detention place and ill-treatment of the detainees by the members of Detasemen 88 of the Maluku Police District.	Waiheru detention place, Baguala Sub-district, Ambon.	Legally processed.

D. REGIONAL OFFICE IN CENTRAL SULAWESI

Communal conflicts as well as conflicts resulted from agrarian disputes between the people and companies and/or the state often occurred in Central Sulawesi. These conditions have bad implication for the protection and enforcement of human rights with regard to the enhancement of personal development of Indonesians as human beings in their entirety and their ability to participate in various aspects of life. These could be seen in the occurrence of conflicts in Poso District as well as other districts, including in Palu, which often neglected by the law enforcement agencies.

Therefore, as a response to the above condition and to enhance the protection and enforcement of human rights in Central Sulawesi, Komnas HAM had established the Regional Office in Central Sulawesi through Komnas HAM Decree No. 16/KOMNAS HAM/V/2006 dated 17 May 2006. The office was located in Palu.

Several activities conducted by the Regional Office in Central Sulawesi in 2006 are as follows:

1. In 2006, the Regional Office in Central Sulawesi had conducted activities to socialize human rights, through comic book launching in cooperation

with Komnas HAM in Jakarta and becoming resource persons in public discussion, seminar, workshop, training and many others. Moreover, the Regional Office in Central Sulawesi also conducted socialization on the existence of the Regional Office through, among others, meetings with community organizations and non governmental organizations, and actively providing information to government agencies in provincial, district and cities levels, community organizations as well as community and religious leaders.

2. In 2006, the Regional Office in Central Sulawesi had conducted monitoring activities, among others, monitoring of enforced disappearance cases and acts of violence conducted by security officers in Bolano Sub-district, Parigi Moutong District; monitoring of security and human rights condition in Poso; monitoring on human rights violations and the riots after the execution of the death penalty of Tibo cs. and the case on the night of before Idul Fitri in Poso; monitoring of land disputes in Minti Makmur Lalundu Village, Donggala District; monitoring on the right to good and healthy environment in Toaya Village, Sindue Sub-district and Loli Village, West Palu Sub-district; and monitoring on the investigation and legal process of the shooting of Minister Irianto Kongkoli in Poso.
3. Cases handled by the Regional Office in Central Sulawesi are as follows:

NO.	CASES	FOLLOW-UP
1.	Land dispute between the community and P.T. LTT. The disputed land is used as shooting practice area for police officers from the Donggola Police Resort.	On-going process.
2.	Land dispute between the Sulewana community in Poso with P.T. Bukaka.	On going process.
3.	Land dispute between the Maesa community with Denpal Korem 132 Tadulako and enforced eviction incidents conducted by Korem 132 Tadulako.	Case closed.
4.	Land dispute between the community and P.T. Astra and acts of violence by the Police Brigade Mobile Unit.	On-going process.
5.	Land (parking lot) dispute between C.V. Itun and Kodim Donggala (Koramil West Palu).	Case completed.

NO.	CASES	FOLLOW-UP
6.	Case of internally displaced persons as the result of the conflicts in Poso.	Coordination with the Muspida at district level, on-going process in provincial government level.
7.	Acts of violence and sexual harassment in Poso.	On-going process.
8.	Claiming of land in Bolano Village, Bolano Lambunu Sub-district, Parigi Moutong District.	Copies of recommendation.
9.	Acts of violence and use of firearms by security officers in Kelurahan Gebang Rejo, Poso.	On-going process.
10.	Request to continue a legal process.	Copies of recommendation.
11.	Indication of the practice of fictional bank and fraud case by UD. Jaya Makmur to the community and farmers in Palolo region.	On-going process.
12.	Bombing in Maesa, Palu.	On-going process.
13.	Bombing in Tentena.	On-going process.
14.	Execution of death penalty of Tibo cs.	Case closed.
15.	The case of a shooting of a Minister Irianto Kongkoli.	On-going process.
16.	Acts of violence and enforced disappearance of detainees in Bolano Police Sector, Bolano Sub-district, Parigi Moutong District.	On-going process.

E. KOMNAS HAM REPRESENTATIVE IN WEST SUMATERA

Komnas HAM Representatives in West Sumatera was established through the Chairperson of Komnas HAM Decree No. 065/KOMNAS HAM/VIII/2002 to carry out the functions of human rights education, monitoring and mediation in West Sumatera. In 2006, Komnas HAM had completed the selection process of the members of Komnas HAM Representative in West Sumatera. The new members were appointed through the Chairperson of Komnas HAM Decree No. 34/KOMNAS HAM/XI/2006 dated 16 November 2006 on the Appointment of the Members of Komnas HAM Representative in West Sumatera for 2006-2009. The members of Komnas HAM Representative in West Sumatera are as follows: Rusmazar Ruzuar, Lusi Herlina, Sudarto, Akmal and Zalekha.

In carrying out its duties and functions, Komnas HAM Representatives in West Sumatera has three divisions, namely, the Division of Economic, Social and Cultural Rights, the Division of Civil and Political Rights and the Division of the Protection of Vulnerable Groups. The activities conducted by Komnas HAM Representative in West Sumatera are as follows:

1. Komnas HAM Representative in West Sumatera had conducted several research activities, among others, a study on the Act on the Abolishment of Domestic Violence; studies on several regional regulations violating human rights such as the regional regulation on the abolishment of sexual immorality, on public order and community peacefulness and on *nagari* province and *nagari* district/city; and a study on the possibility of formulating a regional regulation on traditional land (*tanah ulayat*) in 50 Kota Payakumbuh City. Moreover, Komnas HAM Representative in West Sumatera also conducted a research on the existence of West Sumatera indigenous people in for regional areas, namely, Pesisir Selatan District, Agam District, Solok City and Payakumbuh City.
2. Komnas HAM Representative in West Sumatera also carried out several activities to socialize human rights, among others, as resource persons in activities such as seminar, discussion, training, and others; receiving visitations or audiences; and conducting training activities.
3. In 2006, Komnas HAM Representative in West Sumatera had conducted monitoring activities, among others, monitoring of the traditional lands (*tanah ulayat*) of the Kenagarian Mungo indigenous people in 50 Kota District and of the traditional lands of Kenagarian Padang Tarok indigenous people in Agam District; and also monitoring on the judicial process of a shooting incident in Pasaman Barat; monitoring on the election of the head of IAIN Imam Bonjol University for 2006-2009 in Padang.
4. Several cases handled by Komnas HAM Representative in West Sumatera are as follows:

NO.	CASES (COMPLAINTS)	FOLLOW-UP
1	Indication of human rights violation regarding Sei Lareh case, Lubuk Minturun, Padang.	On-going process.
2	Files of the Supreme Court monitoring on alleged corruption case of a member of the Regional House of Representative in West Sumatera.	On-going process.
3	Ill-treatment of a journalist of Garda Minang tabloid by an employee of the Transportation Regional Office in Padang.	On-going process.
4	Counterfeit <i>datuk</i> case.	On-going process
5	The un-realization of an agreement between farmers and P.T. VI Koto.	On-going process.
6	The traditional land (<i>tanah ulayat</i>) case of Kota Raja Pasaman Barat indigenous people.	On-going process.
7	Enforced eviction of Mungo indigenous people in 50 Kota District.	Recommendation.
8	Demonstration of taxi drivers of Minangkabau International Airport.	Recommendation.
9	Request of protection from Pasaman Barat indigenous people.	On-going process.
10	Request of fair punishment of the member of the Police Mobile Brigade in West Sumatera.	Recommendation.
11	The case of shooting of Iwan Mulyadi.	Recommendation.
12	The case of alleged kidnapping in Solok.	On-going process.
13	Request to investigate the death of a member of Tinggam community in Gua Rantau Tombang.	On-going process.
14	The case of farmers in Tambilang Basi, Nagari Limau Lungo, Lembang Jaya Sub-district, Solok District.	On-going process.
15	The first law suit (<i>somasi</i>) on civil case.	On-going process.
16	The case on the selection process of the head of IAIN Imam Bonjol University in 2006-2009 in Padang.	Recommendation.
17	Human rights complaint on enforced disappearance.	On-going process.
18	The case of the return of two grade 2 students of Tawalib Padang Panjang.	Recommendation.
19	The case of arbitrary detention.	On-going process.
20	Rape case.	On-going process.
21	Clarification on the incidents of the street vendor.	On-going process.

NO.	CASES	FOLLOW-UP
22	Complaint on postponed payment of full-time lecturer salaries.	On-going process.
23	The Saruaso Pagaruyung riots in Tanah Datar District in 2002.	On-going process.
24	Law suit against the result of land measurement.	On-going process.
25	Forced dismissal of employment.	Completed.
26	Murder case of a midwife.	Completed.
27	Wrong arrest by the law enforcement agency.	On-going process.

F. KOMNAS HAM REPRESENTATIVE IN WEST KALIMANTAN

The West Kalimantan Province is a conflict area, especially horizontal conflict, with potential human rights violations, particularly the rights of migrant workers and human trafficking. To optimally carry out its functions, obligations and mandates in West Kalimantan area, Komnas HAM had established Komnas HAM Representative in West Kalimantan through Komnas HAM Decision No. 010/KomnasHAM/Us/2000 dated 6 June 2000. Komnas HAM Representative in West Kalimantan has the mandates and obligations to carry out the functions of research and study, education, monitoring and mediation of human rights.

In September 2006, Komnas HAM had appointed the new members of Komnas HAM Representative in West Kalimantan for 2006-2009 through the Chairperson of Komnas HAM Decision No. 30/KOMNAS HAM/IX/2006, namely, Ahmad Husainie, Suharsono, Padmi Jhendramidi, Purwanto, Ahmad Shiddiq, Hairiah and Edi V. Petebang.

Activities conducted by Komnas HAM Representative in West Kalimantan in 2006 are as follows:

1. Komnas HAM Representative in West Kalimantan had conducted several activities to socialize human rights, among others, through conducting seminar, workshop, discussion and training, as well as providing resource persons on activities related to human rights issues.

2. In 2007, monitoring activities conducted by Komnas HAM Representative in West Kalimantan are as follows:

NO	MONITORING ACTIVITIES	RESULT/RECOMMENDATION
1.	Monitoring of the implementation of regional elections in Sambas and Landak Districts.	<p>Result: The regional elections in Sambas and Landak Districts were conducted safely, no indication of human rights violations.</p>
2	Monitoring in several areas of internally displaced persons, among others, in PT. Zakia, Parit Sumber Bahagia and Nyamuk Island.	<p>Results:</p> <ul style="list-style-type: none"> • The un-fulfilment of the right to adequate food of the internally displaced persons; • The un-fulfilment of the rights of women and children, particularly in education. <p>Recommendations:</p> <ul style="list-style-type: none"> • To urge the Agrarian Regional Office in Pontianak District to place their officers in relocation areas to provide support on agriculture intensification; • To urge the National Education Regional Office to implement the abolishment of illiteracy programme through forming of cadres of the local people; • To urge the Health Regional Office to increase the number of medical officers in relocation areas.
3	Monitoring on conflict mapping in several cities and districts in West Kalimantan, among others, in Pontianak, Singkawang, Sambas, Bengkayang, Sangau and Sintang Districts.	<p>Results:</p> <ul style="list-style-type: none"> • The types of communal violence in West Kalimantan were basically caused by problems of ethnicity, sub-ethnicity and grouping; monopoly of economic sources; problems related to regional election process; human rights violations related to regional economic recovery projects; and violations of civil and political rights of minorities by the Provincial Government, City Government and District Government; • Companies and big business, organized civilian groups based on ethnicity, political affiliation and religion were parties to many incidents of human rights violations in West Kalimantan; • Victims of human rights violations consisted of civilian, indigenous people, minorities, children, peasants, workers, as well as peace, environment and human rights activists.
4	Monitoring of the condition of detention places in West Kalimantan regarding the fulfilment of human rights.	
5	Monitoring of Tanah Brigif land in Singkawang City.	

G. KOMNAS HAM REPRESENTATIVE IN PAPUA

Papua is a conflict area with potential human rights violations. To optimally carry out its functions in this region, Komnas HAM had established Komnas HAM Representative in Papua in 2003, through Komnas HAM Decision No. 20/Komnas HAM/VII/2003.

In 2006, the activities conducted by Komnas HAM Representative in Papua are as follows:

1. In 2006, Komnas HAM Representative in Papua had conducted several activities to socialize human rights, among others, seminar and workshop. Moreover, Komnas HAM Representative in Papua also socialized the functions and mandates of Komnas HAM Representative in Papua to the local people and the local government in Papua.
2. In 2006, Komnas HAM Representative in Papua had conducted several monitoring activities, among others: monitoring of a shooting incident in Wagate, Paniai District; monitoring of the regional election in Papua; joint monitoring with Komnas HAM in Jakarta on P.T. Freeport as the follow-up of complaints of the people on the conflict between the local people and the company; monitoring on the fulfilment of the economic, social and cultural rights in Biak Numfor District; monitoring on the right to personal safety of the people in Distrik Bonggo, Sarmi District, determined as yang monitored area; monitoring activities in several developed or expanded districts, namely, Waropen District and Yapen District; and monitoring in Yapen District on the conflict between the Regional House of Representatives and the Regent which had hindered the implementation of public services.
3. Several cases handled by Komnas HAM Representative in Papua are as follows:

NO.	CASES	FOLLOW-UP
1	Conflict between security officers and the people of Enarotali District.	The establishment of monitoring team which conducted a meeting with the victims. The inquiry is still on-going.
2	The riot in Abepura court.	The establishment of inquiry team to deal with the riots in front of the Abepura court. The team had collected information and testimonies from the victims. The inquiry is still on-going.
3	The case of gold panning in Timika.	The establishment of a joint team between Komnas HAM in Jakarta and Komnas HAM Representative in Papua. The team had completed its report.
4	Land dispute between Merauje indigenous people and CV Bintang Mas in Jayapura.	Recommendation from Komnas HAM Representative in Papua.
5	Complaint on the high cost of school (elementary school, junior high school and high school) in Papua in 2006.	Recommendation to the Provincial Government in Papua to control the school fees.
6	Conflict between the Police Mobile Brigade and the university students in Abepura on 6 May 2006.	The establishment of a joint team between Komnas HAM in Jakarta and Komnas HAM Representative in Papua.
7	Postponement of the inauguration of the Regional House of Representative in Mimika.	Recommendation to the Governor of Papua.
8	Embezzlement of rice for the poor programme in Jayapura.	Recommendation to the Jayapura City Government to monitor the distribution of rice.
9	Complaints from prisoners and their families in Abepura Correctional Institution.	Recommendation to the Abepura Correctional Institution to fulfil the right of health of the prisoners.

Chapter VI

CLOSING





The human rights condition in 2006 as described in the previous chapters has shown the lack of protection, promotion, enforcement and fulfilment of human rights in Indonesia. The hopes of the victims of the Trisakti, Semanggi I and Semanggi II incidents, May Riot 1998 incidents, Wasior 2001-2002 incident and Wamena 2003 incident for justice have yet been fulfilled. The reasons are the discontinued judicial process of these incidents through investigations as well as human rights court. Moreover, the Truth and Reconciliation Commission (*Komisi Kebenaran dan Rekonsiliasi* or KKR), which membership should be appointed at the latest in April 2005 according to the Act, has yet been fulfilled at the end of 2006. These have shown the insincerity of the Government to actually solve gross human rights violations cases occurred before the enactment of the Act No. 26 Year 2000 on Human Rights Court through non-judicial process. The condition was worsen when the Constitutional Court (*Mahkamah Konstitusi* or MK) decided on December 2006 that the Act No. 27 Year 2004 on the Truth and Reconciliation Commission did not comply with the 1945 Constitution and that the Act No. 24 Year 2004 on the Truth and Reconciliation Commission did not legally binding. As the result, cases of gross human rights violations occurred before the enactment of the Act No. 26 Year 2000 on Human Rights Court could not be solve through non-judicial process, at least until the formulation of a new legislation on the truth and reconciliation commission.

The year 2006, as well as the year 2005, also marked by the violations of the right to personal safety, the right to freedom of religion, the right to movement, the right to food, the right to health, the right to work as well as the right to good and healthy environment.

The enactment of several regional regulations which violate human rights in several regions has shown that many legislative and executive decision makers have yet aware and comprehend the need to respect human rights in every regulation or legislation.

Natural as well as human-made disasters have caused death of people and lost of properties of many victims without any assurance on assistance or compensation. Many people have to become internally displaced persons and

have to take refuge to other areas which have caused the un-fulfilment of their rights to work, property and good standard of living.

The implementation of the functions, obligations and mandates of Komnas HAM in *projustitia* inquiry on gross human rights violations on enforced disappearance incidents in 1997-1998, started from 2005 and continued in 2006, still faced many obstacles, particularly the refusal of several persons, including members of the state apparatus, to answer to Komnas HAM summons to provide testimony and information on the incidents. Komnas HAM has also faced problems when the Attorney General refused to allow Komnas HAM to conduct site-visits to the locations of detention.

A positive development in the protection of the right to have a citizenship as well as freedom to choose one's citizenship was the enactment of the Act No. 12 Year 2006 on Citizenship as a replacement of previous act on citizenship which considered discriminative in nature.

The effort to solve human rights problems considered as common issues in sub-regional level was considered important by the national human rights institutions in ASEAN countries. These national human rights institutions have identified the common issues, area of cooperation, as well as formulated the drafting of the cooperation instrument. The actualization of this cooperation will be a significant contribution to the effort to develop a human rights mechanism in ASEAN.

As the result of the limitation conditioned by the legislation and the difficulties in obtaining cooperation from government agencies, Komnas HAM, as the previous years, has faced problems in carrying out its functions, obligations and mandates. Subsequently, Komnas HAM always tries to optimally carry out its functions, obligations and mandates according to the prevailing legislations.

APPENDIX





LIST OF THE PLENARY SESSIONS DECISIONS OF THE NATIONAL HUMAN RIGHTS COMMISSION OF INDONESIA IN 2006

The Plenary Session of the National Human Rights Commission of Indonesia in 2006 had taken decisions on human rights matters as follows:

NO	DATE	DECISIONS
1.	Wednesday & Thursday, 11-12 January 2006	<ol style="list-style-type: none"> 1. Decision to approve the work-plan of the Ad Hoc Inquiry Team on Gross Human Rights Violations in the Enforced Disapperance Incidents in 1997-1998 until June 2006 with the possibility of extension due to external factors. Therefore, the Plenary Session assigned the Ad Hoc Team to carry out it functions and duties effectively, especially with regard to the subpoena power. 2. Decision to maintain Komnas HAM Representative in West Sumatera with budget allocation only for 9 members and 11 staff until August 2006. Subsequently, review and rationalization measures should be taken in accordance with the regulations determined by the State Minister for the Empowerment of State Apparatus. 3. Decision to assign the Vice Chairperson of Komnas HAM to start the preparation for the selection process of new members of Komnas HAM Representative in West Sumatera. 4. With regard to the end of term of members of Komnas HAM Representative in West Kalimantan in July 2006, the Plenary Session decided to assign the Vice Chairperson of Komnas HAM to start the preparation for the selection process of new members of Komnas HAM Representative in West Kalimantan in accordance with the regulations of the State Minister for the Empowerment of State Apparatus. The Plenary Session also decided to assign the Secretary General to immediately arrange the approval of the State Minister for the Empowerment of State Apparatus regarding the organizational structure of Komnas HAM Representatives.

NO	DATE	DECISIONS
2.	Wednesday & Thursday, 25-26 January 2006	5. Decision to conduct a study on the pattern of the employment of preman (street kids and/or hoodlums) in the execution of court decisions and payment of compensation regarding land cases (enforced evictions cases). 6. Decision to postpone the discussion on the draft of legislation on the elimination of racial and ethnic discrimination to the next Plenary Session. 7. Decision to accept the preliminary report of Commissioner Chandra Setiawan and, therefore, assign the Monitoring Team on Madi Case (Commissioner Chandra Setiawan and Commissioner Samsudin) to conduct comprehensive inquiry on the case with the possibility of involving other Commissioners from other Sub-Commissions.
3.	Wednesday & Thursday, 08-09 February 2006	8. Decision to refuse the Draft of the Legislation on Racial and Ethnic Discrimination because abolishment of discrimination has been regulated in the Act No. 29 Year 1999 on the Ratification of the International Convention on the Elimination of Racial Discrimination. 9. Decision to submit recommendation to the House of Representatives of the Republic of Indonesia with regard to persisting legislations which are discriminative in nature. 10. Decision to submit recommendation to the Minister of Law and Human Rights to conduct harmonization of legislations on the elimination of discrimination in Indonesia. 11. Decision to submit recommendation to the House of Representatives of the Republic of Indonesia with regard to the draft of the legislation on civil registration and population administration. The draft of the legislation on civil registration should be separated from the draft of legislation on population administration. The draft of the legislation on civil administration should contain provisions on birth, marriage, divorce and death. The legislation should not regulate the legality of marriage according to particular religion or belief.

NO	DATE	DECISIONS
		<p>12. Decision to send a letter to the President of the Republic of Indonesia to instruct the Department of Religious Affairs to provide public services to the adherents of all religions and belief in Indonesia and to restructure its internal organization to provide the public services.</p> <p>13. Decision to extent the working period of the Monitoring Team on Ahmadiyah Incidents and to broaden the scope of work to cover similar incidents in other areas in addition to the incidents in Lombok.</p>
4.	Wednesday & Thursday, 22-23 February 2006	<p>14. Decision to approve the draft of the Decision of the Chairperson of Komnas HAM on the establishment of the Komnas HAM Representative in the regional areas.</p> <p>15. Decision to approve the cooperation between Komnas HAM and IOM to conduct human rights training in human trafficking.</p> <p>16. Decision to assign each Commissioner responsible for each human rights theme to conduct coordination with regard to the case in West Sumatera.</p> <p>17. Decision to assign Commisioner Achmad Ali to handle the case of the right to property of internally displaced persons in Ambon and to coordinate the matter with Komnas HAM Regional Office in Maluku.</p>
5.	Wednesday & Thursday, 08-09 March 2006	<p>18. Decision to postpone the discussion on the case of asylum request of 43 Papuan to Australia after the submission of the complete report from Komnas HAM Representative in Papua.</p> <p>19. Decision to assign the Sub-Commision on the Economic, Social and Cultural Rights to provide adequate information on human rights violations conducted by P.T. Freeport Indonesia to be discusses in the next Plenary Session in April 2006.</p> <p>20. Decision to assign Commisioner MM. Billah to complete the report on the development or expansion process of Papua Province and its impact on human rights.</p>

NO	DATE	DECISIONS
		<p>21. Decision to assign Commissioner Chandra Setiawan to prepare a position paper on the Act No. 1 Year 1974 in relations with human rights to be discussed in the next Plenary Session.</p> <p>22. Decision to approve the memorandum of understanding (MoU) between Komnas HAM, the National Commission for the Elimination of Violence against Women (Komisi Nasional Anti Kekerasan terhadap Perempuan) and the Commission on Children Protection in Indonesia (Komisi Perlindungan Anak Indonesia) with regard to the draft of the legislation of anti pornography and porno-actions. Therefore, the Plenary Session assigned the Sub-Commission on the Protection of Vulnerable Groups and Commissioner Hasto Atmojo Surojo to follow-up the MoU.</p> <p>23. Decision to assign the Chairperson of Komnas HAM to prepare a position paper on Komnas HAM mandate in conducting inquiry of human rights violations to be discussed in the next Plenary Session.</p> <p>24. Decision to assign the Chairperson of Komnas HAM and Commissioner Enny Soeprapto to compose the main points to be presented in the socialization of the MoU between Komnas HAM and the Indonesian Police (Kepolisian Indonesia or Polri). Decision to postpone matters mentioned below to be discussed in the next Plenary Session:</p> <ul style="list-style-type: none"> a. The report of Commissioner MM. Billah visit to Aceh; b. The paper on the establishment of Joint Working Group on the Mapping of Indigenous People and Traditional Land in Indonesia.
6.	Wednesday & Thursday, 22-23 March 2006	<p>25. Decision to follow-up the monitoring report in Aceh made by Commissioner MM. Billah with the establishment of a team consisted of Commissioner MM. Bilah, Commissioner Ruswiati Suryasaputra and Commissioner Anshari Thayib, as well as Commissioner Hasballah M. Saad and Commissioner</p>

NO	DATE	DECISIONS
		<p>Achmad Ali as resource persons, to conduct more detail inquiry on human rights problems in Aceh. Each of the Commissioners should use his/her budget.</p> <p>26. Decision to establish a team consisted of Commissioner Saafroedin Bahar, Commissioner Taher Noor and Commissioner Achmad Ali to conduct a mapping on indigenous people and their traditional land in Indonesia and to prepare an academic paper on the draft of legislation on indigenous people.</p> <p>27. With regard to the unrecorded and unregistered marriage of couples with different religions in the civil registration office (Kantor Catatan Sipil), decisions to:</p> <ul style="list-style-type: none"> a. Urges the Minister of State Affairs to instruct the Civil Registration Office to register marriage of couples with different religions according to the civil law in Indonesia; b. Further study the marriage conception as a civil agreement in the Act No. 1 Year 1974 on Marriage Affairs; c. Assign the Sub-Commission on Economic, Social and Cultural Rights and the Sub-Commission on Civil and Political Rights to follow-up the decisions mentioned above.
7.	Wednesday & Thursday, 12-13 April 2006	<p>28. Decision to assign Commissioner Lies Sugondo and Commissioner Djoko Soegianto to follow-up the letter sent by Komnas HAM to the Supreme Court and Attorney General on the death penalty of Tibo cs.</p> <p>29. Decision to postpone the discussion on the correspondence between Komnas HAM and the Attorney General to the next Plenary Session.</p>
8.	Wednesday & Thursday, 26-27 April 2006	<p>30. Decision to assign the monitoring team on P.T. Freeport case to complete its report on its visit to Timika to be discussed in the next Plenary Session in June.</p> <p>31. Decision to assign Commissioner Amidhan to write a letter to Kompas newspaper as the response to the article in Kompas regarding the result of the monitoring in Timika, Papua.</p>

NO	DATE	DECISIONS
		<p>32. Decision to accept the report of the monitoring team on Talangsari case and further to assign the team to complete the report with a legal analysis to be discussed in the next Plenary Session.</p> <p>33. Decision to assign Commissioner Enny Soeprpto, Commissioner M. Farid and Commissioner Habib Chirzin to follow-up the formulation of the draft of the declaration of cooperation between national human rights institutions in ASEAN and to start the preparation of the next meeting of national human rights institutions in October 2006 in Bali.</p> <p>34. Decision to postpone the discussion of the draft of Komnas HAM decision on the establishment of Komnas HAM regional office in Sulawesi to the next Plenary Session.</p>
9.	Wednesday & Thursday, 10-11 May 2006	<p>35. Decision to approve the draft of Komnas HAM Decision on the Establishment of Komnas HAM Regional Office in Central Sulawesi Province. Some inputs from the Plenary Session should be included in the draft.</p> <p>36. Decision to recruit the members of Komnas HAM Representative in West Sumatera in accordance with the rules of procedure decided by Komnas HAM, such as the fit and proper test, which should be conducted by the selection committee before August 2006.</p> <p>37. Decision to assign Commissioner M. Farid, Commissioner Taheri Noor, Commissioner Samsudin, Commissioner Enny Soeprpto and Commissioner Saafroedin Bahar to prepare the draft of the working paper on the cooperation between Komnas HAM and the Indonesian National Military (Tentara Nasional Indonesia or TNI).</p> <p>38. Decision to assign Commissioner Enny Soeprpto to conduct studies on the draft of the legislation on human trafficking, the United Nations Convention against Transnational Organized Crime, the United Nations Protocol Against Migrant Smuggling by Land, Sea</p>

NO	DATE	DECISIONS
		<p>and Air and the Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children.</p> <p>39. Decision to postpone the discussion on the draft of the legislation on Aceh government to the next Plenary Session in June 2006.</p> <p>40. Decision to assign Commissioner Hasto Atmojo Surojo to report the result of the study on the draft of the legislation on anti pornography and porno-actions at the next Plenary Session.</p> <p>41. Decision to postpone the report on the development of the study on the draft of the legislation on citizenship and the draft of the legislation on the freedom to obtain public information to the next Plenary Session.</p> <p>42. Decision to assign a team to conduct a study on the draft of legislation on ombudsman, the draft of the legislation on state secrecy (kerahasiaan Negara) and the draft of the legislation on military tribunal. The discussion will be postponed to the next Plenary Session.</p>
10.	Wednesday & Thursday, 24-25 May 2006	<p>43. Decision to assign Commissioner M. Said Nizar to prepare a paper on the result of the study on the draft of legislation on citizenship according to the last draft of the legislation on citizenship to be discussed at the next Plenary Session on the fourth week of June 2006.</p> <p>44. Decision to assign Commissioner Hasto Atmojo Suroyo to submit a written paper on the result of the study on the draft of legislation on freedom to obtain public information to be discussed on the next Plenary Session.</p> <p>45. Decision to assign Commissioner Saafroedin Bahar and Commissioner Soelistyowati Soegondo to conduct a study on the draft of legislation on Ombudsman.</p> <p>46. Decision to assign Commissioner Hasto Atmodjo Suroyo to conduct a study on the draft of legislation on state secrecy (kerahasiaan Negara).</p>

NO	DATE	DECISIONS
		<p>47. Decision to assign Commissioner Abdul Hakim Garuda Nusantara and Commissioner Enny Soeprapto to conduct a study on the draft of legislation on military tribunal.</p> <p>48. Decision to assign Commissioner Hasto Atmojo Surojo to revised the result of the study on the draft of legislation on anti pornography and porno-actions to cover the analysis of the first to the last drafts from human rights perspectives to be discussed on the next Plenary Session on the fourth week of June 2006.</p> <p>49. Decision to assign Commissioner Habib Chirzin, with the assistance of Commissioner Hasto Atmojo Surojo, Commissioner Chandra Setiawan and Commissioner M. Farid to prepare a draft of Komnas HAM statement on the trend of using acts of violence in responding to the discussion on the draft of legislation on anti pornography and porno-actions within the community.</p>
11.	Wednesday and Thursday, 14–15 June 2006	<p>50. Decision to assign Commissioner Hasto Atmojo Surojo to revised the result of the study on the draft of legislation the freedom to obtain public information according to inputs from the Plenary Session and to further consolidate with the Chairpersons of Komnas HAM in the submission the result of the study to the House of Representatives of the Republic of Indonesia.</p> <p>51. Decision to assign Commissioner Hasballah M. Saad as the coordinator of the discussion on the draft of legislation on Aceh government.</p> <p>52. Decision to assign Commissioner Saafroedin Bahar and Commissioner Anshari Thayib as coordinators of the discussion of the draft of legislation on disaster management.</p> <p>53. Decision to assign Commissioner Hasto Atmojo Surojo, Commissioner Koesparmono Irsan and Commissioner Habib Chirzin as the vocal point of the monitoring of the handling of earth quake disasters in Yogyakarta and Central Java.</p>

NO	DATE	DECISIONS
		<p>54. Decision to postpone the discussion on Komnas HAM participation in the national congress of human development in Indonesia to the next Plenary Session.</p>
12.	<p>Wednesday and Thursday, 28-29 June 2006</p>	<p>55. Decision to accept the result of the House of Representatives of the Republic of Indonesia team on the formulation of article 4 of the draft of legislation on citizenship and to further assign the Chairperson of Komnas HAM to submit the principles approved in the Plenary Session to the House of Representatives of the Republic of Indonesia.</p> <p>56. Decision to postpone the establishment of Komnas HAM Representative in Maluku and its area of work. Decision to determine the area of work of Komnas HAM Regional Office in Maluku in Maluku and North Maluku pending the status of the budget. With regard to the establishment of Komnas HAM Representative in Maluku, decision to conduct a study on the necessity to establish a Komnas HAM regional office in North Maluku.</p> <p>57. Decision to assign the Vice Chairperson of Komnas HAM to follow-up the enhancement of the status of the Komnas HAM Regional Office di Maluku and Aceh to become Komnas HAM Representatives in Maluku and Aceh.</p> <p>58. Decision to assign the Selection Committee of the members of Komnas HAM Representative in West Kalimantan as follows:</p> <ol style="list-style-type: none"> a. To verify the accuracy of data of the candidate members in order to determine their integrity, to request the candidate members to provide essential documents such as birth certificate, diploma, curriculum vitate and samples of articles; b. To determine 14 candidate members to be discussed in the next Plenary Session; c. To extend the working period of the current members of the Representative of Komnas HAM in West Kalimantan until the appointment of the

NO	DATE	DECISIONS
		<p>new members of the Representative of Komnas HAM in West Kalimantan.</p> <p>59. Decision to extend the working period of the Ad Hoc Inquiry Team on Gross Human Rights Violations in the Enforced Dissaperance Incidents in 1997-1998 for three months.</p> <p>60. Decision to assign Commissioner Saafroedin Bahar, Commissioner M. Habib Chirzin and the other Commissioners to participate in the National Congress on Human Development in Indonesia conducted by the Office of the Coordinating Minister of Social Welfare in order to critize development policies from human rights perspective.</p> <p>61. Decision to assign a team to finalize the scope of work in the draft of the Memorandum of Understanding (MoU) between Komnas HAM and the Supreme Court.</p>
13.	Wednesday & Thursday, 12-13 July 2006	<p>62. Decision to accept the report of the Chairperson on the draft of the Blueprint of Human Rights Court. The draft prepared by the Chairperson of Komnas HAM and the assistant team of the Research and Advocacy Institute for Court Independency (Lembaga Kajian dan Avokasi Untuk Independensi Peradilan or LeIP) and the Centre for the Indonesian Laws and Policies Studies (Pusat Studi Hukum dan Kebijakan Indonesia or PSHK) on 30 June 2006 at IASTH Building, Faculty of Law University of Indonesia, Salemba, should be distributed to each Commissioner.</p> <p>63. Decision to assign the Ahmadiyah Team to complete its report on the monitoring of Ahmadiyah incidents and to submit the report at the next Plenary Session. The Plenary Session will then make a decision on its acceptance and on the possible extension of the team or replacement the current team with new one.</p> <p>64. With regard to the draft of legislation on anti pornography and porno-actions, decisions to:</p> <ol style="list-style-type: none"> a. Aefuse the draft of the legislation on anti pornography and porno-actions;

NO	DATE	DECISIONS
		<ul style="list-style-type: none"> b. Assign Commissioner Hasto Atmojo Surojo, Commissioner Enny Soeprapto and Commissioner MM. Billah to formulate the argumentations regarding Komnas HAM position as mentioned above according to the inputs from the Plenary Session; c. Assign the Bureau of Administration and Conference Services to prepare the transcript on the discussion of the draft of the legislation on anti pornography and porno-actions to be submitted to the formulation team. The transcript will be used as the background to prepare Komnas HAM position on rejecting the draft of the legislation on anti pornography and porno-actions.
14.	Wednesday and Thursday, 26-27 July 2006	<ul style="list-style-type: none"> 65. Decision to accept the result of the selection of members of Komnas HAM Representative in West Kalimantan produced by the Selection Committee of the Members of Komnas HAM Representative in West Kalimantan; 66. Decision to determine the seven names to be appointed as the new members of Komnas HAM Representative in West Kalimantan for 2006-2009. The names are as follows: <ul style="list-style-type: none"> a. According to sequence number, name and number of vote: <ul style="list-style-type: none"> (1) Hairiah, S.H.,MH, 15 votes; (2) Purwanto, S.H., M.Hum, 14 votes; (3) Padmi Januarni C., Sos, M.M., 14 votes; (4) Edi V. Petebang , SP, 14 votes; (5) Suharsono, Sos., SH, 13 votes; (6) Ahmad Shidik, S. Sos, 12 votes; (7) Achmad Husainie, SE., 10 votes. b. The selected new members of Komnas HAM Representative in West Kalimantan should provide their tax registration number (Nomor Peserta Wajib Pajak or NPWP) and health record from the state hospital.

NO	DATE	DECISIONS
		<p>c. Decision to not provide additional back-up candidates for the members of Komnas HAM Representative in West Kalimantan although the elected new members do not fulfil the administrative and health requirement, or although the elected new members resign.</p> <p>67. With regard to the latest development on Ahmadiyah case, decisions to assign the Ahmadiyah team:</p> <p>a) to prepare the preliminary report in two weeks time to be discussed in the next Plenary Session, and</p> <p>b) to prepare the final report in one month time to be discussed in the Plenary Session in the fourth week of August 2006.</p> <p>68. Decision to assign Commissioner Soelistyowati Sugondo to prepare a written draft on Komnas HAM position with regard to the latest development of Ahmadiyah case, and also to prepare a draft of the letter to the President, the Department of National Education and the Indonesian Police with regard to the rehabilitation and protection on the Ahmadiyah adherents;</p> <p>69. Decision to establish the Committee on the Celebration of International Human Rights Day 10 December 2006, and to assign Commissioner Zumrotin K Susilo as the chair of the committee, Commissioner Amidhan, Commissioner M Habib Chirzin, Commissioner Soelistyowati Sugondo, Commissioner Chandra Setiawan, Commissioner Ruswiati Suryasaputra and Commissioner M. Farid as members of the committee, to prepare the terms of reference (TOR) containing the theme, objectives, organizing committee and activities of each Sub-Commission that will be discussed in the next Plenary Session in August 2006;</p> <p>70. Decision to assign Commissioner Saafroedin Bahar to prepare the terms of reference (TOR) for the formulation of Komnas HAM Five Year Report in 2002-2007 which implementation will use Komnas HAM budget in 2007;</p>

NO	DATE	DECISIONS
		<p>71. Decision to assign each Chairperson of the Sub-Commission to prepare the terms of reference (TOR) on the recruitment procedure and requirements of the candidate for the Commissioners of Komnas HAM for 2007-2012 to be presented to the Plenary Session in September 2006;</p> <p>72. Decision to assign Commissioner M. Habib Chirzin and Commissioner Enny Soeprapto to prepare the draft of the letter to the Secretary General of the United Nations and the United Nations Human Rights Council to urge the two international organizations to investigate the possibility of gross human rights violations conducted by Israel in Palestine and Lebanon. The letter should also be submitted to the five countries which have veto right in the United Nations (USA, Russia, China, France and the United Kingdom);</p> <p>73. With regard to the result of the study on the draft of the legislation on Criminal Code, decisions to:</p> <ul style="list-style-type: none"> a) give more time to the Commissioners to study the final report of the team to be discussed in the next Plenary Session; b) to deepen the analysis of several debated issues in the draft of the legislation on Criminal Code, namely, (i) crime on state ideology; (ii) death penalty; and (iii) protection on the right to freedom of religion and belief. <p>74. Decision to accept the presentation of the evaluation team on Komnas HAM works (the UBAYA team and the UGM team) and further evaluation could be conducted with some inputs from the Plenary Session.</p>
15.	Thursday and Friday, 10-11 August 2006	<p>75. Decision to accept the preliminary report of the Ahmadiyah team with some revisions and to assign Commissioner MM Billah and Commissioner Chandra Setiawan to:</p> <ul style="list-style-type: none"> (a) Conduct consolidation of the findings in the standardize form of monitoring reporting;

NO	DATE	DECISIONS
		<ul style="list-style-type: none"> (b) Draft a letter to the Indonesian Police to follow up the criminal case involving the perpetrators, destruction, confiscation of property and ill-treatment of Ahmadiyah adherents in several regional areas; (c) Request formal explanation from central and local governments on the decree on the prohibition of Ahmadiyah which was considered as the trigger to human rights violations; (d) Monitor the progress and protection of Ahmadiyah adherents evacuated by the police, either those staying at their homes or those staying in the refugee camps (Transito area); and (e) Submit the final report of the team at the end of September 2006. <p>76. Decision to accept the report of the Chairperson of Komnas HAM and to assign Commissioner Abdul Hakim Garuda Nusantara to urge the Supreme Court to complete the judicial process of Munir case according to the criminal code law and human rights principles.</p> <p>77. With regard to the implementation of article 91 para (1) and (2) of the Act No. 39 Year 1999 on Human Rights, decisions to:</p> <ul style="list-style-type: none"> a) Assign Commissioner Enny Soeprpto to prepare the draft of the rules of procedure of the implementation of article 91 para (2); b) Use the current inquiry mechanism before the determination of the new rules of procedure; and c) Prohibit submission of copies to other parties which might be harmful for Komnas HAM interests with regard to the submission of recommendations on human rights violations to the complainants and/or person(s) being complained. <p>78. Decision to assign Commissioner M. Habib Chirzin to prepare a position paper on the mandate of Komnas</p>

NO	DATE	DECISIONS
		<p>HAM to use its authority according to article 89 para (3) point a of the Act No. 39 Year 1999 on Human Rights.</p> <p>79. Decisions to assign Commissioner M. Habib Chirzin, komisioner Commissioner M Farid and Commissioner Hasto Atmojo Surojo to:</p> <ul style="list-style-type: none"> a) Conduct a study on the National Examination policy from three aspects, namely, the government, the education industry and the community; and b) Conduct monitoring on the impact of the implementation of National Examination from human rights perspective. <p>80. To assign Commissioner Koesparmono Irsan to obtain formal documents on the new Mass Control Guidelines of the Indonesian Police, and to assign the Documentation and Information Centre to copy and distribute the international legal instrument on the use of firearms, and to further invite the representatives of the Indonesian Police to present the new guidelines at the next Plenary Session in September 2006.</p> <p>81. Decision to establish a team consisted of Commissioner Hasto Atmojo Suroyo, Commissioner M. Habib Chirzin and Commissioner Koesparmono Irsan to conduct monitoring on the natural disasters occurred in Yogyakarta and Central Java. The financial burden for the activities should be provided from each Commissioner budget. The implementation of the activities should be coordinated with other parties.</p>
16.	Wednesday and Thursday, 23-24 August 2006	<p>82. Decision to allocate time in the Plenary Session to discuss the conceptual policies of Komnas HAM in dealing with enforced eviction cases, property cases and environmental cases as the result of government policies.</p> <p>83. Decision to revise the terms of reference (TOR) of the "Seminar of the Human Rights Dimension on Disaster Management" related to the discussion of</p>

NO	DATE	DECISIONS
		<p>the draft of legislation on disaster management initiated by the House of Representatives of the Republic of Inodnesia. The revision should take into consideration the Guiding Principles on Internal Displacement, international human rights instruments, as well as national legal instruments related to human rights.</p> <p>84. Decision to accept the cooperation instrument of national human rights institutions in ASEAN and the next meeting of the national human rights institutions in ASEAN in November 2006 in Bali to discuss the area and forms of cooperation for terrorism and human rights, migrant workers, human trafficking, human rights education and economic, social and cultural rights particularly the right to development.</p> <p>85. Decision to accept the result of the study on the draft of the legislation on health and assign Commissioner Anshari Thayib to revise the result of the study according to the inputs from the Plenary Session, and to further discuss the matter with Commissioner M. Farid, Commissioner Ruswiati Suryasaputra and Commissioner Samsudin before submission to the House of Representatives of the Republic of Indonesia.</p> <p>86. Decision to assign Commisioner Soelistyowati Soegondo to draft letters to related judicial institutions to ensure the submission of cassasion documents on the Chief of Manggarai Police Resort.</p>
17.	Wednesday and Thursday, 13–14 September 2006	<p>87. Decision to assign Commissioner Chandra Setiawan to prepare a position paper on the formulation of academic paper on the draft of legislation on freedom of religion and belief.</p> <p>88. Decision to assign the Chairperson of Komnas HAM to invite the former Chief of Central Sulawesi Police District, Brigadir General Police Oegroseno and Mr. Mahendradata to discuss matters related to the implementation of the execution of Tibo cs. and Amrozi cs.</p>

NO	DATE	DECISIONS
		<p>89. Decision to assign Commissioner Samsudin to prepare a position paper on the meaning of the balance between rights and obligations which will be discussed in the next Plenary Session. The aim is to decide on the implementation of programmes related to the mentioned subject.</p> <p>90. Decision to assign the Chairperson of Komnas HAM to draft a letter to the Head of Komnas HAM Regional Office in Maluku with regard to the news in the newspapers that Komnas HAM will conduct a mediation between the headquarter of the Indonesian Police and the Maluku Police District on the death of Denny Leuwol.</p> <p>91. Decision to accept the final report of the study on the draft of the Criminal Code Law. The Commissioners will be given the opportunity to give written inputs on the report. The final draft of the report will take into consideration the inputs from the Commissioners before the submission to the House of Representatives of the Republic of Indonesia.</p> <p>92. With regard to complaints and demands of several non governmental organizations on Poso incidents on 14 September 2004, decision to assign Commissioner Zumrotin K. Susilo as the chairperson of the Monitoring Team on Poso incidents, and Commissioner Enny Soeprpto and Commissioner Samsudin as members of the Monitoring Team on Poso incidents. The team will work until the end of 2006.</p> <p>93. Decision to accept the result of the Selection Committee of the Members of Komnas HAM Representatives in West Sumatera.</p> <p>94. Decision to appoint 5 (five) selected names as the new members of Komnas HAM Representative in West Sumatera for the working period of 2006-2009, namely: (1) Drs. Akmal, M.Si.; (2) Sudarto,S.Ag.; (3) Lusi Herlina, SP; (4) Rusmazar Ruzuar; and (5) Zaleka Hg, SH.</p>

NO	DATE	DECISIONS
		95. Decision to postpone the discussion on the report of the study on the legislation on Ombudsman to the Plenary Session in the next month.
18.	Wednesday and Thursday, 27-28 September 2006	<p>96. Decision to assign Commissioner M. Farid, Commissioner Saafroedin Bahar and Commissioner Lies Sugondo to revise the framework on the selection committee of the Commissioners of Komnas HAM for 2007-2012 to be discussed in the next Plenary Session.</p> <p>97. Decision to assign Commissioner Anshari Thayib to provide complete data on Lapindo case to be submitted to the next Plenary Session and will be used as the information to make a press release.</p> <p>98. Decision to postpone the discussion on the result of the Ad Hoc Inquiry Team on Gross Human Rights Violation in the Enforced Disappearance Incidents in 1997-1998 to the Plenary Session on 11 October 2006.</p> <p>99. Decision to assign Commissioner Lies Sugondo to revise the draft of the Memorandum of Understanding (MoU), taking into consideration the inputs of the Commissioners, to be discussed on the next Plenary Session.</p>
19.	Wednesday and Thursday, 11-12 October 2006	<p>100. With regard to the framework on the selection committee of the Commissioners of Komnas HAM for 2007-2012, decisions to:</p> <p>a) Refer to the opinion of the House of Representatives of the Republic of Indonesia and fatwa of the Supreme Court in the case of difference of opinion in the interpretation of the Act No. 39 Year 1999 on Human Rights related to the working period of Komnas HAM Commissioner. The results of the inquiry will be submitted to the House of Representatives of the Republic of Indonesia without the approval of the Plenary Session (stating the fact that the person had become a Commissioner of Komnas</p>

NO	DATE	DECISIONS
		<p>HAM based on the Presidential Decree No. 50 Year 1993 and the Act No. 39 Year 1999); and</p> <p>b) Assign the members of the selection committee from outside Komnas HAM according to the voting result. The qualification and requirement of the members of the selection team will be discussed in the next Plenary Session.</p> <p>101. With regard to the final report of the Ad Hoc Inquiry Team on Gross Human Rights Violations of the Enforced Disappearance Incidents in 1997–1998, decisions to:</p> <p>(a) Give the opportunity to the Commissioners to submit inputs or questions for clarification at the latest two weeks after the present date; and</p> <p>(b) Extend the working period of the ad hoc team for 1 (one) month to revise the report according to the inputs from the Plenary Session and to be discussed in the Plenary Session in 8 November 2006.</p>
20.	Wednesday and Thursday, 08-09 November 2006	<p>102. With regard to the voting on the result of the Ad Hoc Inquiry Team on Gross Human Rights Violations of the Enforced Disappearance Incidents in 1997-1998, 16 (sixteen) Commissioners agree to the result, 3 (three) Commissioners agree to the result with some notes, and 1 (one) Commissioner disagrees with the result that the gross human rights violations occurred in the incidents. Decision to further provide opportunity to the 3 (three) Commissioners who agree with some notes to give their written inputs at the latest 1 (one) week from the present date.</p> <p>103. Decision to determine the qualification and requirement of the members of the selection committee of Komnas HAM Commissioners for 2007-2012 as attached in this decision.</p> <p>104. Decision to appoint 5 (five) names of the members of the Selection Committee of the Commissioners of Komnas HAM for 2007-2012, as follows:</p>

NO	DATE	DECISIONS
		<p>(a) Sequence number, name and number of votes: (1) Soetandyo Wigjosoebroto, 13 votes; (2) Maria Hartiningsih, 10 votes; (3) Azyurmardi Azra, 9 votes; (4) Musda Mulia, 9 votes; and (5) Kemala Chandrakirana, 7 votes on the first voting and 8 votes on the second voting; and</p> <p>(b) Decision to appoint the back-up members in the case of the appointed members mentioned in point (a) refuse to be members of the Selection Committee and/or resign from the Selection Committee, as follows: (1) Saparinah Sadli, 7 votes on the first voting and 7 votes on the second voting; (2) Emong Komariah S, 5 votes; (3) Aisyah Aminy, 4 votes; (4) Fadillah Agus, 2 votes; and (5) Karlina Supeli, 2 votes.</p>
21.	Wednesday and Thursday, 13 – 14 December 2006	<p>105. Decision to postpone the formulation of the draft of the Memorandum of Understanding (MoU) between Komnas HAM and the Supreme Court pending the responses from the latter.</p> <p>106. Decision to provide the opportunity to the Commissioners to study the report of the Ahmadiyah team and to discuss the matter in the Plenary Session in January 2007.</p> <p>107. Decision to postpone the discussion on human rights violation cases in Nanggroe Aceh Darussalam occurred before the Helsinki peace agreement to the next Plenary Session.</p> <p>108. Decision to postpone the discussion on the incident happened to Abina Wasangai, the member of Representative of Komnas HAM in Papua, until the completion of written report from Komnas HAM Representative in Papua.</p>



THE INDONESIAN NATIONAL
HUMAN RIGHTS COMMISSION

PRESS RELEASE

THE OCCURRENCE OF GROSS HUMAN RIGHTS VIOLATIONS IN THE ENFORCED DISAPPEARANCE INCIDENTS IN 1997-1998

CHAIRPERSONS :

Abdul Hakim Garuda Nusantara (081315269523)

Coordination of the implementation of
the plenary sessions conclusion

Zumrotin K. Susilo (08159955744)

Coordination of the implementation of
the plenary sessions conclusion

SUB-COMMISSION OF ECONOMIC, SOCIAL AND CULTURE RIGHTS

1. Amidhan (0811172000)

Commissioner for the right of workers
and right to social security, and the right to work

2. Anshari Thayib (08161334934)

Commissioner for the right to health and
environment

3. M. Habib Chirizin (081314438848)

Commissioner for the rights to education,
science and technology

4. Saafroedin Bahar (0811147621)

Commissioner for the right of adat law community

5. Achmad Ali (08129543272)

Commissioner for the right to property

SUB-COMMISSION OF CIVIL AND POLITICAL RIGHTS

1. Soelityowati Sugondo (0816811215)

Commissioner for the right to justice

2. M. Said Nisar (0817881488)

Commissioner for the right of citizen

3. Samsudin (0818175165)

Commissioner for the right to life

4. Enny Soepratto (08159312671)

Commissioner for the right to personal safety

5. Chandra Sellawan (0816970795)

Commissioner for the right to personal freedom

6. Hasto Atmojo Suroyo (08159003996)

Commissioner for the right to personal development

7. MM. Billah (021-8463763)

Commissioner for political right

SUB-COMMISSION OF SPECIAL GROUPS PROTECTION

1. Ruswanti Suryasaputra (0818328585)

Commissioner for the protection of the rights of women

2. M. Farid (0816746753)

Commissioner for the protection of the rights of children

3. Djoko Soegianto (021-7994967)

Commissioner for the protection of the rights
of elderly and disabled persons

4. Koesparmono Irsan (08128478451)

Commissioner for the protection of the rights
of IDPs and the poor

5. Hasballah M. Saad (0811990560)

Commissioner for the protection of the rights
of migrant workers and peasants

6. Taheri Noor (08164804404)

Commissioner for the protection of the rights
of minorities and adat law community

I. INTRODUCTION

1. In the enforced disappearance incidents in 1997-1998, according to report to Komnas HAM, at least 14 (fourteen) persons had become victims of enforced disappearance whose whereabouts are unknown to the present-day, namely, **Yani Afrie, Sony, Herman Hendrawan, Dedi Hamdun, Noval Alkatiri, Ismail, Suyat, Petrus Bima Anugrah, Wiji Thukul, Ucok Munandar Siahaan, Hendra Hambali, Yadin Muhidin and Abdun Naser.**
2. Meanwhile, on the enforced disappearance incidents of pro-democracy activities who had been released, at least 10 (ten) persons had become the victims, namely, **Mugiyanto, Aan Rusdianto, Nezar Patria, Faisol Riza, Raharja Waluyo Jati, Haryanto Taslam, Andi Arief, Pius Lustrilang, Desmond J. Mahesa and "St".**
3. Returned victims and the families of un-returning victims of enforced disappearance in 1997-1998 have yet received proper attention from the Government with regard to the investigation of these cases. Therefore, as one of the effort to solve the matter, they placed complaints to the National Human Rights Commission of Indonesia (Komnas HAM).
4. As a response to the complaints, Komnas HAM had established the Research Team on Enforced Disappearance Incidents in 1997-1998 according to its mandate based on the Act No. 39 Year 1999 on Human Rights. Based on the report of the Research Team, Komnas HAM then continued with a *projustitia* inquiry of the incidents with the establishment of an *ad hoc* team according to Komnas HAM mandate given by the Act No. 26 Year 2000 on Human Rights Court.

5. The Inquiry *ad hoc* Team on Gross Human Rights Violations in Enforced Disappearance Incidents in 1997-1998 had worked since 1 October 2005 until 30 October 2006. The *ad hoc* Team had interviewed 77 (seventy seven) witnesses, consisted of 58 (fifty eight) victims or family of the victims, 18 active or retired members of the Indonesian Police, and 1 (one) retired member of the Indonesian National Military (TNI). Moreover, the *ad hoc* Team also conducted 16 (sixteen) site-visits to the crime locations.
6. In conducting its work, the *ad hoc* Team had faced several obstacles, among others:
 - a). The refusal and unwillingness of several victims to answer to Komnas HAM request to become witnesses to the inquiry of enforced disappearance incidents in 1997-1998.
 - b). The postponement of the designed schedule of the inquiry with regard to the interviews of several active and retired members of the Indonesian Police, although eventually all of them came to give their testimonies.
 - c). The refusal of the Indonesian National Military (TNI).

The legal advisors of the Indonesian National Military (TNI) refused to make the personnel of the Indonesian National Military (TNI) attend the summon of the team with the argument based on article 18 paragraph (1) and paragraph (2) and also article 19 paragraph (1) of the Act No. 26 Year 2000 on Human Rights Court that the establishment of the *ad hoc* team by Komnas HAM was for the inquiry of gross human rights violations which occurred after the enactment of the Act No. 26 Year 2000 on Human Rights Court. They also argued that according to article 32 paragraph (2) of the Act No. 26 Year 2000 on Human Rights Court, Komnas HAM does not automatically has the authority to conduct a *projustitia* inquiry. Komnas HAM could only conduct the *projustitia* inquiry after the establishment of an *ad hoc* human rights court through a presidential decree on the recommendation of the House of Representatives.
 - d). The refusal of the Attorney General
Komnas HAM had sent a letter to the Attorney General on the inquiry. Komnas HAM also had sent letters with regard to request to conduct site visit on the detention places and request to call on experts. The Attorney General response was that the enforced disappearance incidents in 1997-1998 occurred before the en-

actment of the Act No. 26 Year 2000 on Human Rights Court, therefore, the House of Representative should first recommend the establishment of an *ad hoc* Human Right Court. Thus, the Attorney General refused to follow-up Komnas HAM's requests.

- e). The refusal of the Chair of the Central Jakarta District Court to authorize Komnas HAM to use its *sub-poenae* power for several witnesses who refused to answer to Komnas HAM summons.

II. FINDINGS

7. In its inquiry, the *ad hoc* Team received testimonials on the occurrence of acts as follows:
 - (a) Murder;
 - (b) Arbitrary deprivation of freedom or other physical liberty;
 - (c) Torture;
 - (d) Ill-treatment; and
 - (e) Enforced disappearance.
8. The number of victims of the acts mentioned above is as follows:
 - (a) Murder 1 person;
 - (b) Arbitrary deprivation of freedom or other physical liberty 19 persons;
 - (c) Torture 11 persons;
 - (d) Ill-treatment 12 persons;
 - (e) Enforced disappearance 23 persons.

III. LEGAL ANALYSIS AND CONCLUSIONS

9. A legal analysis had been conducted on the type of acts mentioned above in order to determine:
 - (a) Whether the acts fulfil the requirement of the elements of criminal acts; and, afterwards
 - (b) Whether the criminal acts also fulfil the requirements of the elements of gross human rights violations as governed in the Act No. 26 Year 2000 on Human Rights Court, particularly crimes against humanity.
10. The legal analysis concluded that the acts of murder, arbitrary deprivation of freedom or other physical liberty, torture, ill-treatment and enforced disappearance experienced by the victims fulfil the requirement of the elements categorized as gross human rights violations, particularly crimes against humanity.

IV. UN-RETURNED VICTIMS WHOSE WHEREABOUTS ARE UNKNOWN

11. From the inquiry, there are 13 (thirteen) victims whose whereabouts are unknown. These people had become victims of the acts as follows:
 - (a) Murder;
 - (b) Arbitrary deprivation of freedom or other physical liberty;
 - (c) Torture;
 - (d) Ill-treatment; and
 - (e) Enforced disappearance.
12. These acts mentioned above are acts of gross human rights violations, particularly crimes against humanity.

V. CONCLUSIONS AND FOLLOW-UP

13. The conclusions of the whole inquiry, including the legal analysis conducted by Komnas HAM, are as follows:
 - (a) The *ad hoc* Team found substantial preliminary evidence of the occurrence of gross human rights violation of the enforced disappearance incidents in 1997-1998;
 - (b) According to article 20 paragraph (1) and paragraph (2) of the Act No. 26 Year 2000 on Human Rights Court, Komnas HAM follow-up to the inquiry are as follows:
 - (i) Submission of the conclusion of the inquiry as mentioned above to the investigator, in this regard the Attorney General;
 - (ii) In 7 (seven) days, submission of the whole result of the inquiry to the investigator, in this regard the Attorney General, to be follow-up with investigation.

Jakarta, 10 November 2006

The National Human Rights Commission of Indonesia
Chairperson

A circular official seal of the National Human Rights Commission of Indonesia is visible on the left side of the signature. The signature itself is written in black ink and includes the initials 'SN' in the upper right corner.

Abdul Hakim Garuda Nusantara



THE INDONESIAN NATIONAL
HUMAN RIGHTS COMMISSION

THE INDONESIAN NATIONAL HUMAN RIGHTS COMMISSION

ANNUAL STATEMENT HUMAN RIGHTS CONDITION IN 2006

CHAIRPERSONS :

Abdul Hakim Garuda Nusantara (081315269523)
Coordination of the implementation of
the plenary sessions conclusion
Zumrotin K. Susilo (08159955744)
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Commissioner for the right to personal safety
5. Chandra Seliawan (0816970795)
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6. Taheri Noor (08164804404)
Commissioner for the protection of the rights
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The year 2006 will end and the year 2007 will begin. Towards the end of the year, on the celebration of International Human Rights Day on 10 December 2006, it is imperative for Komnas HAM to make notes on achievements as well as failures of the implementation, protection and enforcement of human rights in 2006.

According to the Law No. 39 Year 1999, Komnas HAM aims to:

- a. develop conditions conducive to the implementation of human rights in accordance with Pancasila, the 1945 Constitution, the United Nations Charter and the Universal Declaration of Human Rights;
- b. enhance the protection and upholding of human rights for the personal development of Indonesians as human beings in their entirety and their ability to participate in various aspects of life.

As stated in Komnas HAM Annual Report of 2005, the year 2005 was considered as new starting point for the improvement of human rights promotion in Indonesia with the ratification of the International Covenant on Economic, Social and Cultural Rights (1966) and the International Covenant on Civil and Political Rights (1966), both as the principal international human rights instruments for the promotion and protection of human rights all around the world. However, looking at the human rights condition in Indonesia in 2005 and during the eleven months of 2006, the conditions conducive to the implementation of human rights has not yet materialized. These could be seen, among others, in the conditions as described below.

I. On the completion of gross human rights violation cases.

- (a) Several cases of gross human rights violations have not yet investigated, even though the inquiries of those cases had been completed by Komnas HAM (Trisakti 1998 case, Semanggi 1998 and Semanggi 1999 cases [TSS], May Riot 1998 case, Wasior 2001-2002 case, and Wamena 2003 case).

- (b) Some members of state apparatus still refused to cooperate with the inquirer with regard to projustitia inquiry on the assumption of gross human rights violations, notably the case of force disappearance in the context of crimes against humanity.

II. On the implementation and fulfilment of economic, social and cultural rights.

- (a) The increasing numbers of unemployment has shown the un-fulfilment of the right to work of millions of people.
- (b) The suffering of the people in several regions because of *busung lapar* has shown the un-fulfilment of their rights to food and health care.

III. The mudflow disaster which covered wide areas and caused displacement of people as well as lost of jobs is considered as violations to the people's right to means of living as well as the right to healthy and good environment on the implementation and protection of civil and political rights.

- (a) Act of violence and even bloodshed often occurred when the people execute their freedom of speech in the public forum.
- (b) Act of violence conducted by not only state apparatus but also radical groups of the community often occurred. These were violations of the right to personal safety, protection, honour and dignity.
- (c) Disturbance of the right to personal freedom, such as freedom to worship according to the people's religion and believe has occurred, such as experienced by the adherents of Ahmadiyah.
- (d) Continuous discrimination towards the adherents of particular religions to worship according to their religion or belief through the Joint Ministerial Decree between Ministry of Religious Affairs and Ministry of State Affairs No. 9 Year 2006 / No. 8 Year 2006 on the Implementation Guidelines for Regional Leaders / Vice Regional Leaders in Maintaining the Harmony of Religious Adherents, Empowering Harmonious Religious Adherent Forum and Establishment of Holy Places.

Moreover, consideration should also be given to particular issues, such as:

1. The failure to follow-up the implementation of international human rights instruments ratified by Indonesia at national level.
2. The failure of Munir's case disclosure through an appropriate investigation in accordance with the decision of Central Jakarta District Court which stated the involvement of other parties in the murder case of Munir.

With regard to the matters mentioned above, the State which holds the main responsibility in the effort to protect, promote, enforce and fulfil human rights should carry out its obligations seriously. Only with serious efforts, that respect for human rights, which has become the interest of the Indonesian people as well as the obligation of each nation in the world in accordance with each scope and authority, will be achieved. It is our duty to move forward and walk in concert in achieve these goals.

We should also remember that the attention of the international community towards the protection, promotion, enforcement and fulfillment of human rights in Indonesia would increase with the implementation of a universal periodic review by the Human Rights Council, a United Nations body replacing the Human Rights Commission, where Indonesia has a one year period membership.

Jakarta, 10 December 2006

The Indonesian National Human Rights Commission

Chairperson

A circular official seal of the Indonesian National Human Rights Commission is positioned to the left of a handwritten signature in black ink. The signature is written in a cursive style and includes the initials 'AHGN' at the end.

Abdul Hakim Garuda Nusantara



THE INDONESIAN NATIONAL
HUMAN RIGHTS COMMISSION

Jakarta, 27 February 2006

CHAIRPERSONS :

Abdul Hakim Garuda Nusantara (081315269523)
Coordination of the implementation of
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Zumrotin K. Susilo (08159955744)
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LETTERS TO THE PRESIDENT OF THE REPUBLIC OF INDONESIA

No. : 090/TUA/II/2006
Attachment : —
Subject : Public Service for the Adherents of Religion and
and Belief in Indonesia

His Excellency
The President of the Republic of Indonesia

Komnas HAM welcomes the affirmation from the President of the Republic of Indonesia in his opening speech at the Celebration of Chinese New Year 2557 in Jakarta on 8 February 2006. In his speech the President affirmed that *"In our country, we do not recognize the terms 'acknowledged religion' and 'renounced religion' by the State. The basic principle of our Constitution is that the State guarantees the freedom of each citizen to choose his/her own religion and to worship according to his/her own religion or belief. The State would not intervere in the teaching of one religion since this act is beyond the obligation and mandate of the State. The obligations of the State are to provide protection, public services and assistance in the development and preservation of the means of its observance of religious duties, as well as to urge religious adherents to become better believers."*

The President affirmation should be implemented in the operational level, starting with the restructurization of the Department of Religious Affairs which, to the present time, serves only five religions, namely, Islam, Christian, Catholic, Hindu and Buddha. Therefore, Komnas HAM requests the President of the Republic of Indonesia to review the previous Presidential Decress which administrate the position, obligations, functions, organizational structure and working mechanism of vertical institutions within the Department of Religious Affairs to enable the Department to provide services for other religions as well as adherents of believes apart from the five recognized religions.

According to Komnas HAM monitoring, the Department of State Affairs (in this case the Population and Civil Registration Agency) only provides services to the five religions mentioned above (Islam, Christian, Catholic, Hindu and Buddha) with regard to the inclusion of religion in the identity card (*Kartu Tanda Penduduk* or KTP) and Family Registration or Household Card (*Kartu Keluarga* or KK) as well as civil registration in the Civil Registration Office (*Kantor Catatan Sipil*) which only provides marriage licence services for four religion couples (Christian, Catholic, Hindu and Buddha). The argument is that because the Department of Religious Affairs only serves the five religions as mentioned above. On 24 January 2006, as stated by the President, the Minister of Religious Affairs had sent a letter to the Minister of State Affairs which affirmed that the Department of Religious Affairs "is also providing services to the Confucious adherent".

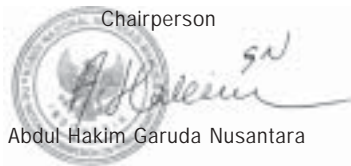
However, according to reports to Komnas HAM, the Civil Registration Office in the regions have yet consented the registration of marriage of Confucious couples because of the non-existence of instruction from the Department of State Affairs. Therefore, Komnas HAM requests a clear and good coordination between ministries or departments under the President as well as regional government institutions in the implementation of the policy of the President which is in line with the 1945 Constitution as well as the Act No. 39 Year 1999 on Human Rights.

With this, we look ahead to the fulfilment of the civil rights of Indonesian citizens, especially the adherents of particular religion or belief in Indonesia.

Thank you for your attention.

The National Human Rights Commission of Indonesia

Chairperson



Abdul Hakim Garuda Nusantara

CC.:

1. Minister of Religious Affairs of the Republic of Indonesia.
2. Minister of State Affairs of the Republic of Indonesia.
3. Minister of the Empowerment of State Apparatus of the Republic of Indonesia.
4. Archieve.



THE INDONESIAN NATIONAL
HUMAN RIGHTS COMMISSION

Jakarta, 13 March 2006

No. : 120/TUA/III/2006
Attachment : 1 (one) bundle
Subject : The Establishment of an ad hoc Human Rights Court

CHAIRPERSONS :

Abdul Hakim Garuda Nusantara (081315269523)
Coordination of the implementation of
the plenary sessions conclusion
Zumrotin K. Susilo (08159955744)
Coordination of the implementation of
the plenary sessions conclusion

SUB-COMMISSION OF ECONOMIC, SOCIAL
AND CULTURE RIGHTS

- 1. Amidhan (0811172000)**
Commissioner for the right of workers
and right to social security, and the right to work
- 2. Anshari Thayib (08161334934)**
Commissioner for the right to health and
environment
- 3. M. Habib Chirizin (081314438848)**
Commissioner for the rights to education,
science and technology
- 4. Saafroedin Bahar (0811147621)**
Commissioner for the right of adal law community
- 5. Achmad Ali (08129543272)**
Commissioner for the right to property

SUB-COMMISSION OF CIVIL AND POLITICAL RIGHTS

- 1. Soelistyowati Sugondo (0816811215)**
Commissioner for the right to justice
- 2. M. Said Nisar (0817881488)**
Commissioner for the right of citizen
- 3. Samsudin (0818175165)**
Commissioner for the right to life
- 4. Emry Soeprapto (08159312671)**
Commissioner for the right to personal safety
- 5. Chandra Setiawan (0816970795)**
Commissioner for the right to personal freedom
- 6. Hasto Atmojo Suroyo (08159003996)**
Commissioner for the right to personal development
- 7. MM. Billah (021-8463763)**
Commissioner for political right

SUB-COMMISSION OF SPECIAL GROUPS PROTECTION

- 1. Ruswati Suryasaputra (0818328585)**
Commissioner for the protection of the rights of women
- 2. M. Farid (0816746753)**
Commissioner for the protection of the rights of children
- 3. Djoko Soegianto (021-7994967)**
Commissioner for the protection of the rights
of elderly and disabled persons
- 4. Koesparmono Irsan (08128478451)**
Commissioner for the protection of the rights
of IDPs and the poor
- 5. Hasballah M. Saad (0811990560)**
Commissioner for the protection of the rights
of migrant workers and peasants
- 6. Taheri Noor (08164804404)**
Commissioner for the protection of the rights
of minorities and adat law community

The Chairperson

The House of Representatives of the Republic of Indonesia

The trial process of the assumption of gross human rights violations in Tanjung Priok 1984 incidents and East Timor 1999 incidents had been completed through ad hoc human rights courts since the two cases occurred before the enactment of the Act No. 26 Year 2000 on Human Rights Court. The National Human Rights Commission of Indonesia (Komnas HAM) had completed the inquiry on the incidents according to its mandate based on the Act No. 26 Year 2000 on Human Rights Court.

Komnas HAM also had completed two other incidents assumed of gross human rights violations which occurrences happened after the enactment of the Act No. 26 Year 2000 on Human Rights Court. These two incidents had also been tried in human rights courts established by the mentioned Act.

With regard to this matter, we would like to request the House of Representatives attention on other assumed gross human rights violations which inquiries have been completed by Komnas HAM according to its mandate based on the Act No. 26 Year 2000 on Human Rights Court. The reports of these inquiries have been submitted to the Attorney General office to be followed-up with investigation. However, thus far, the Attorney General has yet begun the investigation process of these incidents. Some of the incidents mentioned occurred before the enactment of the Act No. 26 Year 2000 on Human Rights Court which required ad hoc human rights courts at the end of its judicial process, while the other occurred after the enactment of the Act No. 26 Year 2000 on Human Rights Court which required a human rights court at the end of its judicial process. These incidents are as follows:

NO.	INCIDENTS	DATED OF SUBMISSION OF REPORTS TO THE ATTORNEY GENERAL	TYPE OF HUMAN RIGHTS COURTS REQUIRED
1.	Trisakti 1998, Semanggi (I) 1998 and Semanggi (II) 1999	25 April 2002	Ad hoc Human Rights Court
2.	May Riot 1998	19 September 2003	Ad hoc Human Rights Court
3.	Wasior 2001-2002 and Wamena 2003	3 September 2004	Human Rights Court

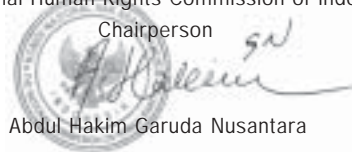
According to article 43 paragraph (2) of the Act No. 26 Year 2000 on Human Rights Court, of an ad hoc human rights court should be established through a Presidential Decree on the recommendation of the House of Representatives of the Republic of Indonesia. Therefore, in order to provide justice for the victims of the first and second incidents mentioned above, we request the House of Representatives to immediately recommend the President to establish ad hoc human rights courts for Trisakti 1998, Semanggi (I) 1998 and Semanggi (II) 1999 as well as May Riot 1998 incidents, with considerations as follows:

- (i) The inquiries of the incidents mentioned above had been completed by Komnas HAM for a long time;
- (ii) The result of the inquiries concluded that gross human rights violations occurred in the incidents mentioned above.

To be used wisely, we attach the Executive Summary of the Report of the Investigation Commission of Human Rights Violations in Trisakti, Semanggi I and Semanggi II Incidents; the Executive Summary of the Investigation of Gross Human Rights Violations in the May Riot 1998 Incidents; and the Executive Summary of the Investigation Result of the Ad Hoc Investigation Team of Gross Human Rights Violations in Papua.

Thank you for your attention.

The National Human Rights Commission of Indonesia
Chairperson


Abdul Hakim Garuda Nusantara

CC.:

1. The President of the Republic of Indonesia.
2. Archive.



**THE INDONESIAN NATIONAL
HUMAN RIGHTS COMMISSION**

CHAIRPERSONS :

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Coordination of the implementation of
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5. **Achmad Ali** (08129543272)
Commissioner for the right to property

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6. **Hasto Almojo Suroyo** (08159003996)
Commissioner for the right to personal development
7. **MM. Billah** (021-8463763)
Commissioner for political right

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Commissioner for the protection of the rights
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5. **Hasballah M. Saad** (0811990560)
Commissioner for the protection of the rights
of migrant workers and peasants
6. **Taheri Noor** (08164804404)
Commissioner for the protection of the rights
of minorities and adat law community

Jakarta, 22 March 2006

No. : 128/TUA/III/2006
Attachment : 1 (one) bundle
Subject : Settlement of *error in persona* case of
Mr. Eddy Tanumiharja

His Excellency
The President of the Republic of Indonesia

We would like to inform you that in line with the functions and mandates of the National Human Rights Commission of Indonesia (Komnas HAM) as stated in the Act No. 39 Year 1999 on Human Rights, Komnas HAM had received a complaint from Mr. Eddy Tanumihardja (Tan Eng Hong), age 74 years old, retired from the House of Representatives of the Republic of Indonesia for the period of 1956-1959.

The complaint was related to an *error in persona* case with regard to the decision of the Cianjur Economic Court (presently, Cianjur District Court) No. 1/PE/1965 dated 15 April 1965 that resulted in the confiscation of Mr. Tanumihardja properties.

In the struggle for justice on the case, Mr Tanumihardja had put his complaints to Komnas HAM as well as other state institutions, such as the Supreme Advisory Council, the Supreme Court, the House of Representatives, the State Ministry of Human Rights, the Attorney General and the Ministry of Justice and Human Rights.

The struggle for justice on the case had also received responses from some state institutions, whereas in that regard, the President of the Republic of Indonesia had published a Presidential Decree No. 71 Year 2002 dated 15 October 2002 which stated that Mr. Tanumihardja and his wife should received compensation in the value of the confiscated properties. The implementation of the Decree should be conducted by the Ministry of Finance.

As a follow up of the Presidential Decree as mentioned above, the Ministry of Finance had published the Ministry of Finance Decree No. 362/KMK.01/2003 dated 21 August 2003 on the Establishment of Coordinating Team on the Implementation of the Presidential Decree No. 71 Year 2002 dated 15 October 2002.

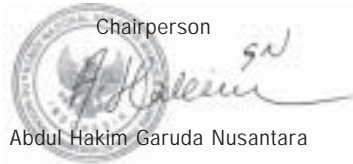
However, even with the Presidential Decree, any settlement regarding the case has yet been fulfilled to this present day. Hence, Mr. Tanumihardja put forward his complaint to Komnas HAM and hoped that Komnas HAM could assist him in attaining his rights.

With regard to the matter above, Komnas HAM requests the President of the Republic of Indonesia to instruct the Ministry of Finance to settle the matter as stated in the Presidential Decree No. 71 Year 2002.

Thank you for your assistance and cooperation.

The National Human Rights Commission of Indonesia

Chairperson

A circular official seal of the National Human Rights Commission of Indonesia is visible on the left. To its right is a handwritten signature in black ink, which appears to be 'A. Garuda' with a flourish. The signature is written over a light-colored rectangular area.

Abdul Hakim Garuda Nusantara

CC.:

1. Chairpersons of the House of Representative of the Republic of Indonesia.
2. The Chairperson of the Supreme Court of the Republic of Indonesia.
3. The Attorney General of the Republic of Indonesia.
4. The Minister of Law and Human Rights of the Republic of Indonesia
5. The Minister of Finance of the Republic of Indonesia.
6. Mr. Eddy Tanumihardja
Jl. Gading Molek VII, Blok W2 No. 1-2
Kelapa Gading, Jakarta Utara.
7. Archieve.



**THE INDONESIAN NATIONAL
HUMAN RIGHTS COMMISSION**

CHAIRPERSONS :

Abdul Hakim Garuda Nusantara (081315269523)

Coordination of the implementation of
the plenary sessions conclusion

Zumrotin K. Susilo (08159955744)

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the plenary sessions conclusion

**SUB-COMMISSION OF ECONOMIC, SOCIAL
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5. Hasballah M. Saad (0811990560)

Commissioner for the protection of the rights
of migrant workers and peasants

6. Taheri Noor (08164804404)

Commissioner for the protection of the rights
of minorities and adat law community

Jakarta, 27 July 2006

No. : 306C/TUA/VII/2006

Attachment : —

Subject : Request for Protection for Ahmadiyah Adherents

His Excellency

The President of the Republic of Indonesia

Recent incidents have shown that the right to life and the right to freedom of religion and belief have yet received full protection from the State/Government of the Republic of Indonesia as governed by article 71 and article 72 of the Act No. 39 Year 1999 on Human Rights.

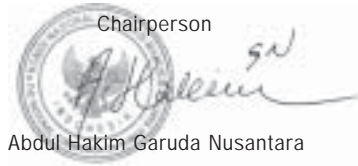
These incidents were, among others, attack of Mubarak Campus in Parung – Bogor, Cianjur – West Java, Bulukumpa and Jeneponto – South Sulawesi, Central Lombok, and last one in West Lombok. These incidents in several areas were attacks conducted by the local people towards the members of their own community. Currently, the Ahmadiyah adherents in West Lombok (they used to work as farmers) are forced to stay in the refugees' camp in Transito – Mataram.

They are placed in Transito because the West Lombok Ahmadiyah adherents are afraid to come back to their homes. As the results, they could not go back to their jobs as farmers in order to support their own lives. Moreover, their children could not continue their education.

Therefore, Komnas HAM demands that the Government should provide full safety protection for Ahmadiyah adherents di the region and in Indonesia as a whole. Thus, they could continue their living as farmers. Moreover, their children could continue their study.

Thank you for your attention.

The National Human Rights Commission of Indonesia

Chairperson

Abdul Hakim Garuda Nusantara

CC.:

1. Ministry of State Affairs
Jalan Medan Merdeka Utara No. 7, Jakarta Pusat.
2. Ministry of Religious Affairs
Jalan Lapangan Banteng Barat No. 3-4, Jakarta Pusat.
3. Ministry of National Education
Jalan Jend. Sudirman, Senayan, Jakarta Selatan.
4. Complaint Handling Unit of Komnas HAM.
5. Archieve.



**THE INDONESIAN NATIONAL
HUMAN RIGHTS COMMISSION**

CHAIRPERSONS :

Abdul Hakim Garuda Nusantara (081315269523)

Coordination of the implementation of

the plenary sessions conclusion

Zumrotin K. Susilo (08159955744)

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5. Hasballah M. Saad (0811990560)

Commissioner for the protection of the rights
of migrant workers and peasants

6. Taheri Noor (08164804404)

Commissioner for the protection of the rights
of minorities and adat law community

Jakarta, 6 November 2006

No. : 394/TUA/IX/2006

Attachment : —

Subject : Human Rights Problems Faced by Indonesia at Present
Time and in the Near Future / Request for Audieny

His Excelency

The President of the Republic of Indonesia

As mentioned in the Annual Report of the National Human Rights Commission of Indonesia (Komnas HAM) 2005, the year 2005 was considered as the new breaking point of human rights development in Indonesia with the ratification of the International Covenant on Economic, Social and Cultural Rights (ICESCR), 1996 and the International Covenant on Civil and Political Rights (ICCPR), 1966. Both of these instruments are considered as the international human rights Bills of Rights for the promotion and protection of human rights in the world.

However, looking at human rights condition in Indonesia in 2005 and in the eight months of 2006, conditions conducive for the implementation of human rights in Indonesia have yet been fulfilled. These conditions are among others:

I. On the settlement of gross human rights violations cases:

- (a) The Attorney General has yet follow-up with investigations the long-due Komnas HAM inquiries of several gross human rights violations cases, namely, Trisakti 1998, Semanggi 1998, dan Semanggi 1999 (TSS) incidents, Mei Riot 1998 incidents, Wasior 2001-2002 incident and Wamena 2003 incident;
- (b) Several members of the state apparatus still refuse to cooperate with Komnas HAM in the process of the projustitia inquiry on gross human rights violations, particularly enforced disappearance incidents in the context of crimes against humanity;

II. On the implementation and fulfilment of economic, social and cultural rights:

- (a) Increasing number of unemployment demonstrates the un-fulfilment of the right to work of million of people;

- (b) Suffering of many people in the regions due to *busung lapar* demonstrates the un-fulfilment of their right to food and their right to health;
- (c) Hot-mud flow incident which covers large areas and causes many people to become internally displaced persons as well as to lose their homes and jobs is a violation to their rights to survive and their right to good and health environment;

III. On the implementation and protection of civil and political rights:

- (a) The practices of freedom of speech in public of the members of the community often involved acts of violence and even blood-shed;
- (b) The continuity of acts of violence by state apparatus as well as radical groups in the community are violations of the right to personal safety, right to personal protection, as well as the honour and dignity of a person;
- (c) Disruption of the right to personal freedom, such as freedom to perform one's religion and belief as experienced by, among others, the Ahmadiyah adherents;
- (d) The continuity of discriminative treatment of particular religious adherents in performing their religion with the enactment of the Joint Ministerial Decree between Ministry of Religious Affairs and Ministry of State Affairs No. 9 Year 2006 / No. 8 Year 2006 on the Implementation Guidelines for Regional Leaders / Vice Regional Leaders in Maintaining the Harmony of Religious Adherents, Empowering Harmonious Religious Adherent Forum and Establishment of Holy Places

Moreover, consideration should also be given to particular issues, such as:

1. The failure to follow-up the implementation of international human rights instruments ratified by Indonesia at national level.
2. The failure of Munir's case disclosure through an appropriate investigation in accordance with the decision of Central Jakarta District Court which stated the involvement of other parties in the murder case of Munir.

With regard to the mentioned matters above, we would appreciate if we could convene with the President to discuss the matters from human rights perspective. The objective of the meeting is to assure the respect, protection, enforcement and fulfilment of human rights in Indonesia as guaranteed by the 1945 Constitution and the Act No. 39 Year 1999 on Human Rights.

Thank you for your attention.

The National Human Rights Commission of Indonesia

Chairperson



Abdul Hakim Garuda Nusantara



THE INDONESIAN NATIONAL
HUMAN RIGHTS COMMISSION

CHAIRPERSONS :

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Commissioner for the protection of the rights
of minorities and adat law community

Jakarta, 27 November 2006

No. : 417/TUA/XI/06
Attachment : 1 (one) bundle
Subject : Submission of the Result of Projustitia Inquiry on Gross
Human Rights Violations in the Enforced
Disappearance Incidents

His Excellency
The President of the Republic of Indonesia

According to the mandate based on the Act No. 26 Year 2000 on Human Rights Court, Komnas HAM had completed its projustitia inquiry on gross human rights violations in the enforced disappearance incidents in 1997-1998.

The result of the inquiry had found that 13 (thirteen) persons has become the victims of enforced disappearance whose fate has yet been known to present time, namely, Yani Afrie, Sony, Herman Hendrawan, Dedi Hamdun, Noval Alkatiri, Ismail, Suyat, Petrus Bima Anugrah, Wiji Thukul, Ucok Munandar Siahaan, Hendra Hambali, Yadin Muhidin and Abdun Naser. It is believed that the acts of violence towards these victims continue to the present day.

The investigation process has shown that the enforced disappearances were conducted by the State.

Detail explanation and description of the report are provided in the Executive Summary of the Report of the Ad Hoc Inquiry Team on Gross Human Rights Violations in the Enforced Disappearance in 1997-1998. These incidents are considered as one of the black pages in the history of Indonesian nation. On the one side, these incidents have caused continuous suffering of the victims' families since these cases have yet been investigated according to the law, including punishment for those responsible for these incidents. On the other side, these incidents have also shown that legal supremacy has yet been upheld in the Republic Indonesia.

Additionally, enforced disappearance cases have also gained the attention of international community. The United Nations Commission on Human Rights, recently replaced by the Human Rights Council, has

appointed a special rapporteur for this matter since May 2006. Moreover, the international community has also tried to establish a legal binding international instrument in order to avoid the recurrence of enforced disappearance incidents as well as to punish the perpetrators.

Legal settlements to these incidents, in this regard the Act No. 26 Year 2000 on Human Rights, as well as to other incidents categorized as gross human rights violations, which inquiries by Komnas HAM had been completed a long time ago but have yet investigated by the Attorney General (Trisakti, Semanggi I, 1998, Semanggi II, 1999 incidents; May Riot 1998 incidents; Wasior 2001-2002 incident; and Wamena 2003 incident), are of important nature for the implementation of law and justice in this country, particularly the continuity of the nation's movement towards legal supremacy and respect of human rights. Moreover, the legal settlements of these incidents will become assets for the Republic of Indonesia in its relationships with other States, including its membership in the Human Rights Council.

As noted, the 1945 Constitution (article 28 I paragraph (4)) and the Act No. 39 Year 1999 on Human Rights have stated that the State, particularly the Government, is responsible for the protection, respect, enforce and fulfilment of human rights.

Looking at the matters stated above, we recommend the Government to take these follow-up actions:

- a. To instruct law enforcement agencies to follow-up the result of the inquiry as stated above with investigation;
- b. To immediately endorse appropriate legal instruments for the establishment of an ad hoc Human Rights Court as stated in the Act No. 26 Year 2000 on Human Rights Court after receiving recommendation from the House of Representatives;
- c. To instruct the appropriate state apparatus to investigate the uncertainty of the existence and/or fate of the 13 (thirteen) persons as stated above with the intention to return them to their families in any condition.

Thank you for your attention.

The National Human Rights Commission of Indonesia

Chairperson



Abdul Hakim Garuda Nusantara

CC.:

1. Chairperson of the House of Representatives of the Republic of Indonesia.
2. Chairperson of the Third Commission of the House of Representatives of the Republic of Indonesia.
3. Archive.



**THE INDONESIAN NATIONAL
HUMAN RIGHTS COMMISSION**

CHAIRPERSONS :

Abdul Hakim Garuda Nusantara (081315269523)

Coordination of the implementation of
the plenary sessions conclusion

Zumrotin K. Susilo (08159955744)

Coordination of the implementation of
the plenary sessions conclusion

**SUB-COMMISSION OF ECONOMIC, SOCIAL
AND CULTURE RIGHTS**

1. Amidhan (0811172000)

Commissioner for the right of workers
and right to social security, and the right to work

2. Anshari Thayib (08161334934)

Commissioner for the right to health and
environment

3. M. Habib Chirizin (081314438848)

Commissioner for the rights to education,
science and technology

4. Saafroedin Bahar (0811147621)

Commissioner for the right of adal law community

5. Achmad Ali (08129543272)

Commissioner for the right to property

SUB-COMMISSION OF CIVIL AND POLITICAL RIGHTS

1. Soelityowali Sugondo (0816811215)

Commissioner for the right to justice

2. M. Said Nisar (0817881488)

Commissioner for the right of citizen

3. Samsudin (0818175165)

Commissioner for the right to life

4. Enny Soeprapto (08159312671)

Commissioner for the right to personal safety

5. Chandra Setiawan (0816970795)

Commissioner for the right to personal freedom

6. Hasto Atmojo Suroyo (08159003996)

Commissioner for the right to personal development

7. MM. Billah (021-8463763)

Commissioner for political right

SUB-COMMISSION OF SPECIAL GROUPS PROTECTION

1. Ruswati Suryasaputra (0818328585)

Commissioner for the protection of the rights of women

2. M. Farid (0816746753)

Commissioner for the protection of the rights of children

3. Djoko Soegianto (021-7994967)

Commissioner for the protection of the rights
of elderly and disabled persons

4. Koesparmono Irsan (08128478451)

Commissioner for the protection of the rights
of IDPs and the poor

5. Hasballah M. Saad (0811990560)

Commissioner for the protection of the rights
of migrant workers and peasants

6. Taheri Noor (08164804404)

Commissioner for the protection of the rights
of minorities and adat law community

Jakarta, 15 December 2006

No. : 426/TUA/XII/06

Attachment : 1 (one) bundle

Subject : Request of the fulfilment of ex. Heiho rights (Mr. Kaseran)

His Excellency

The President of the Republic of Indonesia

Komnas HAM had delivered a letter No. 244/TUA/IX/05 dated 19 September 2005 on the subject mentioned above to the President (copy of letter attached). After one year, Komnas HAM received a letter from Mr. Kaseran requesting the follow up of Komnas HAM letter to the President as mentioned previously.

Through this letter, Komnas HAM wants to re-emphasize that the Indonesian Government and the Japanese Government had signed a peace treaty in 1958 with the enactment of the Act o. 13 Year 1958 on the Peace Treaty and War Reparations between the Indonesian and Japanese Government.

The signing of the treaty did not mean that the Indonesian Government could allow the unfulfilment of the rights of Indonesian ex. Heiho since the legal consequences from the signing of the treaty at national level has become the responsibility of the Indonesian Government.

Therefore, Komnas HAM once again recommends the President of the Republic of Indonesia Indonesia to fulfil the rights of the ex-Heiho in Indonesia, including Mr. Kaseran due to the Indonesian Government responsibilities to protect, promote, uphold and fulfil human rights as govern by article 28I of the 1945 Constitution and article 8 of the Act No. 39 Year 1999 on Human Rights.

Thank you for your attention.

The National Human Rights Commission of Indonesia

Chairperson

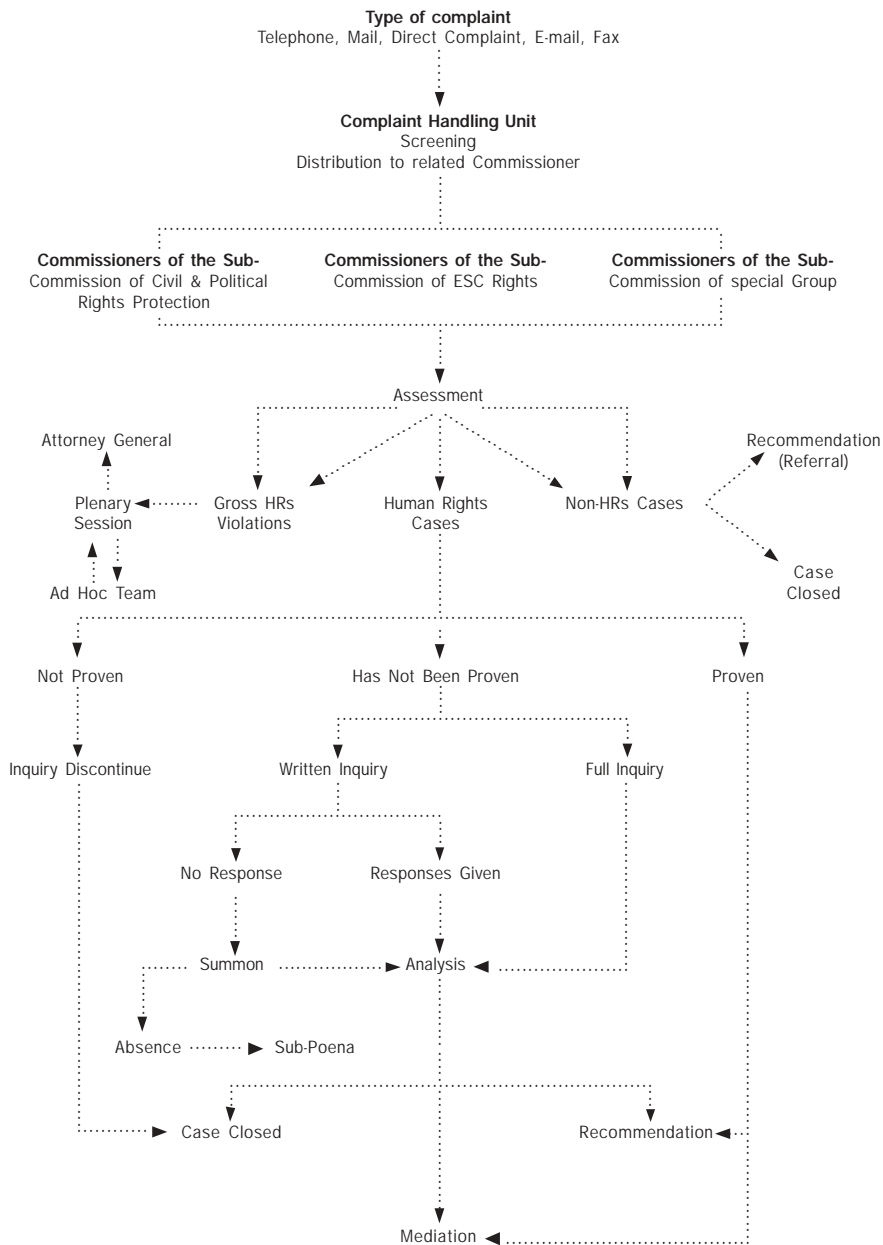
The image shows a circular official seal of the National Human Rights Commission of Indonesia on the left. To its right is a handwritten signature in black ink, which appears to be 'A. Hakim Garuda Nusantara'. The signature is written in a cursive style.

Abdul Hakim Garuda Nusantara

CC.:

1. Coordinating Ministry of Politic, Law and Human Rights of the Republic of Indonesia in Jakarta.
2. Ministry of Social Affairs of the Republic of Indonesia in Jakarta.
3. Ministry of Defence of the Republic of Indonesia in Jakarta.
4. Ambassador of the Japanese Embassy in Jakarta.
5. Mr. Kaseran
JI. Ikanmas, No. 32A, RT.01/RW.02 Karangrejo,
Banyuwangi, Jawa Timur.
6. Archieve.

COMPLAINT HANDLING PROCEDURE



REPORT OF KOMNAS HAM SECRETARY GENERAL IN 2006

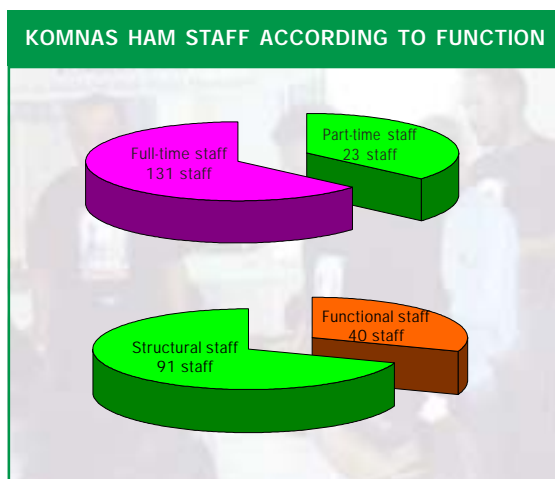
Year 2006 was the fourth year of management structuring of Komnas HAM aimed to provide organizational support as well as professional, transparent and accountable management resources. According to article 81 of the Act No. 39 Year 1999 on Human Rights, the function of the Secretary General of Komnas HAM is to provide support for the implementation of Komnas HAM programmes. The function is elaborated in the Presidential Decree No. 48 Year 2001 on the Secretary General of the National Human Rights Commission of Indonesia, which are to provide technical operational support for Komnas HAM, to coordinate, synchronize and integrate programmes administration and to follow-up Komnas HAM programmes; to administer the preparation of Komnas HAM works plans and programmes, and establishment of the Secretary General reports; to manage the administration of Komnas HAM membership and to conduct the organizational development, employee affairs and financial administrations of Komnas HAM; to manage Komnas HAM cooperation with related government agencies and non governmental organizations in Indonesia and abroad.

The management restructuring of the organization of the Secretary General was conducted, among others, through the restructuring of the administration in the Representatives and Representative Offices of Komnas HAM in the regions, development of employment and financial systems, and also establishment of guidelines in property inventory, office affairs, official correspondence and information and documentation system. Moreover, the Secretary General also carried out the restructuring and replacement of employees within the Secretary General office. To enhance the staff capacity, Komnas HAM Secretary General had conducted training in administration, finance, technical skill and knowledge on human rights.

The organization of the Secretary General consists of three bureaus, which are Bureau of Planning and Inter-Institute Relation, Bureau of General Affairs and Bureau of Administration and Conference Services. Until the end of 2006,

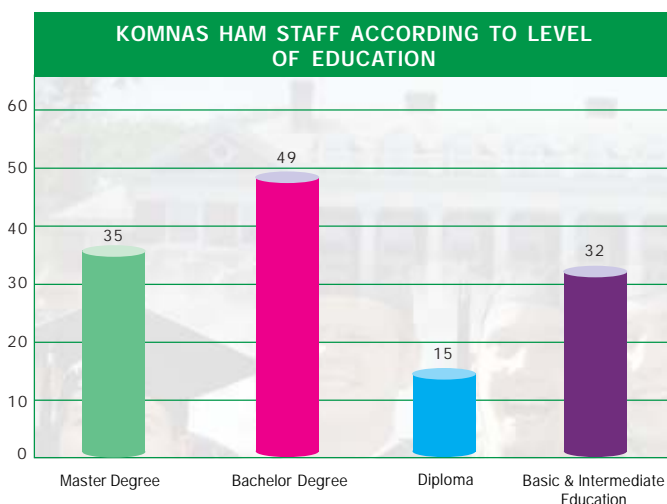
Komnas HAM had 131 full-time staff and 23 part-time staff. The full-time staff of Komnas HAM consisted of 40 professional (functional) staff and 91 administrative (structural) staff. (See diagram 5).

DIAGRAM 5



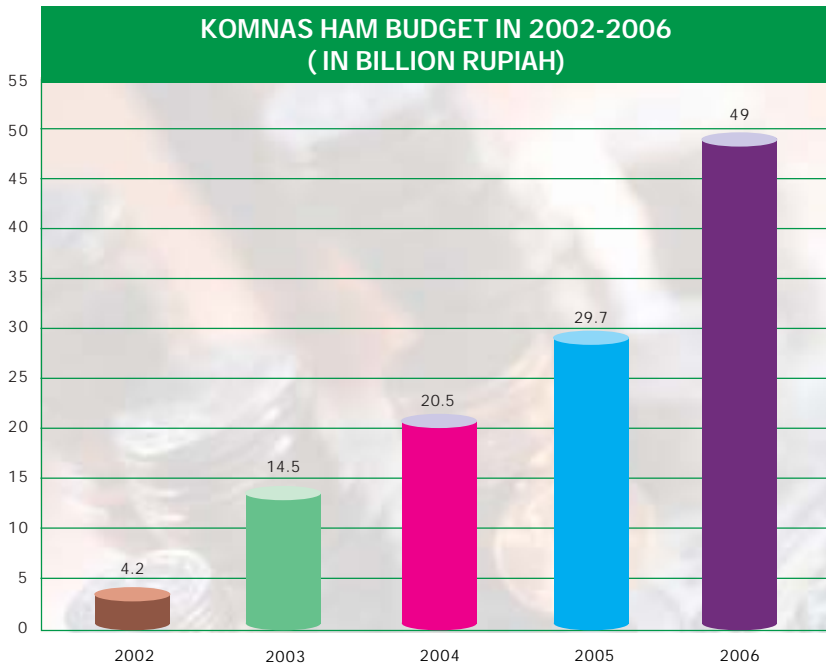
According to level of education, in 2006, full-time staff of Komnas HAM consisted of 35 staff with master degree, 49 staff with bachelor degree, 15 staff with diploma education level and 32 staff with high school education level. (See diagram 6).

DIAGRAM 6



In 2006, Komnas HAM budget received from the State Revenues and Expenditures (*Anggaran Pendapatan dan Belanja Negara* or APBN) is Rp. 49 billion. This budget is higher than the previous ones, which are as follows: Rp. 4.2 billion in 2002; Rp. 14.5 billion in 2003; Rp. 20.5 billion in 2004; and Rp. 29.7 billion in 2005. (See diagram 7).

DIAGRAM 7



* Source: The State Revenues and Expenditures

Komnas HAM also received grant in 2006 from the AusAID through the Indonesia Australia Legal Development Facilities (IALDF) to conduct programmes in capacity development, conflict mapping and human rights public campaign.

KOMNAS HAM FINANCIAL REPORT 2006 (Unaudited)

ACTIVITIES	TOTAL (Rp)	
	Revenues	Expenditures
A. REVENUES		
I. State Revenues & Expenditures (APBN)		
1. Honorarium	16,394,124,000	
2. Procurement	30,411,916,000	
3. Capital	2,499,060,000	
Sub Total A.I. : Routine Revenues	49,305,100,000	
II. Grants		
1. Balance on 2005 Grants	61,437,288	
2. 2006 Grants		
IALDF	1,387,567,325	
Sub Total A.II : Grants Revenues	1,449,004,613	
TOTAL REVENUES (A.I + A.II)	50,754,104,613	
B. EXPENDITURES		
I. State Revenues & Expenditures (APBN)		
1. Honorarium		11,904,461,076
2. Procurement		22,733,924,662
3. Capital		2,005,560,574
Sub Total B.I. : Routine Expenditures		36,643,946,312
II. Grants		
IALDF		757,396,780
Sub Total B. II : Grants Expenditures		757,396,780
TOTAL EXPENDITURES (B.I + B.II)		37,401,343,092
C. RETURN		
Balance on the Government Treasury		12,661,153,688
TOTAL RETURN		12,661,153,688
BALANCE ON 31 DECEMBER 2006 2006 (A - B - C)		691,607,833

KOMNAS HAM EXPENDITURES FROM THE STATE REVENUES AND EXPENDITURES (APBN) YEAR 2006 Unaudited

CODE	UNIT	BUDGET	Honorarium	Operational	Procurement & Printing	Official Travelling	Transportation	Meeting Package/ Event Organizer	Services	TOTAL
I	SUB-COMMISSION ON CIVIL & POLITICAL RIGHTS	4,362,491,000	500,311,129	803,479,488	209,090,492	582,965,675	242,393,000	2,071,833,701	.	4,410,073,485
II	SUB-COMMISSION ON ESC RIGHTS	3,300,001,000	435,187,240	556,214,005	58,165,354	850,638,734	220,511,760	882,000,469	.	3,002,717,562
III	SUB-COMMISSION ON PROTECTION FOR VULNERABLE GROUPS	3,321,098,000	366,545,739	599,959,827	136,819,553	591,182,374	213,324,501	1,086,949,875	.	2,994,781,869
IV	BUREAU OF ADMINISTRATIVE & CONFERENCE SERVICES	10,643,803,000	1,576,997,119	699,651,795	188,084,230	1,052,543,437	675,009,930	459,768,538	.	4,652,055,049
V	REGIONAL OFFICE IN NAD	455,470,000	7,535,000	89,258,504	12,789,000	33,353,200	.	.	122,193,925	265,129,629
VI	REGIONAL OFFICE IN MALUKU	452,823,000	.	55,785,210	4,817,005	54,963,300	.	.	113,457,745	229,023,260
VII	BUREAU OF PLANNING & FINANCE	11,668,952,000	7,862,573,383	71,148,049	.	624,891,110	137,494,800	.	.	8,696,107,342
IX	BUREAU OF GENERAL AFFAIRS	3,343,087,000	53,462,000	659,853,151	673,270,300	82,556,600	98,478,625	15,430,800	1,370,628,377	2,953,679,853
XI	DOCUMENTATION & INFORMATION CENTRE	1,197,200,000	385,351,210	187,497,985	514,090,125	68,897,700	16,200,000	29,019,421	122,199,000	1,323,255,441
XII	REPRESENTATIVE IN WEST SUMATERA	468,800,000	7,704,000	107,476,930	7,500,000	72,366,400	7,500,000	67,644,800	32,724,944	302,917,074
XIII	REPRESENTATIVE IN PAPUA	484,462,000	.	26,778,910	.	83,078,400	.	.	59,085,484	168,942,794
XIV	REPRESENTATIVE IN WEST KALIMANTAN	464,938,000	.	103,613,592	74,185,419	97,667,300	100,000	.	.	275,566,311
	TOTAL KOMNAS HAM	40,163,125,000	11,195,666,820	3,960,717,446	1,878,811,478	4,195,104,230	1,611,012,616	4,612,647,604	1,820,289,475	29,274,249,669
XV	COMMISSION ON VIOLENCE AGAINST WOMEN	9,141,975,000	2,909,735,200	496,079,306	2,136,766,699	768,496,290	163,670,500	508,414,631	344,487,339	7,327,649,965
	TOTAL EXPENDITURES 2006	49,305,100,000	14,105,402,020	4,456,796,752	4,015,578,177	4,963,600,520	1,774,683,116	5,121,062,235	2,164,776,814	36,601,899,634

* in IDR (Indonesian Rupiah)