

Oral Intervention
The Indonesian National Human Rights Commission/(Komnas HAM)
Under Item 6 – Universal Periodic Review

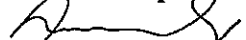
Concerning to the Report of Indonesia, the review process and the report of the Working Group on the UPR on Indonesia:

1. **The Indonesian National Human Rights Commission (Komnas HAM)** notes that the response on the questions on the role of Komnas HAM and its independence during the review process is not sufficient in describing the real situation faced by Komnas HAM. It should be born in mind that CRC and CERD observed on the insufficient impartiality and independence of Komnas HAM as mentioned during the review process. Komnas HAM also has identified many fundamental weaknesses within the Law No. 39/1999 on Human Rights in which Komnas HAM is regulated that have deterred the independence and function of Komnas HAM. Komnas HAM welcomes the conclusion and/or recommendation in the Report of the Working Group especially on the issue of the importance to strengthening national human rights institution. Komnas HAM recommends that this effort should include an effort to guarantee its impartiality and independence by inter alia amending the Law 39/1999.
2. Komnas HAM appreciates that many fundamental human rights issues were raised during the review process. Regrettably some of these issues were not properly responded by the Indonesian delegation including the issue on the protection of religious minority.
3. Komnas HAM welcomes the conclusion and/or recommendation of the report in affirming the commitment of Indonesia to combat impunity and encourage Indonesia to continue its efforts to combat impunity. These efforts, however, should be reflected in the willingness to prosecute the perpetrator of the gross violation of human rights including following up the result of the inquiries on the gross violation of human rights done by Komnas HAM and cooperating with Komnas HAM in the process of those inquiries.¹ In this regard, Komnas HAM gives emphasize to several weaknesses and deficiency of the Act No. 26/2000 on Human Rights Court that has deterred the judicial process of resolving the gross violation of human rights. Amendment of this Law should be part of the effort to combat impunity.² Finally, Komnas HAM is in view that this commitment to combat impunity should become voluntary commitment of Indonesia.

Geneva, 9 June 2008

The Indonesian National Human Rights Commission

Vice Chairperson,



Hesti Armiwulan

¹ Komnas HAM gained limited support and cooperation from the government to realize its functions in conducting inquiry on the gross violation of human rights. This is not merely on the issue of resources but also on the response of the government to the human rights cases that not been followed up by some of the government agencies (i.e. The Attorney General), although the inquiry of these cases had been completed. It is also important to mention 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.

² The weaknesses have been identified among others are:

- a. Lack of rules of procedure and evidence of its own;
- b. Inaccurate adoption or translation of certain relevant provisions on mechanism to solve possible different conclusions of the inquirer and the investigator;
- c. Lack of provisions relating to the initiation of proposals to establish ad hoc Human Rights Court;
- d. Lack of provisions conferring the inquirer with sub poena power
- e. Inadequacy of protection for victims and witnesses.