

## OPINION

# 1965 Tribunal: State vs international law

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It is not surprising that the Indonesian government does not want to accept the findings and recommendations of the International People's Tribunal on the case of the 1965 communist purge. Indonesia's refusal is a textbook case of a state's pragmatism in complying (or not) with international law.

First, the tribunal's findings will not affect Indonesia's international standing. Even since *Reformasi*, cases of human rights violations committed by the New Order have never engendered serious challenges to the state's legitimate status. The international community seems to focus more on Indonesia's progress in political democratization, participation in promoting stable and peaceful regional conditions in Southeast Asia and the Pacific, as well as involvement within intergovernmental authorities concerning transnational issues. These roles are advantageous for Jakarta, which can use them as a means of soft power to maintain legitimacy against human rights prosecutions.

The so-call "genocide", in fact, took place about 50 years ago when the nature and source of international legitimacy for Indonesia was quite different from what it is now. That is, set out by the global ideological politics between the US and the USSR, which was not related to the norms and principles of human rights protection. At that time, joining the US containment policy toward communist expansion was regarded as a crucial source of legitimacy.

Second, there is no real connection between accepting the tribunal's findings and recommendations with Jakarta's perceived vital interests through enlisting the agenda of human rights protection in its foreign policy.

Human rights protection is only present as the feature but not the substance of Jakarta's external conduct. What it does with ASEAN gives a clear example of inconsistency. Human rights protection is strongly invoked in collective institutional design. However, it is weakly imposed on the domestic structure. Indonesia supports an ASEAN human rights body established without the strength and tools to execute orders upon individual states.

Jakarta's position is continually conservative, defending the relevance of the principle of noninterference to each other's domestic affairs. With this policy, the government does not hinder societal efforts to internationalize the case of the 1965 communist purge, yet it will take no responsibility for fulfilling the outcome of the tribunal. Jakarta perceives the value of humanity as universal, but the implementation is particular, dependent upon local social, cultural and political circumstances.

To the government, what happened in 1965, the alleged communist coup and violence and the events that followed were part of internal dynamics that were not related to certain humanitarian grounds. Even those who survived the massacre could not say anything about the wider moral political context of the mass killings, nothing other than intergroup hatred that led to the killings. Perhaps, this is the logic for why Jakarta continues to ignore the genocide, while declaring its concern for other human rights issues.

Third, Indonesia has nothing to lose by not complying. Thus far there have been no significant international responses to Jakarta's refusal. Indonesia's main economic partners, such as the US, the EU, Japan and China, do not appear to consider the 1965 genocide as an issue in their bilateral relations with Indonesia. This is quite different to the case of political violence in East Timor where the US and the EU stood against Jakarta with

an arms embargo. The strategic and symbolic meaning of the two cases is viewed differently and consequently



The International People's Tribunal (IPT) on 1965 crimes against humanity in Indonesia is held in the Nieuwe Kerk in The Hague, the Netherlands, on Nov. 10 to 13. (Courtesy of the International People's Tribunal 1965-)

they bring about different effects to the Indonesian side.

Forth, there will be no domestic political implication of the government's position against the tribunal's recommendations. This is because, for one, the 1965 genocide is not as popular as cases of religious intolerance, child abuse, terrorism and other issues that attract the attention of the general public. Recent generations may have forgotten about the genocide. This is possibly on account of the lack of knowledge on the case of massacre.

For this reason, none of the competing political elites and parties pay attention to the victims, and many still suffer from the stigma of being communist. Bringing the discourse on genocide to the front of national politics could be unfavorable, because it is likely to incite counterproductive effects to the effort of national reconciliation. No politician is courageous enough to take the risk of splintering the country again after the loss of East Timor in 1999.

When these four factors remain at work, it is hard to imagine that the victims of the mass killings and their families will obtain legal justice from the current government. Despite President Joko Widodo's personal commitment to strengthening human rights protections, the 1965 genocide does not occupy an important place in the state's human rights policy considerations.

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