



## **Alternative Report to the Secretary General's Special Rapporteur on Torture on the issue of torture in Indonesia**

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*Submitted by the Asian Legal Resource Centre (ALRC)*

To facilitate the analysis of the problem of torture in Indonesia, this report makes comments on the situation of torture in Indonesia based on the list of recommendations by the UN Committee against Torture (CAT Committee) that was concluded in November 2002.

Recommendations made by the CAT Committee (Concluding Observations: Indonesia. 01/11/2002. A/57/44, paras. 36-46. (Concluding Observations/Comments):

***(a) Amend the penal legislation so that torture and other cruel, inhuman or degrading treatment or punishment are offences strictly prohibited under criminal law, in terms fully consistent with the definition contained in article 1 of the Convention. Adequate penalties, reflecting the seriousness of the crime, should be adopted;***

**ALRC Comments:** A revision of the Indonesian Penal Code is still being discussed in the House of Representative. A timeframe for approval of the code has still not been set. The draft of the penal code has been discussed for over twenty years and there is no time frame set for its approval by the parliament and by the President. In the draft of the Penal Code, the definition of torture reflects largely that which is stipulated in the Convention against Torture (CAT). However there is a serious flaw due to the failure on the part of the state to affirm the uniqueness of torture as is found in the last Government report of 2005 submitted to the CAT Committee, whereby maltreatment or assault is confused with the act of torture.

Indonesia in its last report also mentions that

*"...has also completed several other legislative measures in prohibiting torture. Among others are through the amendments of the 1945. Constitution (Article 28 I); promulgation of Law No. 39/1999 on Human Rights (Articles 33, 34, 67, 69, 71, 72, 74, 101, and 104); Law No. 26/2000 on Human Rights Courts; Law No. 3/1997 on Juvenile Justice, and Law No. 23/2004 on Domestic Violence."*

**ALRC Comments:** It seems that Indonesia is unable to differentiate between rights, obligation, and prohibition. The aforementioned mentioned laws are concerned with the rights and obligations of the citizens and the state. There is no single article in abovementioned laws which state the prohibition with the attached sanction as well. There is no law which stipulates that torture (in general circumstance, not in a way of crimes against humanity) is punishable under the existing Indonesian laws.

Despite repeated calls by the local and the international community to pass domestic laws that meet the requirements for such legislative provisions to be present as the result of the ratification of CAT by the state, Indonesia has adamantly refused to comply. The state owes these legal amendments to its people and the international community. There do exist a few laws drawn up haphazardly with no proper procedures, which have little efficacy in practice. In the draft of the penal code, there is a recommendation for a minimum of five years and a maximum of 20 years imprisonment for acts of torture given the fact that for cases of premeditated murder the punishment is much higher. There is no guarantee that the draft penal code will be approved by the parliament given the lack of comprehension that the state has regarding the crime of torture.

The deliberate refusal by the state to pass domestic legislation that corresponds to the exigencies of CAT has had the serious effect of denying justice to the victims of torture, whilst granting impunity to the perpetrators. Over the years the Asian Legal Resource Centre (ALRC) and its sister organization the Asian Human Rights Commission (AHRC), have been collecting information on numerous cases of torture inflicted both by the members of the military and the police. The information concerning all cases has been sent to the Attorney General and the National Human Rights Commission of Indonesia (Komnas HAM) for immediate intervention. However, in none of these cases has there been any redress provided to the victims.

In the report submitted by Indonesia a case of torture and the subsequent action by the Military Court mentioned, which raises more questions.

*“During a military patrol on 27 May 2003, three military personnel i.e., First Sergeant Haryono of 29 years old, Private First Class (Pratu) Alfian of 28 years old, and Private Second Class (Prada) Sudaryanto of 29 years old, all members of Yonif 144 South Sumatera were accused of afflicting torture on three civilians. The victims are Mr. Harndani Yahya, a 54 year old, chief of Lawung village; and two other villagers Mr. Maimun Ahmad, 40 years old; and Mr. Rajali, 51 years old. After investigating the case, the Military Court concluded that the three officers were proven guilty, sentenced to four months imprisonment, and fined.”*

**ALRC Comments:** The case which has been mentioned in the report is of torture. While the punishment meted out is thoroughly inadequate – 4 months of imprisonment. It is not clear under what law the case had been heard and the perpetrators had been convicted since there is no existing law regarding torture. If Article 359 of the Penal Code regarding Maltreatment has been used in the case, it further confirms that either the government of Indonesia is unaware of the gravity associated with the crime of torture, or it pretends to be ignorant for the purpose of granting immunity to the perpetrators who happened to be state agents. In either case the victims are deprived of the opportunity to seek justice. It is obvious that despite the ratification of CAT, the government of Indonesia does not have a coherent and genuine interest in the abolishment of torture.

In Indonesia torture is not only used as a punishment or to extract confessions, but is also often used for pecuniary gains. Most of the victims admit having escaped torture or its continuation after making substantial payments to the state agents, police or the military. Likewise, there are cases where torture was stopped due to payments. Some reports speak of open solicitation of money both to avoid illegal arrest, torture or even false charges being made. In these circumstances the suspicion arises whether this type of corruption is permitted by the state to compensate for the low salaries paid to the police.

## **Mechanism for Redress**

***(b) “Establish an effective, reliable and independent complaint system to undertake prompt, impartial and effective investigations into allegations of ill-treatment and torture by police and other officials and, where the findings so warrant, to prosecute and punish perpetrators, including senior officials”***

**ALRC Comments:** There is no specific effective, reliable and independent complaint system to investigate allegations of torture by the police. In the internal system of the police there is PROPAM, a mechanism, for reporting various kinds of abuses committed by members of the police. Cases can range from bribery to torture. An individual who wants to complain about such abuses can file a complaint to the PROPAM division which is provided for in most police offices.

The deliberate confusion created by the misleading definition of torture has resulted in the non-establishment of a mechanism for reporting, investigation and punishment that reflects the gravity of the crime, thereby rendering it impossible to obtain redress by the victims. The PROPAM mechanism that is currently available is neither preventive nor remedial and is not specific to the cases of torture.

The Asian legal Resource Centre in collaboration with the help of a few lawyers in Jakarta conducted a short research on the basis of a questionnaire, in the months of July and August, on the issue of torture. One of the questions in the questionnaire was related to the awareness of the people and the lawyers on the availability of a mechanism for redress in cases of torture. When inquired, some of the lawyers in the country referred to PROPAM. But this mechanism which is available at most of the police stations is for all offences committed by the police and is not specifically to address the complaints of torture. Except for cases of criminal offences which are referred to the Criminal Investigation Division, there is obscurity about the precise method of the functioning of PROPAM or the punishment meted out to the perpetrators. One lawyer rightfully remarked "we make the complaint and we do not know what happens next". Thus there is no transparency regarding the procedure or the outcome of the investigation by PROPAM. Obscurity regarding its scope or its procedures makes it impossible to make a proper assessment or for people to count on its effectiveness. In cases that have been dealt with in the experience of many of the lawyers and the human rights defenders the punishments often amounted to temporary dismissal, delaying promotions or other disciplinary measures which in no way reflect the gravity attached to the crime of torture.

Technically hearings of cases where torture or other offences were reported have to take place in public. But in fact reality, either nobody is informed about hearings or no one attends them, unless it concerns a high officer. The victims are not entitled to any compensation. Thus, to the ordinary citizens who have suffered torture at the hands of a state agent, the absurdity of going through this legal hassle where the perpetrator is unlikely to be punished and the victim is not compensated or of being further harassed by the perpetrator is real..

Even though there is provision for compensation, restitution and rehabilitation for the victims of gross human rights violations under Government Regulation No. 3 of 2002, it does not apply for individual cases of torture. Individual cases of torture as defined under Law No.26/2000 do not fall into the aforementioned category. On the other hand, if the use of torture can be proven to be widespread and systematic, then there is the possibility of Law No. 26/2000 being applied. But this possibility is vitiated by the absence of a mechanism that records and follows up on cases, from which emerging patterns can be traced.

## **Failure of the Human Rights Court Law as a mechanism for redress**

In Human Rights Court Law No. 26/2000, there is a provision to address torture provided it can be shown to amount to a 'gross human rights violation'. This literally means that there is no redress for individual cases of torture. Since the conditions and the process tied to a crime being declared a gross human rights violation are so cumbersome, it is almost impossible for a case to be heard in the court. The Human Rights Court Law is mandated to hear only cases of gross human rights violations as defined in Law No. 26/2000. For torture to be declared a gross human rights violation, certain conditions (e.g. widespread and systematic use, etc) need to be met. It is very difficult to make an assessment of the actual situation, given the failure on the part of the state to make an accurate account of the number of cases or the methods used in torture or finally, the reluctance on the part of the victims to report cases of torture (due to a host of reasons). The Human Rights Court Law is the only mechanism that can provide compensation, but it is yet to establish its credibility amongst the victims of gross human rights violations. This implies that the existing laws and mechanisms are thoroughly inadequate with regard to the prosecution of cases of torture.

The absence of a proper mechanism keeps the doors open for the continuing widespread use of torture by state institutions such as the police or the military. The attempted explanation and justification used by the state is that to prevent mounting crimes, requires a quick response. The state has failed to recognize that the situation of mounting crimes is due to the breakdown of the rule of law. It is due to its inability to prosecute and punish the perpetrators, based on proper investigations, that criminality has increased. The state seems to be

following a path of criminality to overcome mounting violence. Instead of employing well trained, skilled and qualified police officers to conduct investigations, the state is following the opposite path by allowing criminality within the forces that use torture to extract confessions. This form of investigation generates further violence and results in a distrust and fear of the state by its citizens.

***(c) Ensure that all persons, including senior officials, who have sponsored, planned, incited, financed or participated in paramilitary operations using torture will be appropriately prosecuted;***

**ALRC Comments:** This is publicly known to be the acid test for the prosecution. Senior ranking officers are untouchable by the judicial system since the days of Suharto and impunity reigns supreme. This situation is worsening day by day; it is no surprise that there is an idiom which says that: "if you have money you can buy the law".

**Case:** Please see [UA-228-2005](#), dated 6 December 2005. Army personnel attack three hamlets, injuring five residents and destroying village property. But only three soldiers received lenient sentences while other perpetrators are still at large regarding an attack on three hamlets in South Sulawesi, see [UP-018-2006](#), dated 2 February 2006.

***(d) Take immediate measures to strengthen the independence, objectivity, effectiveness and public accountability of the National Commission on Human Rights (Komnas-HAM), and ensure that all its reports to the Attorney-General are published in a timely fashion;***

**ALRC Comments:** In Human Rights Court Law No. 36 Year 2000, the time frame for Komnas HAM to submit its reports to the Attorney General (AG) is already indicated. The problem is not only whether Komnas HAM should submit its reports to the AG in a timely fashion, but rather concerns the inaction on the part of the AG to follow up on the investigations conducted by Komnas HAM. A few years ago, Komnas HAM submitted their findings regarding Trisakti, Semanggi I & II case to the AG, declaring them to be cases of gross human rights violations. But the AG declined to investigate on grounds that the House of Representatives should establish the ad-hoc Human Rights Tribunal first. The House disagreed and the dispute ended.

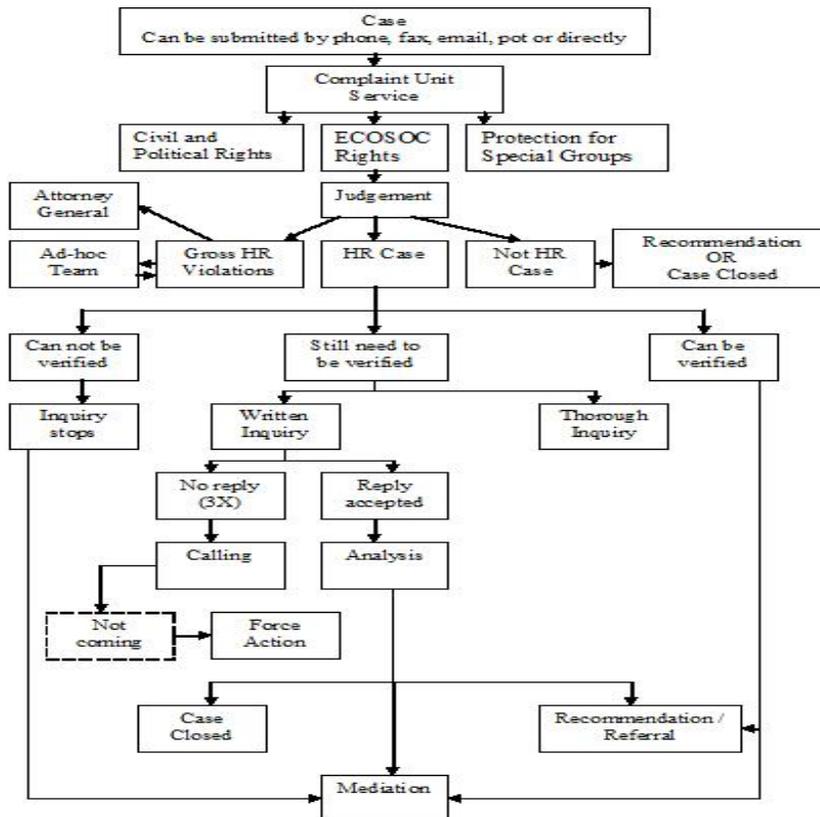
## **The role of Komnas HAM**

The National Human Rights Commission (Komnas HAM) is mandated in the country to conduct the necessary investigations in cases of alleged gross human rights violations. But the crux of the problem is that since Komnas HAM has not been recording individual cases of torture, it is not in position to assess its widespread and systematic characters and to declare it to be a gross human rights violation.. In other words how can Komnas HAM decide whether the use of torture is systematic and widespread without recording individual cases of torture. This situation is found to be a useful tool for the state to deny its widespread character and then blatantly ignore the responsibility to address the issue, which results in the denial of justice for victims.

For want of an effective and accessible mechanism victims of torture report cases to Komnas HAM, which are then apparently forwarded to the police. In none of the cases that have been reported to the Asian Legal Resource Centre victims have to date not received any redress from these institutions. While Komnas HAM is excused on the grounds that the lack of legislation or a special mandate prevents them from taking any concrete action, such as determining compensation, it has failed in its major responsibility in intervening with the attorney general to press for appropriate laws criminalizing torture and to educate the community and the police in all aspects related to the use of torture.

**ALRC Comments:** The previous administration of Komnas HAM was divided into thematic issues (civil and political rights and economic social and cultural rights). But now, the new administration of Komnas HAM is separated into monitoring, research and mediation divisions, as mentioned in the Human Rights Law. Furthermore, the method by which Komnas HAM receives complaints has not yet been decided by the new commissioner. With the limited resources it has at its disposal, speedy and effective action is hard to be imagined.

For additional information, the system by which complaints are made, under the previous commissioner, is shown below.



**(e) Ensure that crimes under international law such as torture and crimes against humanity committed in the past are investigated and, where appropriate, prosecuted in Indonesian courts;**

**ALRC Comments:** From 1965 onwards, a large number of persons have either been killed extra-judicially or were forcibly disappeared. The families of the victims are still seeking justice at present. Since the '65 massacre, there have been a series of subsequent atrocities - in Talangsari, Trisakti I and II, Semangi, the May Riots of 1998, and the disappearance of democracy activists in '97 and '98 - are yet to be investigated and the perpetrators have therefore not been prosecuted. Furthermore, some of the victims who survived the '65 massacre have continued to experience persecution and discrimination as ex-political prisoners (*bahasa: tahanan politik/tapol*) members with no hope of any restitution. The Truth and Reconciliation Commission established by the parliament was later discarded as being unconstitutional by the Constitutional Council without any other alternative being proposed. According to the provisions of the current legislation, either the Attorney General has the option of proceeding in many of the cases with investigation and/or the parliament can decide to set up an ad-hoc human rights court to try past gross violations of human rights. For cases committed after 2000, such a parliamentary decree is not needed. Hence, if no further

legislation is passed or existing legislation is amended, torture and crimes against humanity in the past will not be addressed in Indonesia, as political will and leaders who are not connected to past crimes are still lacking.

***(f) Continue measures of police reform to strengthen the independence of the police from the military, as an independent civilian law enforcement agency;***

**ALRC Comments:** There is a de-jure separation of the two institutions. But de-facto in certain cases the police functions under the control of the military. Furthermore, it has become difficult for the police to overcome its militaristic culture. No serious effort has been made to reform the police despite the creation of the Police Reform Commission. The reform process that was started years ago has come to a halt, and furthermore, the discussion on how the police has to be reformed and what are the shortcomings in its operational procedures that allow human rights abuses such as torture to repeatedly take place is not taking place publicly. Instead of engaging a wide range of civil society stake holders, such as NGOs, in the debate, the reform is left largely to the police itself. It can not be expected that under these circumstances, the reform will limit police power and add safeguards to protect the rights of suspects, perpetrators and other civilians from the police force. An opening process that revives the police reform debate and action is strongly needed.

***(g) Reduce the length of pre-trial detention, ensure adequate protection for witnesses and victims of torture and exclude any statement made under torture from consideration in any legal proceedings, except against the torturer;***

**ALRC Comments:**

**Long periods of detention leading to severe abuses and torture**

The existing law allows a person to be detained for 20 days with the possibility of a further 40 days. It is a blank cheque to the authorities. It permits all forms of abuses which include torture (both physical and psychological) and bribes. The period is so long that even the scars caused as a result of torture can disappear. There have been reports of the victims trying to commit suicide due to the unbearable situation of repeated torture.

For instance, the case of Mr. Mas Udin, who was detained at the Cengkareng Police Precinct (Kepolisian RI, Sektor Cengkareng, Resort Jakarta Barat) since his arrest on May 28. There have been several attempts by the staff of the Jakarta Legal Aid Institute to visit him at his detention cell but they were repeatedly denied entry by the police for various reasons. Their refusal is said to be due to an administration snag though it is legally permitted..

As the family and their appointed lawyer had been continuously denied access to see the victim, it became impossible for his condition to be ascertained. (See [UA-243-2007](#): INDONESIA: Police deny visit of family members and legal access to arrestee). His family was not allowed to see the arrestee until he was eventually tortured to death. This further confirms the position that denial of access to members of the family or legal representation provides the space for torture. This is clearly evident in the following case.

Following Teguh Uripno's arrest at around 11:00 am on April 20, 2007, his family immediately went to the Serpong police station. When they arrived at the police station, they were prevented from seeing the victim so they returned the following morning, April 21. However, once again they were not allowed to see the victim. No sufficient reason was given to them by the police as to why they were not allowed to meet him.

At around 3:30 pm on April 21, police representatives went to the house of the victim's family and informed them that he had died while being taken to a local hospital. The family immediately went to the hospital and upon arrival they found marks of severe beating on his body. Medical reports indicate his body showed several torture marks, his arm was broken;

he had a fractured skull and severe bruising. (See [UA-169-2007](#): INDONESIA: Man beaten to death by sector police in Tangerang).

## **Illegal arrest precedes torture**

**On 24 June 2007, the AHRC received information regarding the illegal arrest and torture of Hendrick Sikumbang by the police officers of Pekanbaru police office on 14 June 2007. The methods used in the arrest are more characteristic of an abduction than an arrest. The police brutally tortured Mr. Sikumbang after putting him in a vehicle and drove around the city instead of going to the police station or the court. The membrane of his eardrum was cracked due to torture and he still suffers from the severe injuries that he received to his body. Please see [UA-205-2007](#) for more detailed information.**

The available reports indicate a specific pattern whereby illegal arrests are followed by torture. In the afore-mentioned cases of torture leading to the death of Teguh Uripno and Hendrik Sikumbang, it can be asserted that illegal arrests had been deliberately carried out with the intention of torturing either as a punishment, to extract confession or to get money from the suspects.

On April 11, 2007, at around 3:30 a.m., around 30 unidentified men claiming to be Medan District Police Officers forced their way into Ms. Supiah's (the victim's sister's) home, demanding to see Mr. Suherman, the victim. When Ms. Supiah replied that Mr. Suherman was not at home, the attackers held him and his family at gunpoint while they proceeded to ransack his home. They seized two mobile phones without producing a search warrant. They then forced Ms. Supiah to take them to her brother's home. Barging into Mr. Suherman's home, they promptly arrested him, and again without a search warrant, ransacked his home in a similar fashion.

Ms. Juliana, victim's wife, and their children were then taken to the Medan Sub-District Police Station where they were investigated by the Police. Mr. Suherman was taken in the opposite direction to a yet unknown location. At around 6 a.m, Juliana was informed that her husband's dead body had been found. Autopsy reports later showed that Mr. Suherman had been shot in the chest. He also suffered bullet wounds to the left side of the navel and hip. Shockingly, Juliana was not allowed to identify her husband's body, which is a standard police procedure.

It has also been noted that in some cases, illegal detention and torture are carried out in places other than at the official place of detention. This phenomenon lends support to the view that illegal arrests and detention are deliberately used to enable torture in unofficial places, in order to prevent the identification of the location when complaints are lodged. ([UA-146-2007](#): INDONESIA: Medan District Police again bring the Rule-of-Law into dispute with the brutal murder of an innocent man)

## **Witness and Victim Protection Laws**

Even though the law on Victim and Witness Protection was been passed in 2006, its effective implementation depends on the creation of the Witness Protection Agency and the appointment of its members. As is the case in many laws and their enforcement, it is hard to know when this will come into effect, despite the legal requirement in Article 45 of Law 13 of 2006. So far there have only been about one hundred member applications, yet the law requires that a minimum of 200 persons apply.

The reluctance on the part of the victims and the witnesses to come forward to make complaints of torture comes from the fact that there is no law against which torture can be

prosecuted and secondly the fear of further victimization, since there is no witness or victim protection law. Even though the law was passed a year ago, there is reluctance to appoint the committee that is responsible for its implementation. Every citizen must have the guarantee that when her/his rights are violated by the state, there is a mechanism for reporting them without any fear of threats from the alleged perpetrators.

This guarantee is quite important given the fact that in cases of violations of rights by the state, for anyone who represents the state, the relationship is a-symmetrical. It is an individual vs. a state case. One is without any power while the other is with absolute power. In such a relationship of inequality, the victim needs all the guarantees that a complaint is recognized, impartially investigated, perpetrators punished and the grieved party amply compensated/rehabilitated without any semblance of the grieved party discriminated or threatened. In the absence of such a guarantee, all credibility in the institutions is lost and the justice system itself collapses, paving the way for anarchy.

## **Forced Confessions**

**ALRC Comments:** In the event that a person had already given a testimony in the investigation phase, the person will be asked again at the court and whether s/he wants to change their testimony or not. If the testimony which was testified at the court is different from that which was given at the investigation phase, the judge will use the one that was given at court. Sometimes, the judge may also ask why the testimony is different, and if s/he says that s/he is being pressured by the investigator, and a cross examination will be conducted in the court between the witness and the investigator.

However the reality is in stark contrast to what has been explained above. When the case of the Fabianus Tibo (60), Dominggus Da Silva (42) and Don Marinus Riwu (48), who were later executed in 2006, was heard in Poso, Sulawesi, they complained to the judge of severe torture during the interrogation. This plea was not even heard by the presiding judge. Since there are hardly any instances of cases of torture being considered by the judges, victims actually refrain from making any complaints. This is as good as saying that the forced confessions produce the quickest and the cheapest results.

## **Medical reports**

There is no regulation concerning medical reports: no rights and no obligations. Thus there is no person specially assigned or a specific procedure to deal with granting medical certificates in case of torture, except in cases of cell deaths of suspicious deaths. In the case of the latter a post mortem is requested by the police. Such reports can be used as evidence in the litigation.

In cases where family members of the victims would like the attention of a medical doctor, it is simply not possible, as access to places of detention is severely restricted. Restrictions applied to places of detention prevent the possibility of having an accurate picture of how widespread the practice is.

According to the information we have received, Mrs. Ni Ketut Suratni (57), was arrested by East Denpasar Police Sector in Bali on 3 January 2007 when she was shopping in market, suspected of counterfeiting money valued at Rp.50,000 (USD 6) that she paid at the market. The victim was severely hit and kicked by two police officers, Bripka I Made Wiguna and Brigadier Erwin Suprayoga during the police interrogation. On the night of January 11, the victim was examined by public medical doctors at the police hospital for a "visum et repertum", a medical report for an injury case that was then issued by the public medical doctors. However, the medical report did not clearly identify the injuries on the victim as having been caused by beating.

The victim's lawyers then submitted a request for another medical examination for "visum et repertum" by independent doctors as the previous medical report had been issued by doctors from the police hospital. The second examination for the report has not been conducted yet. ([UA-020-2007](#): INDONESIA: Woman severely injured by brutal assault while in detention by police in East Denpasar)

It has also been reported that in most of the cases of torture, when medical practitioners are approached for medical reports, there is a reluctance to produce accurate medical reports. Or else the issuing of the medical reports is purposely delayed as was the case with Mr. Hendrik Sikumbang, who was illegally arrested and tortured by Yusril, a former member of West Sumatera Police Regional office, who is currently stationed at Pekanbaru police office. As a result of beating by the police, Sikumbang suffered severe bruises and scars on the head, face and neck. Moreover, Sikumbang's ear was bleeding so profusely that according to Dr. Yan Edward, an otologist, the membrane in Sikumbang's ear had cracked, resulting in hearing loss. To date, the medical report on this case is still being processed.

On 15 June 2007, Sikumbang filed a formal complaint to West Sumatera Regional Police office about the torture by the police. However no action has been taken by them. The delay in procuring the medical certificate constrains the victim from pressing for justice in this case. ([UA-205-2007](#): INDONESIA: Man illegally arrested and tortured by Pekanbaru police)

Most of the lawyers acknowledge that their clients are tortured or induced to pay money to escape torture, but are unable to assert with certainty the gravity of the problem.

Besides, being aware of their long incarceration of 20 days or a possible maximum of another 40 days with the torturers, the suspects tend to succumb to torture as something inevitable and when they are released after one or two months, due to a sense of shame many of the victims do not want it to be divulged. They tend to suffer silently. In particular in cases where the victim of torture has committed a breach of law for example by an act of theft, the sense of guilt makes most victims accept their treatment and such frequent cases are hardly reported to any institution.

***(h) Ensure that human rights defenders are protected from harassment, threats and other attacks;***

**ALRC Comments:** There have been series of attacks and threats on the lives of human rights defenders from West Papua who have met with the UN Human Rights Defenders Special Representative (see the appeal that was issued by us: [UA-209-2007](#) and the [update](#) on this case). The last reported attack was on the Chairperson of the Papuan Representative office of the National Human Rights Commission (Komnas HAM), Mr. Albert Rumbekwan on 24<sup>th</sup> of September 2007 and the Catholic priest Catholic Priest Yohanes Djonga Pr a few days earlier.

On November 2005, several human rights activists and supporters who held demonstrations at the Central Jakarta District Court before the scheduled court hearing into the murder of human rights activist Munir Said Thalib were attacked by at least 10 hired thugs, in a larger group of around 50 persons ([UP-139-2005](#)).

On May 2003, the office of KontraS (Commission for the Victim of Disappearances and Violence) and their staff were attacked again by militias with military backing ([UA-15-2003](#)). These cases reported to the AHRC are just a few examples showing under what stress and harassment that the human rights defenders are operating in the country. Ms. Suciwati, the widow of late human rights defender Munir has experienced severe harassment and no protection was provided to her despite numerous promises made by the government.

There is a new threat to the human rights defenders: they are labeled as “new communist activists” reminiscent of the ‘65 massacre.

Despite the enormous pressure exerted by the local and international civil society organizations, the prosecution is dragging its feet regarding the murder of Munir. Judging from the various reports that are emerging, despite the secrecy surrounding the legal procedures, it is becoming clear that the highest intelligence bodies are involved in the murder of Munir.

***(i) Reinforce human rights education to provide guidelines and training, regarding in particular the prohibition of torture, for law enforcement officials, judges, and medical personnel;***

**ALRC Comments: Live cases of torture on TV channels**

With the ratification of the Convention Against Torture the state is under obligation to have its citizens educated on the crime of torture. Surprisingly, quite contrary to the requirements of the Convention, a number of people claim to have seen torture inflicted by the police on some of the TV channels. Apparently, due to the complaints made by the people, broadcast of violent scenes and torture have decreased.

This has never been identified as a serious offence by any of the state organs or institutions or even by Komnas HAM. How can a state apparatus such as the police publicly commit an act of torture and have it publicized over the TV, when it has given a commitment to the international community to stop torture and precisely to refrain from using it as a punishment or drive fear into the minds, particularly the children. By portraying police practice with the use of torture on popular TV shows, a moral legitimization is granted and the social acceptance of the practice is reinforced.

Komnas HAM in its report of 2006 admits of the large scale use of torture by the members of the armed forces despite the various dissemination sessions conducted to them during the year. The report adds that it is the lack of understanding of Indonesia’s obligation to apply the Convention which has been ratified by the Law No 5 Year 1998.

***(j) Take immediate steps to address the urgent need for rehabilitation of the large number of victims of torture and ill-treatment in the country;***

**ALRC Comments:** Trauma Centre and Social Protection Houses exist in Indonesia. The Government has established Trauma Centers in many regions. But it is not designated specifically for victims of torture. It is designated for victim of violence, sexual harassment, victim of rape, domestic violence, and child abuses.

***(q) Widely disseminate the Committee’s conclusions and recommendations throughout the country, in all appropriate languages.***

**ALRC Comments:** The government does not disseminate the Committee’s conclusions and recommendations to its citizens. Even if they do, the conclusions and recommendations are not widely known. Based on the questionnaire conducted by AHRC, 5 of 20 lawyers said that the punishments are not made transparently. They have to follow the case progress very closely if they want to know.

**Access to the places of detention or even prison**

**ALRC Comments:** There is no law regulating provision in which everyone has access to the places of detention or even prison, but according to Indonesian Procedure Code and Law No. 12 Year 1995 regarding Correctional Institution, a prisoner has the right to be visited by

his/her family, lawyer, and other persons. However, also this right remains without clear enforcement regulations and practice.

### **Concluding Recommendations:**

1. Domestic law with appropriate definition of torture, a mechanism for redress, adequate punishment and compensation for victims to be passed as quickly as possible.
2. Creation of a special mechanism for complaints of torture.
3. The system of prolonged detention must be discontinued and instead a period that is in line with the international laws must be fixed,
4. Lawyers and the members of the recognized NGOs must be allowed access to detainees,
5. The commissioners of Komnas HAM must be authorized to visit places of detention so as to record cases of torture and as a preventive measure
6. Medical examinations to be conducted in the places of detention without the presence of the authorities and in case of serious torture, medical treatment must be provided by the authorities

## ANNEX 1: LIST OF TORTURE CASE SUMARIES RECEIVED IN THE LAST 3 YEARS

No	Number UA / Title	Information
1	<a href="#">UA-227-2007</a> , 19 July 2007  Man arbitrarily arrested and falsely charged after torture by Benteng police	<p><b>Name of the victim:</b> Sumadi (34), residing at Jl. Baru Luk RT. 04/02. Bakti Jaya District of Cisauk, Tangerang</p> <p><b>Name of alleged perpetrators:</b> 1. Maryono, a member of the Intelligence and Protection Unit of the Metro Jaya police station (Direktorat Intelkam Polda Metro Jaya) in Jakarta 2. Deli and Boy, subordinates of Maryono and work for the Metro Jaya Police Station in Jakarta 3. Unidentified policemen from Benteng Police Station in Tangerang City</p> <p><b>Date of incident:</b> 4 July 2007</p> <p><b>Places of incident:</b> In the street outside the Tangerang State Courthouse; In a public transportation on the way to Benteng Police Station; Inside the Benteng Police Station</p>
2	<a href="#">UA-205-2007</a> , 25 June 2007  Man illegally arrested and tortured by Pekanbaru police	<p><b>Name of the victim:</b> Hendrik Sikumbang, a resident of Padang City</p> <p><b>Name of alleged perpetrators:</b> Yusril and other unidentified police officers attached to Pekanbaru Police Station</p> <p><b>Date of incident:</b> 14 June 2007</p> <p><b>Place of incident:</b> In the Kijang car with blue colour</p>
3	<a href="#">UA-201-2007</a> , 22 June 2007  Young man tortured in police station at Tegal, Central Java	<p><b>Name of the victim:</b> Kurniawan (Iwan), 23 years old</p> <p><b>Alleged perpetrators:</b> Unidentified police officers of Tegal police headquarters, Central Java</p> <p><b>Date of incident:</b> 3 May 2007 until recently; the torture is allegedly stopped</p> <p><b>Place of incident:</b> Detention room of Tegal police headquarters, Central Java</p>
4	<a href="#">UA-169-2007</a> , 23 May 2007  Man beaten to death by sector police in Tangerang	<p><b>Name of the victim:</b> Teguh Uripno, a resident of Tangerang district</p> <p><b>Alleged perpetrators:</b> First Brigadier Police' Syarifudin and Arifin and other seven unnamed police officers, all attached to the Serpong Sector Police</p> <p><b>Date of incident:</b> 20 to 21 April 2007</p> <p><b>Place of incident:</b> Serpong Sector Police Headquarters, Tangerang district</p>
5	<a href="#">UA-146-2007</a> , 4 May 2007	<b>Name of victim:</b> Mr. Suherman

	Medan District Police again bring the Rule-of-Law into dispute with the brutal murder of an innocent man	<p><b>Name of alleged perpetrators:</b> 30 yet unidentified men claiming to be Officers of the Medan District Police.</p> <p><b>Date of incident:</b> 11th April 2007</p> <p><b>Place of incident:</b> Mr. Suherman's residence: Trikora 26, Tegal Sari, Medan, Northern Sumatera. Undisclosed location where the murder took place.</p>
6	<p><a href="#">UA-121-2007</a>, 12 April 2007</p> <p>Alleged severe torture of six teenage youth by police over petty quarrel</p>	<p><b>Name of victims:</b> 1) Mr. Odi Modokh, 2) Mr. Arnoldus Janggur, 3) Mr. Albertus Benda, 4) Mr. Marseinus Janggur, 5) Mr. Dohol Janggur, 6) Mr. Beni Herwanto (All of them are detained at the Manggarai Resort Police Station as of 12 April 2007)</p> <p><b>Alleged perpetrators:</b> 1. Mr. Eko Chayora, officer attached to the Manggarai Resort Police Station, Nusa Tenggara district, South-Eastern Indonesia 2. One officer responsible for victim 1's unlawful arrest and torture, attached to the Manggarai Resort Police Station (can be identified by Victim 1)</p> <p><b>Date of incident:</b> 29 and 30 January 2007</p> <p><b>Place of incident:</b> Manggarai Resort Police Station in Nusa Tenggara district</p>
7	<p><a href="#">UA-086-2007</a>, 16 March 2007</p> <p>Brigadier officer assaults hospitalised teenage boy</p>	<p><b>Name of victim:</b> Mr. Aditya Panji Akbar, 18 year-old</p> <p><b>Name of alleged perpetrators:</b> Brigadier Officer Simarmata of the Medan City Police</p> <p><b>Date of incident:</b> 11 January 2007 at around 6:10pm</p> <p><b>Place of incident:</b> Mental Health Ward of the Bhayangkara (Police) Hospital, Medan City, Northern Sumatra</p>
8	<p><a href="#">UA-068-2007</a>, 28 February 2007</p> <p>Alleged brutal torture and sexual abuse by the Banda Raya police</p>	<p><b>Name of victims:</b> 1) Mr. Hartayo, aged 32, local NGO worker at the Matahari Foundation in Aceh 2) Bobby; Mr. Hartayo's partner</p> <p><b>Alleged perpetrators:</b> 1) Officers attached to the Banda Raya police station in Banda Aceh 2) 16 yet unidentified civilian attackers in Banda Aceh 3) Employee of "Pesona" Café locating below Mr. Hartayo's boarding-house in Banda Aceh</p> <p><b>Date of incident:</b> 22-23 January 2007</p> <p><b>Place of incident:</b> Mr. Hartayo's boarding-house residence in Banda Aceh; Banda Raya police station in Banda Aceh</p>
9	<p><a href="#">UA-020-2007</a>, 23 January 2007</p> <p>Woman severely injured</p>	<p><b>Name of the victim:</b> Mrs. Ni Ketut Suratni (57), the resident of Jln. Sulatri No. 29 Kesiman Petilan Village, East Denpasar, Bali</p>

	by brutal assault while in detention by police in East Denpasar	<p><b>Name of alleged perpetrators:</b> 1. Chief Brigadier I MADE WIGUNA, Police ID: 68010139 2. Brigadier ERWIN SUPRAYOGA, Police ID: 76100156</p> <p><b>Place of the incident:</b> East Denpasar Police Sector in Bali</p> <p><b>Period of detention:</b> From 3 January 2007 to date</p>
10	<p><a href="#">UA-022-2007</a>, 23 January 2007</p> <p>Alleged brutal murder of a 14 year-old boy by Jakarta police</p>	<p><b>Name of victim:</b> Irfan; 14 years-old, worked as a "jockey"</p> <p><b>Name of alleged perpetrators:</b> Nine officers of the Municipal Administrative Police Unit (SATPOL PP)</p> <p><b>Date of incident:</b> At around 7:00am on 8 January 2007</p> <p><b>Place of incident:</b> Pakubowono Street, Southern Jakarta, Indonesia</p>
11	<p><a href="#">UA-320-2006</a>, 27 September 2006</p> <p>Assault of a mother of four-year-old daughter by the Jakarta police</p>	<p><b>Name of victim:</b> Ms. Sugihart; 31-year-old impoverished mother of four-year-old child, and a "Jockey" (See explanation below).</p> <p>Explanation: Jakarta City Administrative and Police authorities introduced a new regulation in attempts to reduce the heavy traffic congestion in the city-centre, which states that private cars are required to carry a minimum of at least three passengers when traveling on the major urban thoroughfares during peak traffic-hours. However, many drivers in Jakarta openly contested this regulation by hiring "jockeys"; young men and women who can be hired for a fee of a few thousand Rupiah (less than 1 USD) by drivers as a third passenger, thus enabling them to travel during peak traffic-hours, without having to pay the penalty fines for violation of this traffic regulation.</p> <p><b>Alleged perpetrators:</b> Five officers of the Municipal Administrative Police Unit (SATPOL PP).</p> <p><b>Date of incident:</b> 5 September 2006</p> <p><b>Place of incident:</b> Menteng District Office, Central Jakarta, Indonesia</p>
12	<p><a href="#">UA-312-2006</a>, 20 September 2006</p> <p>Police and corrections officers torture detainees</p> <p>Updates: <a href="#">UP-215-2006</a>, 30 November 2006 / Police officer found guilty on the count of torture, receives</p>	<p>CASE 1: <b>Name of Victim:</b> Mr. Rudi Sebastian Alleged Perpetrators: Four officers of the Garut Correctional Institution: Ahmad Syarif, Nana, Catur, Oki</p> <p><b>Date of Incident:</b> 16 August 2006</p> <p><b>Place of Incident:</b> The Garut Correctional Institution (Lembaga Pemasyarakatan Garut) in Garut district of West</p>

	light disciplinary sentence	<p>Java</p> <p>CASE 2:  <b>Name of Victim:</b> Kurniawan, the driver of a public transportation car (Sopir Angkutan Kota)</p> <p><b>Alleged Perpetrators:</b>  1. Officers of the Jati Asih Police (responsible for arbitrary arrest and detention)  2. Brigadier BN and Brigadier Y attached to the Jati Asih Sector Police Headquarters, Bekasi Province (prime suspects for torture)</p> <p><b>Date of Incident:</b> 8 September 2006</p> <p><b>Place of Incident:</b> Jati Asih Sector Police Headquarters, Bekasi Province.</p>
13	<p><a href="#">UA-276-2006</a>, 25 August 2006</p> <p>Police torture man severely, resulting in his death</p>	<p><b>Name of victim:</b> Denny Leuwol, 30, citizen of Haria hamlet, Saparua, Central Maluku</p> <p><b>Alleged perpetrators:</b> three officers of Maluku Provincial Police (initials AT, RR, QW) and one civilian (OL)</p> <p><b>Place of incident:</b> Benteng Police Pos Headquarter.</p> <p><b>Date of incident:</b> August 19, 2006</p>
14	<p><a href="#">UA-262-2006</a>, 7 August 2006</p> <p>Illegal detention and shooting incident of two men by the Bangsalsari Sector Police in East Java</p>	<p><b>Name of the victims:</b> Samo and Mattasan (siblings), farmers by occupation</p> <p><b>Alleged perpetrators:</b> Officers of Bangsalsari Sector Police, Jember, East Java (one of Butar Butar, two unknown)</p> <p><b>Period of illegal detention:</b> Arbitrarily arrested in August 2002 and illegally detained about two months without any charges; shot by the police in their legs 6 days after their arrest</p>
15	<p><a href="#">UA-063-2006</a>, 15 February 2006</p> <p>Alleged extra-judicial killing of a man by the Resort Police of West Jakarta</p>	<p><b>Name of victim:</b> Dayus, aged 48, entrepreneur, residing in Jl. Pisangan Baru Tengah IV no. 17, Jatinegara, East Jakarta, Indonesia</p> <p><b>Alleged perpetrators:</b> The officers attached to the drugs unit of Resort Police of West Jakarta</p> <p><b>Place of incident:</b> The Resort Police of West Jakarta</p> <p><b>Period of incident:</b> 24 to 29 January 2006</p>
16	<p><a href="#">UA-056B-2006</a>, 8 February 2006</p>	<p><b>Name of victim:</b> Yupiter Manek (alias Igung)</p>

	<p>A man allegedly tortured to death by the Belu police</p> <p>Updates:  <a href="#">UP-087-2006</a>, 20 April 2006 / Perpetrators of torture and murder must be properly prosecuted and punished</p>	<p><b>Alleged perpetrators:</b> Officers attached to the Resort Police Belu</p> <p><b>Date of incident:</b> Between 18 and 22 December 2005</p> <p><b>Place of incident:</b> Resort Police Belu, East Nusa Tenggara, Indonesia</p>
17	<p><a href="#">UA-020-2006</a>, 12 January 2006</p> <p>Torture of two villagers by police in South Sumatera over permission letters to buy cows</p>	<p><b>Name of victims:</b> Arafik Bin Amri (25), Hendri Bin Suandi (20) and Hendra Gunawan (25)</p> <p><b>Name of alleged perpetrators:</b> Briptu Bram Fahlevi, Briptu Rahmat Dedi Kurniawan, Bripda Meki Daniel Ortega, Bripda Niko Apero Atma, Bripda Hendy Afrizal, Bripda Okky Sakti, Bripda Herwindo, Bripda Andi Triana, the police officers in Sector Police Office of Buay Runjung, South Sumatera</p> <p><b>Place of incident:</b> Sector Police Office of Buay Runjung, South Sumatera</p> <p><b>Date of incident:</b> 23 November 2005</p>
18	<p><a href="#">UA-239-2005</a>, 16 December 2005</p> <p>Custodial torture of ten men by Central Sulawesi Provincial Police</p> <p>Updates:  <a href="#">UP-120-2006</a>, 8 June 2006 / Torture victims in Central Sulawesi sentenced to nine years imprisonment</p>	<p><b>Victims:</b> Sahidu (30), Hasanudin (40), Bambang (21), Lei (35), Nanga (17), Masuna (48), Kahar (21), Raya (29), Asani (45) and Olimin (21), all of whom are farmers from Salena Dusun, Kelurahan Buluri, Kota Palu Central Sulawesi Province</p> <p><b>Alleged perpetrators:</b> Police officers in the Central Sulawesi Provincial Police Office, one of whom is Brigadier (Bripda) Max</p> <p><b>Place of incident:</b> Central Sulawesi Provincial Police custody, Jl. Sam Ratulangi Palu, Central Sulawesi</p> <p><b>Date of incident:</b> 27 October 2005 until UA issued</p>
19	<p><a href="#">UA-228-2005</a>, 6 December 2005</p> <p>Army personnel attack three hamlets, injuring five residents and destroying village property</p> <p>Updates:  <a href="#">UP-018-2006</a>, 2 February 2006 / Three soldiers received lenient sentences while other perpetrators are still at large regarding an attack on three hamlets in South Sulawesi</p>	<p><b>Name of victims:</b> Civilian villagers of three hamlets (Dusun Karama, Dusun Bonto Badong, Dusun Ujung Moncong) Desa Banri Manurung, Kecamatan Bangkala Kabupaten Jeneponto, South Sulawesi and Police Brig. Syafrie</p> <p><b>Alleged perpetrators:</b> Army personnel from the 700th Raider Infantry Battalion and other people from outside the villages</p> <p><b>Date and place of incident:</b> 29 November 2005 in Karama, Bonto Gaddong and Ujung Moncong hamlets in Bandri Manurung village, Jeneponto regency, 80 km south of the provincial capital of Makassar, Sulawesi</p>

20	<p><a href="#">UA-213-2005</a>, 18 November 2005</p> <p>A man died of brutal torture following his release from military custody in Central Jakarta</p>	<p><b>Name of the victim:</b> Bagus Ariyanto (51)</p> <p><b>Alleged perpetrators:</b> Army officers attached to the Detachment Supplies and Transportation Jaya Raya 44-12, TNI AD (Denhar 44-12, TNI AD), Jakarta Indonesia - 10 persons are military officers, 1 person is a civilian employed in this office.</p> <p><b>Date and place of incident:</b> 15 to 16 October 2005 at the Army Station of Detachment Supplies and Transportation Jaya Raya (Denbekang Jaya Raya)</p>
21	<p><a href="#">UA-210-2005</a>, 16 November 2005</p> <p>A 28-year-old man tortured and detained over mistaken identity by Resort Police Belitung Timur</p>	<p><b>Name of the victim:</b> Fitriyanto (Sanep), 28-years-old. He is a driver of a motorcycle taxi (Tukang Ojek)</p> <p><b>Alleged perpetrators:</b> Some police officers of Resort Police Office Belitung Timur (Mapolres Belitung Timur), Bangka Belitung, Indonesia</p> <p><b>Date of incident:</b> 12 September 2005</p> <p><b>Place of incident:</b> Resort Police Office Belitung Timur (Mapolres Belitung Timur)</p>
22	<p><a href="#">UA-148-2005</a>, 22 August 2005</p> <p>Lack of effective remedies for 23-year-old torture victim</p> <p>Updates: <a href="#">UP-121-2005</a>, 19 October 2005 / Only one torture perpetrator charged with maltreatment while the others are still at large in Kupang</p>	<p><b>Name of the victim:</b> Elfrianus (Alfred) Ulu, 23, student at the Maritime Academy of Kupang, capital of East Nusa Tenggara Province, Indonesia.</p> <p><b>Alleged Perpetrators:</b> Yupiter M. Bolla; Ferdinand S. Kiuk; Benyamin Lede Kana; Nelson Hatu Riwu; Yusuf Stefanus Dalla, all prison officials of the Penfui Correctional Institution, Kupang</p> <p><b>Place of the Incident:</b> Penfui Correctional Institution, Kupang</p> <p><b>Date of the Incident:</b> 5-8 March 2005</p>

23	<p><a href="#">UA-140-2005</a>, 10 August 2005</p> <p>Arbitrary arrest, detention and torture of four persons during the “investigation” into the 28 May-terrorist bombing in Poso, Sulawesi</p>	<p><b>Victims:</b> Jumaedi (25), Jumeri (23), Mastur Saputra (25), Sutikno (23), farmers from Pandajaya Village, South Pamona Subdistrict (Kecamatan), Poso District (Kabupaten), Central Sulawesi Province</p> <p><b>Alleged perpetrators:</b> Police Commissioner Rikynaldo, CH Sik, Vice Chief of the Poso District Police (Polres Poso) Officers of the Police Mobile Brigade (Brimob) of the Central Sulawesi Provincial Police, the Anti-Terror Detachment 88 of the National Police, the ‘Buru Segap’ units of the Central Sulawesi Provincial Police and the Poso District Police, as well as officers of the Police Intelligence Service (Intelkam) of the Central Sulawesi Provincial Police and the Poso District Police</p> <p><b>Places of incidents:</b> 1. Pandajaya Village, South Pamona Subdistrict, Poso District, Central Sulawesi Province; 2. Hotel Mulia – Pendolo, Pendolo Village, South Pamona Subdistrict, Poso District, Central Sulawesi Province; 3. Poso Lake, Pendolo Village, South Pamona Subdistrict, Poso District, Central Sulawesi Province; 4. Subdistrict Police Station Pendolo; 5. District Police Station of Poso</p> <p><b>Date of incidents:</b> 1 - 10 June 2005</p>
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