

SPECIAL REPORT: A facade of justice for torture victims in Indonesia

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Prosecution of torture cases in Indonesia's justice system

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In Indonesia, criminal prosecution of state officials engaged involved in the practice of torture is possible. Although torture, as it is defined by the UN Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (UN CAT), is yet to be criminalised under the country's legal system; however, there have been cases where the police and military officers who perpetrated torture had been held criminally liable and punished in courts for maltreatment or other provisions. The Asian Human Rights Commission recorded at least seven torture cases from 2005 to mid 2013 which resulted in the punishment of the accused. To conclude that such punishment indicates a state where justice is obtainable by torture victims and their families in Indonesia, however, is misleading. Criminal punishment –or in fact *any* punishment at all – for torturers is still merely the exception and not the norm.

In most of the cases, torture allegations are not investigated due to several factors. Victims and their relatives tend to be reluctant in filing a complaint against the police for fear of repercussions due to the minimum protection for witnesses and victims in the system. Several cases documented by the AHRC reveals how there is a high price to pay by victims or their relatives in submitting a complaint against state officials on torture. Six political prisoners in Papua, for instance, had been subjected to severe beatings, confined to congested cell, denied access to food and water for days after submitting a formal complaint on the torture of their fellow political prisoner, Buchtar Tabuni (see Story 26). In another case, a woman was barred from seeing her detained husband after submitting a criminal complaint against four prison guards who abused her husband (see Story 36).

The exceptionality of punishment on state officials practising torture is partly caused by the absence of independent mechanism for investigating allegation on such abuse. Despite the fact that the police have been mentioned by various reports as state agents who practised torture the most, they are the same authority with powers under Article 6 (1) of Law No. 8 Year 1981 on Criminal Procedure Code, to investigate torture allegation. Therefore, when a torture victim or her relatives submits a complaint, the police simply do not take effective measures but rather come up justifications, like absence of substantial evidence, the victim was escaping or had been injured prior to the arrest, to reject allegations of torture. This paper will discuss torture cases whose judgements have been rendered by the court and argues how, despite the end results on the punishment of the accused, they have only provided the victims with 'pseudo justice'. This article also wishes to point out challenges met by local activists in the course of trial of torture cases.

'Pseudo justice' for the victims

During the course of 2005 until the second quarter of 2013, the AHRC noted seven torture cases which resulted in the punishment of the accused. In most of the cases, the courts handed down punishment of less than a year of imprisonment. In the case of Hartoyo who was tortured in 2007 due to his sexual orientation, for instance, Banda Raya District Court sentenced the four police officers who perpetrated the abuse only to three months imprisonment (see Story 34). Similarly, in the infamous torture case of a Papuan in 2010, military officers who engaged in the abuse

were only handed down a punishment of 9-12 month imprisonment. There is no specific guideline provided by the UN CAT on what punishment and how many years of imprisonment should be imposed on state officials practicing torture; however, in the case of *Kepa Urra Guridi v Spain* (para. 2.4 of the Comm. No. 212/2002, UN Doc. CAT/C/34/D/212/2002 (2005)) the CAT Committee held that a year imprisonment is inappropriate thus in violation of the state's duty under the CAT Convention.

No.	Case	Charges (Penal Code)	Conviction	Punishment
1	Torture of Elfrianus Ulu by 5 prison guards in Kupang, 2005	Maltreatment resulted in severe injuries (Art. 352 (2))	A police officer was convicted for Art. 352 (2) on maltreatment resulted in severe injuries	3 year imprisonment
2	A man was tortured in Aceh due to his sexual orientation, 2007	Art. 170 on collective violence against life in conjunction with Art. 422 using of coercion by state officials in obtaining information	Unclear	3 month imprisonment and a fine of IDR 1,000 (USD 0.1)
3	Torture and fabrication of charges of JJ Rizal in Depok, 2009, by four police officers	Unclear	Article 170 (1) on collective violence against life and Article 351 (1) on common maltreatment	Three officers were sentenced to 3 month imprisonment
4	Torture of Papuans by the military, 2010	Unclear	Disobeying orders (case was examined as a breach of conduct by a military court)	9-12 month imprisonment
5	Torture and death of Yusli in 2011	Unclear, relative of the victims were not informed	Two police officers were convicted for Article 351 (2) on maltreatment resulted in severe injuries while one was convicted for manslaughter under Article 359	3-5 year imprisonment
6	Torture and death of Erik Alamsyah	1 st charge – Art. 170 (2) point 3 on collective violence against life resulted in death; OR 2 nd charge – Art. 351 (3) on maltreatment resulted in death; OR	Art. 351 (1) on common maltreatment	Four officers were sent to 10 month imprisonment; two others were sent to 1 year

		3 rd charge - 351 (1) on common maltreatment; OR 4 th charge – 358 (2) fight resulted in death		imprisonment
7	Torture and death of two minors/brothers in Sijunjung	1 st charge – Art. 351 (3) on maltreatment resulted in death; OR 2 nd charge – Art. 351 (2) on maltreatment resulted in severe injuries; OR 3 rd charge – Art. 351 (1) on common maltreatment.	Art. 351 (1) on common maltreatment	Two officers were sent to 2 year imprisonment; one other was sent to 18 month imprisonment while and another was sent to 3 year imprisonment

Table 1. Court judgement on torture cases

In 2005, Kupang District Court sentenced a police officer guilty for maltreating a criminal suspect to three year imprisonment (see Story 42). Early this year, the Sijunjung District Court handed down a punishment of 18 month to three year imprisonment to four police officers who tortured two brothers to death at the end of 2011 (see Story 9). The most recent judgement comes from Cibinong District Court which sentenced three police officers to two to five year imprisonment for torturing and shooting to death Yusli, a 23 year old man (see An interview: “Search for truth is risky; to get justice is not easy”).

Justice is not merely a matter of number. Although the punishments in those three cases are more severe, justice remains to be denied because there is no recognition by the State as to what has happened. While punishing the perpetrators in one hand, the courts examining the complaints of torture does not consider all relevant facts. The court rather ‘cherry-picked’ those evidence to make sure it would not really harm the reputation of the perpetrators. In the 2005 for example, in a torture case in Kupang, although the victim reported that five prison guards have tortured him but the court only punished one of the perpetrators supposedly due to lack of evidence and witnesses.

In the case of torture of two brothers in Sijunjung, the four police officers who were tried were convicted only for maltreatment under Article 351 (1) of the Indonesian Penal Code imposing a punishment of a maximum imprisonment of two years and eight months or a maximum fine of three hundred rupiahs. The lenient punishment in Article 351 (1) in cases of torture has been a concern, let alone that maltreatment is itself not suitable to death arising from torture. The perpetrators should have been convicted under Article 338 for murder or Article 351 (3) for maltreatment leading to death; however, by not imposing such punishment the judges in effect exonerated the perpetrators from any liability to the victims’ death.

Similarly, in Yusli's case even though the three police officers who tortured and shot the young man to death have been sentenced to three to five years imprisonment, the court convicted the two only for maltreatment resulting in severe injuries as prohibited in Article 351 (2) of the Penal Code. There was another officer who was held responsible for Yusli's death but he was convicted only for manslaughter under Article 359 of the Penal Code and not murder. By relying on the version of story of the police, the court accepted that Yusli's death was an accident effectively ignoring evidence that the shooting was deliberate due to gunshot to his left chest.

Challenges in litigating torture complaints

It has often been mentioned that the prevalence of light punishment for state officials engaging in torture is a result of the absence of an article criminalising torture. It may be true to some extent yet it is a misleading to assume that it is always the case. With the current available criminal provisions, there are actually ways for law officials to provide the victims with justice had they have genuine motivation to punish torturers and prevent torture from occurring. In the cases of Sijunjung and Yusli, in prosecuting the perpetrators the law enforcement officials had the choice of filing charges of murder, collective violence resulting in death and maltreatment provided under Article 170 (2) point 3 of the Penal Code. Punishments carried by these articles range from seven to 15 years of imprisonment. However, in the prosecution of cases they deliberate choose to file charges that were 'convenient' for the perpetrators. If this practice is allowed to continue even having a law on torture would not bring any significant impact in ensuring remedy for victims and punishment to perpetrators. This is not to suggest that there is no need to criminalize torture in line with the CAT Convention.

The Government of Indonesia has a legal obligation to criminalize torture as State party to the CAT Convention. As pointed by the CAT Committee one of its general comments, '[b]y defining the offence of torture as distinct from common assault or other crimes... will promote the Convention's [against Torture] aim, inter alia, by alerting everyone, including perpetrators, victims, and the public, to the special gravity of the crime of torture'. It is important to emphasized that there are systemic problems that cannot be solved simply by enacting a domestic law prohibiting and punishing torture. They law enforcers must also use most relevant and suitable criminal provision in charging, prosecuting and convicting individuals who committed torture.

No	Articles under the Penal Code	Crimes	Maximum Punishment
1	Art. 170 (1)	Collective violence against property or life	5 years and 6 months
2	Art. 170 (2) point 1	Collective deliberate violence against property or life <i>or</i> if such violence resulted in injuries	7 years
3	Art. 170 (2) point 2	Collective violence against property or life if such violence resulted in severe	9 years

		injuries	
4	Art. 170 (2) point 3	Collective violence against property of life if such violence resulted in death	12 years
5	Art. 351 (1)	Maltreatment	2 years and 8 months
6	Art. 351 (2)	Maltreatment resulted in severe injuries	5 years
7	Art. 351 (3)	Maltreatment resulted in death	7 years
8	Art. 338	Murder	15 years
9	Art. 340	Premeditated murder	Death sentence <i>or</i> life imprisonment <i>or</i> 20 years imprisonment
10	Art. 359	Manslaughter	5 years imprisonment
11	Art. 422	Using of force by state officials to obtain confession or information	4 years

Table 2. Provisions in the Penal Code that could be applied on torture cases

Police and the prosecutor's nexus

The police, as the institution with exclusive authority to handle criminal investigation, have enormous powers to decide which charges in penal law should be employed in prosecuting criminal suspects. Once the police completed their investigation they would submit their findings to the prosecutor. The prosecutor will examine whether or not the case requires more evidence and that the police needs to investigate further. Since the prosecutor has the responsibility to ensure successful prosecution of cases, they could instruct the police to investigate further. They could also request the police to amend the charges if they are of the view that the charges the police had filed are irrelevant or not suitable. Once the prosecutor is satisfied, he or she will draft an indictment letter which prescribes, *inter alia*, the charges on which the accused would be tried. Depending on the case, the prosecutor may impose single, alternative or cumulative charges on the accused. A panel of judges would examine the case and decide whether the accused is guilty as charged.

Pursuing alternative charges in prosecution of cases is perhaps the safest method; however, this method is problematic in two ways. First, it is too much for the accused to make their own defence in court; second, the law enforcement officials could exploit this to camouflage an injustice at the victim's disadvantage. The need of alternative charges is based on the concerns that failure to prove a crime in single or cumulative charges would result to acquittal of the accused. Though a criminal proceeding based on alternative charges could lead to the punishment of the accused, it is giving false impression to public that justice has been done whilst actually the punishment has been lenient. The result could please the public and the perpetrators, but not the victims and their family. This is what happened in the case of Sijunjung. In this case, the prosecutor pursued alternative charges which resulted to the conviction of four police officers for the torture of brothers to death for common maltreatment under Article 351 (1) of the Penal Code. Imposition of punishment does not mean justice has already been served. It should have also included recognition of the wrongdoings and disclosure as to what had happened by the State. A proportionate punishment for violation of the criminal offence also forms part of recognizing the wrong.

Under the current setting, theoretically the prosecutors have a supervisory role over the police on what charges could be filed in prosecution of cases in court. However, this supervisory role has been problematic due to close working relationship between the police and perpetrators whom they police had subjected for an investigation. The police and the perpetrators tend to work by protecting each other. In a consultation with local activists in November 2012, one of them noted that: 'they [the police and prosecutors] have collaborated in dirty practices previously that it is difficult for one of them to reveal the other's wrongdoing. If one is trying to do so, the other will remind him or her: 'do not forget that I know your bad track records'. The absence of an effective legal mechanism which would ensure that prosecutors would prosecute cases in line with the provision of the penal code has aggravated this problem. This could be addressed by embedding a mechanism within the trial process which would minimise the role of the prosecutors by employing criminal provisions as they wish without being held to account. For judges to have power to order the prosecutors amend their charges and the indictment, once they are of the opinion that the nature of charges being pursued on the perpetrators are in line with the penal code, could probably address this problem also.

Also in criminal trials, to prove a crime has also been challenging. The current criminal procedure code lists types of evidence admissible before the court. Under the Criminal Procedure Code, it requires testimony of the witnesses, of an expert, documents, circumstantial evidence and the testimony of the accused. To ensure conviction, at least two of these types of evidence must be met and in practice one of them should be the testimony of witnesses. In addition, the code also requires testimonies from at least two witnesses. All these requirements have been very difficult to meet in most torture cases. Apart from that, under the Indonesian legal system the burden of proof in most criminal cases, including cases of torture, lies upon the prosecutors. This was one of the concerns raised by Prof. Manfred Nowak, UN Special Rapporteur on Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, in his report (UN Doc. A/HRC/7/3/Add.7, 10 March 2008) after his visit to Indonesia.

In addition to the difficulties of finding witnesses in torture cases due to the secretive nature of the crime, in cases where those individuals are actually available there is no adequate protection provided for them. Local NGOs ELSAM and Padang Legal Aid Institute (LBH Padang) reported that during the trial in the case of Erik, the ELSAM and LBH Padang in its press release on 22 October 2012 that the witnesses were inside a car carrying the accused when they appear in court. The key witness had changed his testimony when they testified in court. He earlier told LBH Padang and the National Human Rights Commission (Komnas HAM) that although Erik had tried to escape from arrest and fell over, he was not in any way hurt. This was in total contradiction with the police's claim that Erik was injured because he fell off his motorbike and had his head hit metal fences. In court, the witness testified consistent with the police's version of story about Erik's death.

Also, there were practical difficulties in getting an expert witness to testify. Activists assisting the family of brothers in Sijunjung case, for instance, had been complaining about the difficulty in finding a forensic expert who could support their argument that the victims died from torture and not suicide as claimed by the police. In the similar case, there was an independent medical

report produced by Komnas HAM which concludes that there are strong indicators that the brothers have been murdered. Yet these reports were ignored by the judges. In the case of Yusli, the testimony of a legal expert from the University of Indonesia too, who argued that the abuse should be categorised as premeditated murder, has not been considered by the court judges.

In taking decisions on how severe or lenient a punishment should be imposed, the judge has the discretion to consider both aggravating and mitigating factors. In general such consideration is considered to be good as it gives a judgement a touch of humanity and not simply a formal and legalistic one; however, in torture cases mitigating factor taken into account is often unreasonable. In some cases perpetrators who are senior officials had received lenient punishment because the judges considered their service to the country as *mitigating* factor rather than aggravating one. In the torture case of Hartoyo (see Story 34), the judge had justified imposing light punishment on the perpetrators of torture because they are 'police officers who are needed by their country'.

Yeni, the sister of torture victim Yusli, also recalled that the court's judgement on his brother's case, the judges also invoked similar reasoning. This practice is in total contradiction with the basic concept of human rights which claims that human rights violations are something more severe than 'ordinary crimes' for the reason that those who perpetrated those abuses are state officials who have breached their utmost obligations and responsibility to protect the rights of the people. In fact, the severity of criminal offense committed by the state agents is clearly stipulated in the Indonesian Penal Code, which states that: in Article 52, crimes perpetrated by state agents in their official capacity should be punished with a punishment that is one third more severe than when it is committed by a civilian. Therefore, it is clear that the imposition of light punishment by judges upon the public officials, by justifying that their service to the government is a mitigating factor, is contrary to principles of national law and international human rights law.

Conclusion

On the issue of torture, the state has two core obligations: to prevent and to punish. The obligation to prevent torture requires the state to criminalise torture and establish a set of safeguards against it, like reducing period of detention, ensuring detainees' access to independent medical treatment and lawyers, detainees prompt access to judges. In the last few months up to the time of writing, the House of Representatives have been active again in promoting its plan to revise the Penal Code and Criminal Procedure Code which would accommodate some of these safeguards on prevention and prosecution of torture. Where there has been much attention on the prevention of torture, little attention is paid on the aspect of punishment aspect. Both prevention and punishment are equally important in the elimination of torture.

Reparation for torture victims in Indonesia in theory and practice

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Introduction

The right of victims of human rights violations to remedy may be understood both in procedural and substantive senses. Under the former sense, the state has the obligation to ensure that an effective complaint mechanism is available and accessible for the victims. An expected outcome from such provision of remedy is the punishment of the perpetrators as well as the recognition of the state on what had happened thus fulfilling the victims' right to the truth. The other side of remedy is that which is aimed at reparation for the victims, including the provision of rehabilitation or compensation.

The Criminal Procedure Code enacted in 1981 briefly regulates the provision of monetary damages for the victims of crime. Yet it was only after the establishment of the Witnesses and Victims Protection Agency (LPSK) one of whose tasks is to assist the victims of crime as well as human rights violations in applying for restitution or compensation, the issue on the right to remedy for torture victims is more widely discussed. This paper examines the reparation mechanisms in the Indonesian legal system. It highlights two recent torture cases where a request for restitution has been submitted which demonstrate the practical challenges in providing substantive remedy for victims of torture.

Citing the Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law (Basic Principles), the General Comment No. 3 of the UN Committee against Torture emphasises that 'the comprehensive reparative concept' comprises of restitution, compensation, rehabilitation, satisfaction and guarantees of non-repetition. This paper will limit its discussion on the first three measures, since the current law in Indonesia only recognises and regulate these.

General Comment No. 3 defines 'restitution' as 'a form of redress designed to re-establish the victim's situation' before the violation of his or her right not to be tortured took place. In the similar document, the Committee points out that the term 'compensation' refers to monetary compensation paid to the victims for 'any economically assessable damage resulting from torture or ill-treatment'. The Committee further emphasises that the concept of rehabilitation shall be understood as a form of redress in which medical and psychological care as well as legal and social services shall be made available for the victims of torture.

Domestic law not consistent with human rights norms

Regulation and recognition on the rights of torture victims to restitution, compensation and rehabilitation exist in different laws and regulations. However, the concept of these three forms of redress under the Indonesian laws is not in accordance with what has been established by international human rights standards. For instance, Indonesian Law No. 8 Year 1981 on Criminal Procedure Code and Law No. 26 Year 2000 on Human Rights Court, which accommodates

provisions on rehabilitation, interprets such form of redress as recovery of one's reputation instead of a set of measures to provide medical and psychological care as required by international law. The obligation of the state to provide medical and psychological care for victims of human rights violations is not understood as 'rehabilitation' but 'medical and psychosocial assistance' to be provided by the LPSK.

Under these laws, both terms 'restitution' and 'compensation' refer to payment of damages to the victims. The only difference between them lies in the party who will bear the cost of the payment: in restitution, it is the obligation of the perpetrators; whereas in compensation, it is the state which bears the obligation. Compensation can be provided by the state only in cases where the actual perpetrators cannot afford to provide the victims with payment damages.

There are three legal venues which can be pursued by victims of individual torture case if they wish to pursue their right to restitution. The first mechanism is established under Articles 98 to 101 of the Criminal Procedure Code where the request for restitution should be submitted to the prosecutors who will demand the judges to give restitution order to the accused. Victims of torture or their families should submit the request before the accused delivers his or her defence plea. The judges will later decide whether such request should be granted and the accused should be ordered to pay for the restitution.

In addition to the mechanism provided by the Criminal Procedure Code, under the Government Regulation 44/2008 the victims and their family may submit a request for restitution to the LPSK. If the LPSK is of the view that the request is admissible and reasonable, they will forward it to the prosecutors. This mechanism is almost similar with the one provided under the Criminal Procedure Code apart from the fact that the request from LPSK can be submitted to the prosecutors either before the accused delivers his or her defence plea or after the court has delivered its final judgement on the case at stake.

Another legal remedy which can be pursued by torture victims or their families to obtain their right to restitution is under Article 1365 and/or 1367 of the Civil Code, which allows a civil suit against the perpetrators. However, the disadvantage of pursuing this legal venue is that it usually takes a long time and the proceedings are expensive. Unlike in criminal proceedings where the victims do not have to pay the court for a case to be examined or to the prosecutors to represent them, in civil suits they have to bear the costs for registration and perhaps for legal counsel.

The advantage of using a civil suit which cannot be found in the two other restitution mechanisms is that it may be used to hold the state responsible for the torture and ill-treatment that took place. In restitution mechanisms under the Criminal Procedure Code and the LPSK, the obligation to provide restitution for torture victims lies exclusively on the accused as provided by the Government Regulation 44/2007. If the accused does not have adequate financial means the judgement cannot be executed.

Of equally importance is the question of the effect of the court orders. The fact that restitution in individual torture cases becomes the sole responsibility of the person accused thereby making the dispute only between citizens and not an issue of human rights violation where the State has the

utmost responsibility. By not taking responsibility in providing restitution for torture victims, the government evaded its obligation under international law to bear the responsibility for providing redress for the victims of torture.

Case study:

Sijunjung and Erik Alamsyah torture cases

In the West Sumatra province, the torture cases of Sijunjung and Erik Alamsyah which happened in separate incidents wherein the victims' family pursued restitution. These cases have in common: the victims were arrested on allegation on motorcycle theft; they were tortured and died in custody. An investigation was conducted in these cases, the court tried the case and victims' family requested for restitution but this was rejected by the court.

In the Sijunjung torture case, the victims were brothers Faisal (14) and Budri (17). They were tortured by the police in December 2011. The police first arrested Faisal on the allegation on stealing money from a mosque, but later they accused him of stealing a motorcycle. Faisal was detained for a week before he was found dead on 28 December 2011 at the Sijunjung Sub-District Police Station. Under Indonesian law, the brothers are considered children which would mean they were supposed to be investigated as suspects under the juvenile law and criminal procedure which does not require detention.

Faisal's family suspected that he had been tortured while in detention. In several visits to the police, he looked pale and had bruises all over his back. He asked his family not to visit him because he had been threatened that he would be tortured even more. In the last visit, Faisal's family saw him visibly weak so that he could not even stand up. His legs were wrapped with black plastic bags. Only later it was found out that the bags were used by the police to cover the wounds on Faisal's legs.

After learning about Faisal's death, his family immediately went to the police station. Here they were shocked to learn that it was not only Faisal who had died but also his brother, Budri, whose body was placed inside a cadaver bag labelled as 'Gepeng' not his name. The police claimed Faisal and Budri committed suicide while in detention. Instead of providing an explanation, the police forced the family to sign a letter declaring that they would not sue the police for their deaths. They had no choice but to sign because if they refuse to sign they could not claim the bodies. Yet after their bodies were taken home the families discovered the severity of injuries on the bodies and decided to have the bodies autopsied at a local hospital.

After the incident, LBH Padang and Komnas HAM conducted an investigation where they discovered more irregularities surrounding the victims' deaths. The police version that Faisal and Budri had committed suicide by hanging could not have been possible because their feet were touching the floor when they were found dead. It is more plausible that the police had tortured them to death and to cover-up they hung their bodies to deliberately give the impression they had committed suicide.

In another case, Erik Alamsyah was arrested on 30 March 2012 at 2pm for allegedly stealing a motorcycle. A few hours after the arrest, Erik was found dead at the Bukittinggi Sub-District

Police Station due to torture. He died while being taken to the hospital. Before Erik's arrest, his friend, Marjoni, who was allegedly involved in trading stolen motorcycles, had been tortured for about one week after his arrest. The police forced Marjoni to reveal the names of his friends who were also engaged in the crime. Based on the information given by Marjoni under torture, the police arrested Erik and Nasution Setiawan – all of them were subjected to torture. Erik died due to torture and his two friends, Marjoni and Nasution, who were arrested together with him witnessed how he was tortured. They saw Erik was in pain holding his stomach. Marjoni and Nasution saw blood stains on the floor when they were taken inside a room where Erik had been interrogated earlier.

After Erik's death, the police visited the family to inform them. The police, however, claimed that Erik died due to traffic accident. Erik's family told the police that they could accept the death of their son, but the police insisted they must sign a letter declaring that they would not prosecute the police over Erik's death. After they had Erik's body autopsied they have discovered evidence that Erik's death due to accident could not have been the case.

The restitution proceedings

In these two cases restitution requests have been submitted to the LPSK and the prosecutors prior to the judgement of the court. This mechanism was chosen because this process is quicker and more effective. Under this option, the judgement on the restitution would be received at the same time of the judgement on the criminal case.

In the case of Erik Alamsyah, the restitution request was submitted to the LPSK on 11 May 2012, one month after his death. The correspondence with the LPSK has been initiated since this case was revealed to the public. On 7 April 2012, LBH Padang lodged a request for witness protection for Marjoni and Nasution, the key witnesses. Responding to such request, the LPSK held a meeting with LBH Padang as well as the family of the victim. The request was later discussed by the LPSK internally who later provided a written notification to the family as well as LBH Padang that witness protection request has been granted.

In addition to the witness protection request, the family and LBH Padang also submitted a request for restitution. The LPSK asked LBH Padang and the family to prepare several administrative requirements which included the identity card of Erik, the death certificate as well as to verify the wanted amount of restitution. In the request, the family demanded for the return of the Erik's belonging which included money and a cell phone as well as reimbursement for expenses paid by the family for the autopsy, funeral expenses and religious ceremonies. All requirements have been completed by 2 July 2012. The LPSK submitted an official restitution request to the district prosecutor. But on 22 October 2012, the Bukittinggi District Court in its judgement on the case (Case No. 75/Pid.B/2012/PN.BT) dismissed the request only because there were no receipts to the expenses being claimed. The failure of the family to meet the requirements, however, was simply because they did not know it was required. They had no idea that for every expense they spent for the funeral and religious ceremony they were supposed to keep receipts to be produced in court. This is despite the fact the amount of money that the family were claiming were all related to expenditures on the death of the victim. The judges,

however, did not consider this. The judges also did not order the return of Erik's personal belongings to his family.

As the representatives of the victim and the family were before the court, the prosecutor was supposed to take all necessary measures to ensure that the restitution request will be granted. For instance, by presenting witnesses who could give testimony related to the expenses. However this is very challenging in Indonesia where law enforcement officials do not have any understanding on restitution as the right of the victims of human rights violations, coupled with the fact that restitution concept in Indonesia is still very weak and not in accordance with international standards.

Learning from the restitution issue in Erik's case, LBH Padang attempted to perfect their restitution request in the case of Sijunjung. All the requirements established under the Government Regulation No. 44 Year 2008 on the grant of compensation, restitution and assistance to the witnesses and the victims have been met. The restitution request was submitted by LBH Padang to the LPSK on 4 June 2012 in a letter numbered 84/SK-E/LBH-PDG/VI/2012. In the request letter, it was described that the death of Budri and Faisal resulted in damages and loss suffered by their family.

In the process of submitting the request for restitution there was a discussion on whether the restitution can only cover the expenses that had been spent or whether it can also cover other potential loss such as income which would have been obtained by the victims and their family had they continue to live. In the case of Sijunjung, Budri was the breadwinner and his death means huge loss of income to his parents. The parents are too old it is impossible for them to work and had been suffering from depression. After long discussion, it was finally decided that the restitution request will include potential loss will be suffered by the family. This was based on the consideration that the Indonesian judges have the authority to accept the petitioner's request in part but not more than what is demanded.

One of the requirements the victims' families found difficult to meet was a letter from the police confirming that Faisal and Budri were victims of crime since it was the police officer themselves who had perpetrated the crime on the victims. Though they did get a letter from the police, however, the content was very general and failed to mention which provisions of the Penal Code which they have been victimized with. After the discussion stage was completed and all administrative requirements (victims' identity, receipts of actual damages suffered, copy of the death certificate, confirmation letter from the police, and a letter confirming the family relationship between the victims and the complainants) were met, the LPSK submitted a restitution request to Sijunjung District Prosecutor on 15 January 2013 under a letter numbered S-220/4/LPSK/11/2012 dated 27 November 2012.

The victim's family and their lawyer were confident the restitution request would be granted when the judges also ordered a negotiation of restitution payment between the accused and the family. The judges gave such order after the accused also expressed willingness to pay for restitution but offered they could afford only up to IDR 20 million (approximately USD 2028)

which the victims' family had rejected since they were confident the court would satisfy their demand for restitution.

However, on 29 January 2013 the Sijunjung District Court held in its decision (Case No. 136/Pid.B/2012/PN.MR) rejecting the request for restitution arguing that the death of Faisal and Budri was not due to torture. The court's judgement gives rise to question on whether the restitution mechanism affords remedies for victims of torture. As for the restitution claim for the potential loss of income, the judges also rejected the request citing Article 99 of the Criminal Procedural Code which grants restitution only to actual expenses spent by the victims or the family.

At the moment, in support of Erik's family, the LBH Padang would be filing a civil suit in Bukittinggi District Court against West Sumatra Regional Police, as well as six police officers, which have been found guilty for torturing Erik. The civil suit is based on a provision that is similar to tort under Articles 1365 and 1367 of the Civil Code. The West Sumatra Regional Police is being sued for failing to effectively investigate a motorcycle theft, in which Erik Alamsyah had been alleged to have been involved; whilst the six officers are being sued for causing damages to his family. The family is demanding that all defendants must provide restitution, both for pecuniary and non-pecuniary damages, as well as to deliver public apology in printed local and national media.

As for the torture case in Sijunjung, civil suit has not been filed because the Supreme Court is currently examining the appeal from one of the convicted police officers.

Conclusion

The struggle of the victims' families to demand their rights is tedious. Reflecting from old cases of restitution, even if in the civil proceeding the judges come up with a judgement in favour of the victims, the implementation would be another challenge. The case of Iwan in 2006 is a clear example to this. The police officers from Kinali Pasaman Barat Sub-District Police shot Iwan in his stomach. After the shooting, the lower part of Iwan's body rotted so that it could no longer function. He lost both his job and capacity to work. With legal assistance from West Sumatra PBHI, Iwan lodged a civil suit against the police as an institution as well as the officers in their individual capacity. In 2010, the judges granted Iwan's request and ordered the police to provide him restitution. However, until today Iwan has not received any restitution because the police have no budget for such purpose.

The above mentioned cases depict the difficulties and challenges met by victims of human rights violations in obtaining right to restitution. It is challenging as the regulation on restitution is not in compliance with international standards. Along with the tendency of the judges who often prioritise law over justice, such imperfection leads to the difficulty in providing restitution for the victims in practice.

Practice of torture during Soeharto's regime

Muhamad Daud Berueh, The Commission for 'The Disappeared' and Victims of Violence (KontraS)

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Introduction

The UN Convention against Torture and other cruel, inhuman or degrading treatment and punishment defines the use of torture as being for the purpose of eliciting confession or information, to threaten, coerce or discriminate the victims. Under the Soeharto regime, torture was practised by the military against Indonesians critical of the government. Today, torture is deeply embedded in the police establishment in the conduct of their daily law enforcement duties.

This article will describe how torture had been practiced in the past. The 'past human rights abuses' refers to gross violations of human rights under the New Order regime (1965-1998), in which Article 43 of Law No. 26 of year 2000 on Human Rights Court, would allow prosecution in an *Ad hoc* human rights court. The Law No. 26 of year 2000 recognizes retrospective principles which allow prosecution of cases prior to its enactment. These includes prosecution in cases of the purge of 'communists' in 1965-1966; shooting and murder in Tanjung Priok in 1984; shootings in 1982-1985; the assault and murder of villagers in Talangsari Lampung in 1989, and the abduction of activists in 1997-1998. The law stipulates that there no statute of limitations would be imposed for gross violation. This paper will examine how the government responded in providing reparation to victims of the past during Soeharto regime under the current law.

A. Methods of torture as experienced by the victims

Purge of 'communists' (1965-1966)

Events of mass killings of suspected communist occurred during the transition period from the Old Order regime of former President Soekarno to New Order regime of former President Soeharto. Through the establishment of the security command and order in 1965, Soeharto ordered the military and community organisations to arrest Communist Party members and their supporters. As a result, many people allegedly involved with the Party were arrested and detained without legal process. Between five hundred thousand to two million people were believed to have been extra judicially killed.

The torture of individuals alleged to be supporters of the Communist Party took place in military detention facilities. In its investigation report, the National Human Rights Commission (Komnas HAM) summarizes the information from witnesses and victims. One of them explains the

methods of torture used by the military. In the victim's testimony, he said he was arrested in Gandhi Road in North Sumatra on allegation that he was involved in the Communist Party. In Komnas HAM's report on human rights cases of mass killings of 1965-1966, the victim had noted that while he was under interrogation by the military, he was hit on his back and thighs; he was flogged, kicked, beaten with batons, kept in a toilet filled with human excreta for 10 days, soaked in water for about a week and electrocuted. He testified that he was electrocuted to force him to confess that he was keeping a gun. He was detained for four and a half years without trial.

Tanjung Priok massacre (1984)

On 12 September 1984, hundreds of protestors were killed and many others have disappeared when the military violently dispersed thousands of protesting religious leaders and their communities in North Jakarta Military District Command. The military indiscriminately shot at the protestors. Many protestors were arrested, one of whom was my father. At the military intelligence office in Tanah Abang, Central Jakarta, where he was interrogated, he was questioned by four military men about the whereabouts of his other colleagues. They tied his hands. When he told them he did not know they would repeatedly beat him with an iron pole until he loses his consciousness. He was transferred to the office of Kramat V Regional Security and Defence Command (*Laksusda*) in Central Jakarta. *Laksusda* was a military unit under the control of Security and Order Rehabilitation Command (Kopkamtib) whose task at that time was to arrest and interrogate persons who rejected the policies of President Soeharto.

In *Laksusda*, my father was again asked the same questions which he replied in similar manner to those who had questioned him. He was tortured and was electrocuted two days. He was taken back to the home of military prisoners in Cimanggis, West Java. Here, his hair was shaved, he was threatened and forced to do physical activity, like a hundred pushups and sits ups every time they questioned him. If he refused to do so, the military police who were wearing military boots would step on him. My father was later sentenced to 14 years imprisonment for conducting subversive activities. His story and that of many other victims is narrated in a book titled: '*They said God is not here: voices of Priok Tragedy victims*' published by KontraS in 2004. All the victims held at the military detention facilities have been tortured, intimidated and terrorized. A report of Komnas Ham on Tanjung Priok case in 1984 indicates that the methods of torture used against the detainees were beatings with weapons and kicking.

Mysterious shootings (1982-1985)

A joint military and police operation against thugs to reduce crime rates in Yogyakarta, Semarang in Central Java; and in Bandung in West Java, have left around 9,000 people arbitrarily killed. The victims were suspected thugs. Their bodies had traces of torture, which indicates they had been tortured before they were executed. The report of Komnas HAM on the case indicates the injuries the victims have suffered:

Wounds on their neck indicating they had been strangled with wire before they were shot dead;

Two victims were found dead with burnt hands;

A victim was hit by using a rattan on the back;

A victim was forced to wear only his underwear and to stand under the sun for hours during the day;

A victim was soaked in water up to his nose. Nails were put slightly above the victim's head that moving upwards to avoid the water will result in serious head injuries;

A victim was dragged as shown in bruises all over his body.

Massacre of Talangsari in Lampung (1989)

In 1989, military officers assaulted a group of civilians, who allegedly wanted to establish an Islamic country within Indonesia, in Talangsari, Lampung. The assault left about 130 persons dead and displaced 77 others. About 46 people had been subjected to torture while 229 others were persecuted. After the assault, the military and the police arrested dozens of individuals opposing the government's policy. Those arrested were tortured in several detention places in Lampung district.

Abduction of activists in 1997-1998

During this period, members of Student Solidarity for Democracy (SMID) who were demanding democracy in Indonesia were abducted by the military. Their critical view was deemed to be a threat to the state. While some of them had been released, 13 others have remained missing until today. One of the released victims, Mugiyanto, testified that during the abduction he was subjected to torture. He was beaten and electrocuted. He was not allowed to wear anything but his underpants during the torture. In an interview by the AHRC, he narrated his experience while in the military's custody:

“I was interrogated for two days. I was blindfolded and stripped that I was only wearing my underwear. During the interrogation I was electrocuted, beaten, threatened, yelled at, and subjected to other inhumane treatment. I do not know who did it because I was always blindfolded. I only knew Nezar Patria and Aan Rusdiyanto were also there because I heard their voices in 'X'.”

Physical Impact

Victims of these past violations who were subjected to torture had to endure various physical problems due to torture they have suffered. For example, one of the victims in Tanjung Priok case continues to cough blood to this day. He still also complains of pain of the wound in his chest. In May 2013, another victim died due to respiratory problem which he had been suffering for years. It is common amongst the victims that as a result of the prolonged physical injury, they had to sell their personal belongings to pay huge cost for their treatment, increasing financial burden and difficulty on them. Despite the victims release from prison and their names cleared of charges; however, they had difficulties in getting employment due to a negative stigma attached to them.

Psychological impact

The victims also had to endure prolonged trauma. One of the activists who were abducted in 1997-1998 testified that he still fears the sound of handheld transceivers. He could not walk alone two years after the incident. Another victim of Tanjung Priok is still suffers trauma to this today every time he remembers what he had suffered at the military detention facility. The physical and psychological impact that the victims had to endure also has had impact on family relationships. For example, the victims' children have had difficulties in studying at university because due to the injuries that their father suffered, they could not work and could not afford to pay for the school fees of their children.

C. Mechanism of redress for victims

Legal mechanisms under national law

The Law No. 26 Year 2000 on Human Rights Court regulates mechanism of redress for victims of past human rights violations. However, this law is deficient in providing remedy and redress to individual torture cases. Individual torture cases could not be tried in the Human Rights Court, but only when torture cases is found to have been performed systematically and widespread that the Human Rights Court could hear this cases falling under crimes against humanity.

This law also regulates compensation, restitution and rehabilitation for victims of human rights violations. Article 35 stipulates that:

- 1. Every victim of a violation of human rights violations, and/or his/her beneficiaries, shall receive compensation, restitution, and rehabilitation.*
- 2. Compensation, restitution, and rehabilitation as referred to in clause (1) shall be recorded in the ruling of the Human Rights Court.*
- 3. Provisions concerning compensation, restitution, and rehabilitation shall be further governed in a Government Regulation.*

The law defines compensation as the damages for victims of past human rights violations payable by the State. The perpetrators, who could not fully compensate the victims' loss, the State would take full responsibility for them. The same law defines restitution as punitive damages awarded to victims or his family by the offender or a third party. Restitution may take in form of returning the victim's property rights, payment of damages for loss or suffering and reimbursement of expenses for funeral or other actions. Rehabilitation is the restoration of the original position, such as honour, good name, title or other rights of the victims.

However, the procedures for victims to claims their rights under this law are tedious and lengthy. Not only that they have to wait for the legal proceedings to complete, they also had to initiate the process themselves in the first place. First, article 19 of law No. 26 Year 2000 required the victims to file a complaint with the Komnas HAM who then conduct an investigation and summon a number of parties involved. Komnas HAM has the authority to investigate human rights violations cases and to conclude whether the allegations of gross violations had taken place. The result of its investigation would be submitted to the Attorney General who has legal

obligation to further investigate and to initiate prosecution against those involved. The Attorney General will later give recommendations to the court to provide the victims with compensation and rehabilitation. If the judges agree with the Attorney General's findings they would issue a verdict granting the victims request for adequate compensation and rehabilitation. Compensation and rehabilitation, however, can only be given to the victims if the court finds the perpetrators guilty of the crime against the victim.

Past human rights abuses can be tried only in an *Ad hoc* Human Rights Court whose establishment can be politically very challenging. In fact, Komnas HAM has already conducted investigations in all the past human rights abuses earlier mentioned and sent its reports to the Attorney General for their action. However, to this day, the AG has refused to act on the recommendations of Komnas HAM. The establishment of an *Ad hoc* human rights court also requires recommendations from the Parliament to the President who could issue a Decree establishing the Human Rights Court.

Tanjung Priok massacre - a case study on compensation

The case of Tanjung Priok in 1984 is one of gross human rights violations cases already examined by the Human Rights Court. The *Ad hoc* Human Rights Court was held in 2003-2004 at Central Jakarta District Court. The Attorney General initially did not request compensation for the victims to the court. KontraS, an NGO, had to urge the AG to do so prompting the public prosecutor to request for it in the *Ad hoc* court. The trial of Tanjung Priok massacre was held in four separate occasions but in related cases. In these four, only in the case on Sutrisno Mascung and others where the judges delivered a verdict granting compensation to victims. The judgement does not merely state that the 15 victims were entitled for compensation but also described in detail the amount of money that the state should provide to the victims. However, when the accused Sutrisno Mascung and others appealed their conviction to the High Court and the Supreme Court they were acquitted. The final decision reversed the earlier decision of the District Court ruled stating that the accused and his associates were guilty imposing 1 to 3 years of imprisonment. After the defendants were acquitted, to this day the government has not been providing compensation to victims.

In 2007, KontraS accompanied the victims who requested for the execution of court orders on compensation for the victims through District Court; however, the court dismissed the application because the defendants had already been acquitted.

Medical and psycho-social assistance through the Witnesses and Victims Protection Agency

After the Witnesses and Victims Protection Agency (LPSK) was established under Law No. 13 Year 2006, victims of human rights violations have had expectations to obtain redress. Under Article 7 of this law, the LPSK has the authority to facilitate victims of past human rights abuses in obtaining compensation by way of a ruling from the court. The LPSK also has the authority to provide the victims with medical and psychosocial assistance. Psychosocial assistance is provided by the psychologist to victims who suffered from trauma or other psychological problems so they could get adequate treatment. But to receive such assistance, the victims had to meet all administrative requirements, like submitting a document which explains the abuses that had happened to the claimant, the medical and psychosocial problems that the victim had

suffered to the abuse. Once the requirements are considered to be completed by the LPSK, the victims will be interviewed by a psychologist and examined by a team of doctors.

The LPSK conducted this assessment to determine that the physical and psychological trauma the victims had suffered is indeed related to the abuses. The result obtained by the team of psychologist and the doctors is submitted to the LPSK who will then decide whether the victims should be granted medical and psychosocial assistance. Also, under the LPSK regulation No. 4 of 2009 concerning Standard Operational Procedure granting medical assistance and psychosocial, before providing assistance, the victims are required to obtain a letter of recommendation from the Komnas HAM confirming the applicants are indeed victims of past human rights abuses. Since 2010, there are only about 16 victims whom the LPSK had given medical and psychosocial assistance. Many hundreds of other victims have not received assistance because they are still waiting for the recommendation from the Komnas HAM. The release of recommendation is overly delayed. In fact, one of the victims, Mr. Kasman of the of Talangsari case in 1989, died without receiving any form of assistance from the LPSK due to the Komnas HAM's failure to provide the recommendation for him.

As a result of the slow process in issuing the recommendation letters, the victims and KontraS filed administrative complaint against Komnas HAM with the Ombudsman. In responding to the complaint submitted by KontraS and the victims, on 17 April 2013 the Ombudsman summoned the Chairman of Komnas HAM. In a telephone conversation in May 2013 with a member of the Ombudsman, the Chairman of Komnas HAM promised to organize a meeting with the LPSK to expedite the issuance of the recommendation letters.

Conclusion:

Law Number 26 Year 2000 on Human Rights Court cannot be expected to provide reparations to victims of past human rights violations. The process is very lengthy and the procedure is complicated. The definition of reparations, rehabilitation and restitution established by law No. 26 of 2000 is not in compliance with the international standards. For instance, to require that reparation could only be granted upon a final verdict of the court holding the perpetrators guilty effectively imposes condition on the victim's right to reparation to the court's decision and finding of guilt of the accused.

Also, medical and psychosocial assistance for victims provided by the LPSK is flawed because the process is too long, and because there is no obligation on part of the Komnas Ham and LPSK on when they should complete the processing, it renders victims seeking assistance having to wait indefinitely. In addition, to require clearance from Komnas HAM before the LPSK could provide assistance further prolongs the procedures, when in fact, psycho-social and medical assistance should have been provided promptly. This is needed mostly by the elderly victims.

Recommendations:

Article 35 para. 2 of Law No. 26 of Year 2000 on Human Rights Court, which states that compensation, restitution and rehabilitation should be based on the verdict of the court, must be amended. The present articles hinder the victims from obtaining prompt, effective and adequate reparation. The definition of compensation, restitution and rehabilitation should be based on the

standards and principles of the rights of victims in line with the international human rights standards.

Regulation of LPSK No. 4 of 2009 concerning Standard Operational Procedure in the granting medical and psychosocial assistance must also be amended, particularly the parts where it requires victims to obtain recommendations from the Komnas HAM. There should also be a clear time limit requiring Komnas HAM in issuing recommendation letters in support of the victims' application to LPSK. The LPSK and Komnas HAM should also build a good communication in responding to victims' requests for assistance.

'Search for truth is risky; to get justice is not easy'

Yeni, sister of a torture victim, speaks out on the criminal proceeding against police officers who tortured and shot her brother to death

The day my brother, Yusli, was taken by the police from his house, I had gone to eight sub-district police stations searching for him. I looked for him from morning until late in the afternoon. At 5pm that day the head of the sub-district has informed me that Yusli had passed away and that his body was kept in Kramat Jati hospital. I confirmed the news on the next day and found that my brother has died with a shot wound on his chest. There were also bruises all over his body and a wound by his eyes. I instantly wanted to make a complaint but I did not know how. A police officer advised me to file a complaint to Tiga Raksa District Police in Tangerang although actually I learned later that it was more suitable if I report to the police in Bogor, the area where Yusli was taken away by the police. After reporting the case to the District Police, I submitted a complaint to the Professionalism and Security Unit of the Indonesian National Police headquarters to request for an administrative investigation against the police officers. I later reported to the National Human Rights Commission, Jakarta Legal Aid Institute, KontraS and the Ombudsman.

I received much supports and assistance from Jakarta Legal Aid Institute as well as KontraS. They always encouraged me to ask the police about the update of the investigation because unless I ask, the police would not tell me anything. When I asked the police why I have not received any letter informing the progress of the investigation, they claimed that they have sent it to me. It was turned out later that they were sending it to the wrong address.

There were many irregularities during the criminal proceeding, including during the trial. The hearings were often postponed without any reason or notification in advance. There was a period of about a month where the hearings were repeatedly postponed without any reason. The hearing was sometime scheduled to be held at 10 am but it would take place only at around 3 in the afternoon. On some other days, the hearing was scheduled at 1 pm but after waiting until 5 pm there was nothing happening. In other occasions, there was no information given to me that there would be any hearing but then turned out that there was one conducted, or the accused police officers were in the court waiting to be tried. I am naturally a very curious person. I did not know why but one day I felt like going to the court even though there was no information that there would be a hearing held on the case of my brother's death. As I felt it in my gut, I went to the court with my brother's wife and found out that the accused police officers were there, waiting to be tried! I spoke to the prosecutor of the case and protested to him – 'why was not I informed that there would be a hearing today?' He said I should not be concerned as the hearing was cancelled anyway but I told him that it was irrelevant. Whether the hearing was cancelled or not, if there was one scheduled then I need to be informed so I can also monitor the proceeding.

The prosecutor apparently had not learned from this that he failed again to inform me about the first hearing of the case, even though previously I have informed him my cell phone number and requested him several times to inform me if there is any update on the trial. One day I called him asking exactly a similar request and he told me that the first trial was held the week before. I asked him when the next trial would be held and he said it had been scheduled on that day at 1 in

the afternoon. It was 12 when I was speaking to him – means I only had an hour to go to the court. With whatever clothes I wore at that time, I went to the court and managed to attend the second hearing. I was disappointed that the prosecutor failed to inform me the date of the first hearing because it was on that particular day the prosecutor delivered the indictment. As I have missed that hearing, as of today I am still not sure what the initial indictment imposed on the accused was. Had I was not being pro-active, I would have not known anything about the trial. Perhaps, I would not be able to know what the punishment handed down by the court.

As the trial started, I was asked to testify before the court. Apart from me, my brother's wife as well as his father in law also delivered their testimonies as they witnessed the arrest of Yusli in 2011. From the end of the perpetrators, the Head of Cisauk Sub-District Police and the Head of the Criminal Unit were summoned to testify. The three perpetrators were also asked to give testimony about what had happened. Although they confessed that they have physically abused my brother, all of them claimed that the shooting was an incident. They said my brother was trying to grab the officer's gun.

I of course do not believe such claim made by the police. You may think I am biased as I am the sister of the victim yet it was not only me who did not believe in such claim. One of the judges even said during the hearing that the claim was not plausible. According to the judge, even if it was true that Yusli was trying to grab the officer's gun, it was a fight between one person and three police officers. It is thus only logical that the two other officers should be able to hold Yusli instead of shooting him.

A legal expert from Faculty of Law of the University of Indonesia was requested to testify before the court. She made a statement that the accused in this case should have been charged and punished for premeditated murder. Her view was based on the fact that during the arrest on 26 December 2011, the police officers who arrested Yusli had been saying 'just shoot him, just shoot him!' Another irregularity is the fact that my brother was not taken to the police station but instead to the area of Centre for Research on Science and Technology in Serpong. He was also handcuffed when he was arrested – how was it possible for him to resist and grab the officer's gun?

My brother's wife and father in law who witnessed the arrest testified that there were actually four people who came to take my brother away. They mentioned this to the police as well during the investigation so the police knew about it. Yet somehow in the court, there were only three people who were being tried. If there were four people involved, why not trying all of them? I do not understand. Yet what else could have I done? I have tried my best. As Indonesians put it, I have done everything I could that my head is now my legs and my legs are now my head.

When it was about the time for the prosecutor to deliver his demand on what punishment should be imposed on the accused, the prosecutor was suddenly replaced. It was told that the old prosecutor was sick and undergoing a medical procedure. The new prosecutor was not very cooperative with us. He never really talked to us, the family of the victim. Every time he saw me and my family in the court, he always tried to avoid us and gave the impression that he was busy or in the middle of something. If the hearing was cancelled or postponed, he never come to us

and explained about it nicely. He was always in a rush. Again, I am a very curious person. So what I did was I followed the prosecutor in the court without him knowing. I found that, interestingly, he spoke nicely to the family of the perpetrators.

Seeing the close relationship between the prosecutor and the family of the perpetrators, I knew at that time that there was something wrong going on. My concern was proven to be right. The new prosecutor only demanded punishment of two year imprisonment to be imposed on two police officers for maltreatment resulted in grave injuries and a punishment of five year imprisonment to be handed down on another police officer. This, I thought, was the result of 'discussion' between the prosecutor and the family of the perpetrators. The later must have asked the former not to demand for heavy punishment.

At the end, the judges sentenced two of the accused – Riki Ananta Sembiring and Hermanto – to two year imprisonment for committing maltreatment resulted in severe injuries. Another accused, Aan Tri Haryanto, was sentenced to five year imprisonment for manslaughter under Article 359 of the Penal Code. For me, such judgement was not just. All evidence, testimonies and examination during the hearings reveal that the police officers had deliberately murdered my brother. His body was severely abused that many of his bones were broken and fractured. With so much suffering that my brother had to go through, it is not fair that the perpetrators were only sent to two year and five year imprisonment. I have spoken to other inmates and those who had been sentenced to such punishment are those who had committed less serious crimes, for instance, assaulting others that resulted in injured or broken legs. Perhaps in my brother's case, it is because the accused were all police officers. When the judgement was being read out, the judges mentioned that one of the mitigating factors in this case was the fact that the accused were members of the Indonesian National Police who serve the country. As for the aggravating factors, the judges cited that my brother was a criminal and a residive.

There was no order for restitution given by the court. As the brother of wife needs money to live, we requested for restitution to the Witnesses and Victims Protection Agency (LPSK). Yet the agency required us to submit receipts on the expenses we spent on the funeral as well as the travel expenses when we made complaints to several state institutuions. Yet it is impossible for us to get receipts as we were travelling with public transportation like buses. I could not provide any receipt to the LPSK so until now me and my family have not received any restitution.

Apart from the request for restitution, I contacted the LPSK for the purpose of getting protection from them. Personally, my family and I are not afraid. We knew the truth is risky and justice is not easy. Yet I was concerned that something will happen to the family of my brother's wife. They never told me that they were afraid or anything but once when I was walking home with my brother's wife from the police station, a car was running into us that I fell over. I did not know whether it had anything to do with my brother's case but since that time I just thought it is best to contact the LPSK in case something bad happens.

What bothers me these days is the fact that the court's judgement is yet to be executed as of today. I had been informed that instead of being imprisoned in a correctional facility like other people, the convicted in my brother's case are still being detained at a police sation. This is

another reason why I feel it is unfair. A police station is like a home for them. If they are being 'detained' there, how would we know that they could not leave it as they wish? They could have just gone home or gone for a coffee without us knowing! I talked to one of the high rank officials at Tiga Raksa District Police but he could not explain why the convicted are still there. He said only the court can explain why this is happening. Another police officer told me that they have nothing to do anymore with me or my brother's case as the judges have delivered their judgement. Yet how could they claim so when it was obvious that the convicted are still being detained in *their* office? Surely this means they still have unfinished business on my brother's case? In the last one week I have started visiting several organisations and state institutions again to inform them the fact that the police officers are still not properly imprisoned.

Since I started this all struggle for justice, deep inside my heart I knew that I would not be able to obtain justice at it is. For insignificant and poor people like me, we can only best expect partial justice. I am not satisfied with the judgement but what else can we do? I am aware that most of the time, torture cases are not investigated so when I see it that way, I guessed I was lucky enough that at least the perpetrators were punished.

I know there are many torture cases yet very little of them are investigated by the police. Around Tiga Raksa area alone, there are at least two other cases like my brother's. Yet it is only Yusli's that has been raised to public because my family and I have made fuss about it. I am so eager to do something about this case as I believe there was something fishy about it. For instance, after we found out that Yusli has died, the police came to us and offered us IDR 5,000,000 (around USD 500). In addition to that, we were asked to sign a letter saying we would not file a complaint against the police on the death of my brother. Those irregularities are what encouraged me to fight me in this case. I gained many supports and assistance from NGOs such as LBH Jakarta as well as KontraS. There were so many letters sent to the police that it was difficult for the police not to follow up my complaint.

I am still not sure for 100 percent on why this happened to Yusli, yet my guess is that the police just like arresting people arbitrarily. It is like a guessing game for them. They arrest people, torture them, and -who knows- they might confess that they have done a crime. Yet I know my brother is not that kind of person. I know he would not confess something that he had not done. The police might initially have tortured him severely to make him 'confess' that he had committed a crime. However since my brother was stubborn they might be running out of ideas on what to do to him and did not know how they could report this to their supervisors. At the end, they might just decide to shoot him and made a false claim that my brother was trying to grab the officer's gun.

To me, the meaning of justice is simple – do things in accordance with the law, the Penal Code and all that. If somebody has committed premeditated murder, then convicted and punished him for premeditated murder. There should not be any gap on what is written in the law with what it is like in reality. If that is the case, then what is the point of having a law?

A torture victim's story on quest for justice

Syamsul Arifin spoke to AHRC on the ill-treatment he received from the police and his search for remedy

Series of abuses

In January 2011, there was a report that my neighbour had lost his television and reported the incident to Rungkut Sub-District Police. Around a month later on 8 February 2011 I was arrested by two police officers. They did not produce any arrest warrant. I was taken to an empty mosque in Surabaya where I was later tortured by the two officers. After sometime, the officers called their friends and asked them to come to the mosque where I was tortured. Four more officers then came not long afterwards. There were six of them in total and they all forced me to confess that I have stolen the television which was stolen a month earlier – a crime which I had not committed. In order to get the false confession, the officers beaten my legs with a tree branch. It was about 5-7 cm thick and 1-2 meter long. They mainly beat me on the knee and the feet. They also kicked my head whilst my hands were handcuffed. My head was wrapped with four layers of plastic bag and I was strangled that I was suffocated.

From the mosque I was later taken to the East Java Regional Police with a car. The torture continued during my journey to the police station. My head was wrapped with plastic bags, my hands were handcuffed, my neck was strangled, my head and stomach were also beaten. I was detained at the police station for 53 days without being allowed to receive any visit from anybody including family. When I first admitted as a detainee at the Regional Police, I was asked to pay a room fee for IDR 2,500,000 (around USD 250). If I refused to pay, they would force me to sleep in the toilet. I was also asked to pay for my meals which come twice a day, at 9 in the morning and 4 in the late afternoon. The menu was always a little of rice and tofu. As I was not allowed to be visited by my family, I had to ask them to give it to me through the family of my fellow inmates. I was given around IDR 200,000-300,000 (USD 20-30) each week. On the first three days, I was being interrogated and tortured as I refused to sign the investigation report. I was repeatedly punched on my head, ears, eyes, neck and stomach. I kept insisting not to sign the report that at the end they had to falsify my signature on pages 2-4 of the report.

After being detained at the police station for over 50 days, I was transferred to Mekaeng detention centre and stayed there for 4 months. In that place I fortunately was not tortured but I had to spend a lot of money during my stay there. All new admitted detainees were put in a 7 x 9 meter room called quarantine cell which was used to accommodate over 100 people. I was put in this room as well but I could not sleep in the first four days as there were just too many people. I could not lie down but had to sit while asleep. After being kept with other over 100 detainees, I paid IDR 350,000 (USD 35) so that I could move to another cell. The money to be moved from the quarantine cell was paid to the registry staff sitting at the detention centre's office. Apart from this fee, I paid IDR 20,000 (USD 2) for registration and another IDR 20,000 for my picture to be taken. I and the other detainees were also obliged to shave our head and there was somebody in the prison who would do it for you. If you want to get a good haircut, you have to pay IDR 50,000 (USD 5). Yet if you refuse then they would shave your head bold. In addition to that, all detainees were asked to pay cleaning fee for IDR 20,000 (USD 2) at the quarantine cell. If you do not pay, the guards will just repeatedly ask you to pay for it every day, again and again.

In my 'new' cell I had to pay more money. In each block, there were inmate coordinators (*tahanan pendamping*) who would ask the detainees to pay various type of fee. For my cell, I had to pay IDR 50,000 (USD 5) and every week I had to give them 'weekly fee' for IDR 25,000 (USD 2,5). The food provided there was not humane, they were not for human. It was so terrible even the cats and rats did not want to touch the salted fish they served us. The rice was edible when it was warm yet after an hour it would usually start producing bad smell. I and other detainees had to buy our own food but if we do not have any money then we just had to eat such kind of food. Unlike the time when I was detained at the police station, I was allowed to be visited by my relatives. Yet they had to pay IDR 15,000 (USD 1,5) per visit. I think I was visited four times each month. There was so much money we had to pay during my stay at the detention centre – my estimation it amounted to IDR 80 million (USD 8000).

In search for remedy

The torture and fabrication of charges I experienced had major impacts in my life. In terms of physical condition, I had my right knee crushed. My left eye not is disturbed that I cannot see properly. My left ear is also disturbed. If somebody talks to me on the phone and they do not speak loudly I would have difficulties to hear what they say as the police repeatedly punched me on my ears when I was in their custody. Despite the injuries I suffered, the police did not provide me with any medical treatment. There was no such thing at the police station. Some of the detainees were sick and had diarrhea but they were not even given basic medicines.

My personal life was affected a lot by these abuses. When I was arrested in February in 2011, I was in the middle of preparing my wedding which was supposed to take place on 14 March in the same year. Everything was ready, invitations had been printed – I just had to go through the religious ceremony. Yet my arrest had ruined everything. I have spent a lot of money for the wedding preparation but it is such a waste now. It also led to loss of job for me as well as loss of friends and neighbours who now avoid me. In Indonesia, especially if you live in a village, there is a stigma that people who had been imprisoned must be bad. This is why I just chose to be in hiding and live in solitary. I have not got a job until now.

By the time the district and Supreme Court acquitted me as they did not find me guilty for the theft as accused, everything was too late. My life had been affected so much. The courts ordered the state to provide me with rehabilitation and compensation but all these have not been provided neither by the police nor the prosecutors.

I have reported to Komnas HAM and the headquarters of the Indonesian National Police to submit a complaint on rehabilitation of my reputation and to demand the perpetrators to be brought to justice. Yet as of today there has been no clarity in the progress. I submitted a complaint to PROPAM and I was told that the responsible officers have been imposed administrative sanction. Yet what kind of sanction has been imposed is not something that the public and I are aware of. They could have told me, for instance, that the responsible officers were postponed from their office for two weeks. Yet this is not the case. They just told me sanction has been imposed on the police officers who tortured and fabricated the charges against me. During the hearing conducted by PROPAM, I told them that the officers had tortured me.

Yet the police who led the examination said that the case at stake is not whether torture had taken place but whether the officers have acted unprofessionally. I responded by telling him that it was obvious the officers were not being professional as they had committed torture. Yet the police insisted that the examination is about the breach of code of conduct and not about torture.

I also filed a complaint to the criminal unit of the East Java Regional Police but for reasons unclear they did not want to take my complaint. At the end of August I then reported to the headquarters of the Indonesian National Police. My complaint was taken but then they transferred the case back to the police in East Java Regional Police who of course did not do anything. I sent another complaint letter to the police's headquarters for the second time with the Chief of the Indonesian National Police, the Witnesses and Victims Protection Agency, President, and some others being carbon copied but there had been no response as of today.

Komnas HAM has not responded to my complaint. They told me they have sent a letter to East Java Regional Police but after that I don't know what the follow up is. The National Commission on Police also has sent letter twice to East Java Regional Police but I was not being carbon copied. I went to East Java Regional Police once demanding for my rights for compensation and rehabilitation. I met with the high rank officials of the criminal unit. Responding to my demands, a police commissioner told me, 'if you want to get compensation, ask it to the angels. If you want to file a complaint about me, please feel free to do so. I am waiting for that, I am not afraid.'

Most torture victims do not want to file a complaint against state officials who have tortured them. The reason is because they are afraid of further reprisal. Apart from that, it takes money and courage to do so. In my case, I am eager to submit complaints because I do not want what happened to me happens to other people. I also want to show that you cannot abuse poor people as you wish forever. I am not looking for justice only for myself but for all people who have experienced what I have been through.

I have received threats after I fight for my rights and case. For instance, I got texts from unidentified sender saying: 'Do not complaint. If you do so, I will kill you' or 'if you want to report, please feel free. I am waiting and I am not afraid'. Some other texts read: 'do you want to die or do you want to get crippled?', 'do you want to die or do you want to be safe? If you want to die then proceed with the complaint. If you don't want to die, do not complaint.' I had also been intimidated: police officers come to my house and asked my family about my whereabouts. This is another reason why I am not home at the moment and being in hiding. One day I would be staying in Malang but on the next day I probably will be staying in Mojokerto. I have to move from one city to another every couple of weeks or a month for my own safety.

I reported the threats to PROPAM once but there were no follow up taken. I showed them the threat texts, provided them with the names of individuals came to my house as well as their physical description but my complaint was ignored.

Justice for me

I learned only later on why all these abuses happened to me. I received information from many people that when I was arrested, the Chief of the East Java Regional Police at that time, Untung S. Rajab, was still new in his office. When he was there, all police in East Java were very eager to arrest people. They set a target on how many people they want to arrest in a month. If they cannot arrest people and meet their target, they will be humiliated during the police's ceremony. When Untung was the Chief of East Java Regional Police, it was well known for its reputation in high number of arrest. For this reason, Untung was quickly promoted as the Chief of Jakarta Metropolitan Police. He was the chief in East Java only for 3 months, a very short period of time. I believe there is a link between the high rate of arrest and the promotion. I know in Indonesia the police have to arrest people according to a target set. This is why the officers arrest people arbitrarily.

I do not have any resentment towards the police. Yet as for the officers who committed abuse, of course I want them to be brought to justice. This is what kind of justice I want: those who are guilty being punished and there is recognition from them and those who are related to my case such as the Head of the Criminal Unit and the East Java Regional Police that 'yes, our officers have committed wrongdoings'. What is happening now is that they claim that 'my officers have done the right thing. They have acted in accordance with the laws and the standard operational procedures'. This claim does not make sense to me. If the officers had not done anything wrong, why did PROPAM issue a warning letter to them?, why did PROPAM sanction them?, and why did the courts acquit me? I only want the police officers responsible for abuses I experienced to be held accountable and admit their wrongdoings. Everybody makes mistakes and commits wrongdoings but only those who have conscience will admit that they are wrong and ask for apologies. Yet this is not what East Java Regional Police is doing. Instead, they have been insulting me. They call me names: liar, thief, criminal. If I am a thief, how did they explain the fact that the courts had acquitted me? Surely this means I am right but in that case, why are these police officers calling me thief?

I have been seeking for supports from the media and NGOs for a campaign I would like to do for my case. I have made a simple magazine, about 20 pages long, which will describe my case and I will disseminate them to all district polices in Indonesia. I will ride my bike across Indonesia to spread the words on what the police had done to me and they have not held accountable for that.

I still believe that justice will prevail at the end.

SUMMARY OF CASES

Story 1: Police torture two men, including a boy, over a firearm abandoned by a stranger at their house

Victims: Alpons Gobay (15) and Menny Gobay(18)

Alleged perpetrators: Members of Indonesian National Police and Indonesian Military Joint Force (Mobile Brigadiers of Papua Regional Police, Community Control Unit of Paniai District Police, TNI 753 Battalion)

Date of incident: 25 February to 11 March 2013

Place of incident: Enarotali, East Paniai, Papua

AHRC-UAC-048-2013

On 25 February 2013, Alpons Gobay, a minor; and Menny Gobay were cooking lunch in their house in Bobaigo Village, Enarotali, East Paniai when a team of about 45 policemen and military officers surrounded their house. The two were questioned and tortured after the policemen and military found a *noken* (Papuan woven bag) in their house containing a handheld transceiver, a 7.56 calibre cartridge, a mobile phone, two TPN-OPM (Free Papua Movement's Military Wing) identity cards and a woven craft with Morning Star flag, a symbol of pro-independence in Indonesia's West Papua. The identity card did not belong to the victims.

The bag was owned by a stranger, not by the victims, who had entered their house without their permission while they were away. The stranger told the victims he was only resting and was about to go fishing nearby. They thought he did not pose any harm to them, so they allowed him to briefly stay. However, when the stranger left without them knowing, he left his bag at their house.

When the police and the military came, they kicked and beat Alpons and Menny while dragging them out of their house. They were struck with guns before taking them to the Paniai District Police Station. While on a journey inside the car, they were repeatedly beaten until they reached the police station where they were interrogated. As a result, both victims' forehead, lips, head and arms were wounded. Alpons and Menny suffered from excruciating pain in their ribs.

While in the police custody, the police questioned and tortured Alpons and Menny for possessing the materials they found in a *noken* from their house. They were charged with a provision under Emergency Law No. 12 Year 1951 on Fire Arms and Explosive which carry the punishments of death sentence, life imprisonment, or temporary imprisonment for a period of 20 years.

After the victims' arrest, Leo Yeimo, spokesperson for Free Papua Movement (Organisasi Papua Merdeka, OPM), rejected the police's claims that the arrested persons were their members. But despite Yeimo's statement the media reports still indicates, quoting the Indonesian National Police, that the two persons whom they arrested on 26 February 2013 are members of the OPM.

Gede Sumerta Jaya, head of the community relations of the Papua Regional Police, still claimed the persons they have arrested, 'AG' and 'PG', were involved in a number of shootings, in the hostage of nine employees of a construction company, and the abduction as well as rape of a

woman in Paniai. The victims were charged for illegal possession of fire arms and explosives. The victims were released on March 11.

Story 2: Police demand a bribe for the release of a mentally ill man they beat and detained without charged

Victim: Yunus Gobai

Alleged perpetrators: Unidentified five officers from Enarotali Sub-District Police

Date of incident: 2 March 2013

Place of incident: Enarotali, Paniai, Papua

AHRC-UAC-040-2013

At 8:30am on 2 March 2013, Yunus Gobai, former leader of KINGMI Maranatha Nabire Church and was suffering from epilepsy and mental problems, went into the front yard of Enarotali Sub-District police station. He shouted several random words as he was running around the yard.

Upon seeing Rev. Yunus, five police officers came out and started repeatedly beating him to his nose, lips, head and arm. They then detained him without charge, and asked Yunus's family to pay them a IDR 1,000,000 (approximately USD 100) bribe in exchange for his release from their custody. A member of the Paniai Legislative Council (DPRD Paniai) helped Yunus's family raised the money which they paid to the police.

Yunus's had recovered from his injuries; however, his family had to bear the cost of the medical treatment.

Story 3: Police electrocutes seven men for not knowing the whereabouts of two activists they know nothing about

Victims:

1. *Daniel Gobay*

2. *Arsel Kobak*

3. *Eneko Pahabol*

4. *Yosafat Satto*

5. *Salim Yaru*

6. *Matan Klembiap*

7. *Obed Bahabol*

Alleged perpetrators: Iptu Beduh Rahman and other officers attached to the Depapre Sub-District and Jayapura District Police.

Date of incident: 15 February 2013

Place of incident: Jayapura, Papua

AHRC-UAC-024-2013

On 15 February 2013 at 9am, while Daniel Gobay, Arsel Kobak and Eneko Pahabol were on their way home, about five police officers, one of whom was identified as Iptu Beduh Rahman, of the Depapre Sub-District Police Station, stopped the vehicle they were riding on. The

policemen pointed their guns at them and ordered them to go to their police station, about 30 metres away, by crawling.

After arriving at the police station, Daniel, Arsel and Eneko were then taken to Jayapura District Police Station. Here, the policemen started questioning them about the whereabouts of two pro-independence activists, namely Terianus Satto and Sebby Sambom. None of the victims knew the persons the police were looking for. The police repeatedly kicked Eneko Pahabol to his face, in his left and right knees until it bleeds. Eneko and his friends were beaten with a rattan sticks, electrocuted on their legs, had the barrels of their guns pressed to their heads and forced them into their mouths and ears. Arsel was stripped-naked, had his head, face and back kicked. Due to beatings, his mouth and nose bleeds, his forehead wounded and is suffered from hearing loss.

Apart from them, at 10am on the same day, four other person, namely Yosafat Satto, Salim Yaru, Matan Klembiap and Obed Bahabol, were also stopped by the police. The police officers in civilian clothes and carrying Pindad SS-1 assault rifles. They pointed their riffles at Yosafat and his friends. They were all first taken to Depapre Police Station before they were moved them to Jayapura District Police Station. Here, the police officers started beating and electrocuting them after they were forced to take their clothes off. They pressed their guns on their heads while asking them about the whereabouts of Terianus and Sebby.

Like the three person whom the police had earlier arrested, detained and tortured, none of them know Terianus and Sebby Sambom. But when they told the police they do not know the two they were looking for, it angered them. They tortured the victims even more. The officers kicked them, beat them with rattan sticks on their backs until they bleed, and electrocuted their faces. All the victims were questioned separately. For his part, Obed broke his tooth when a police officer forced the barrel of his gun into his mouth. They also had his forehead repeatedly beaten until it bleeds.

By February 16, the police released five of the seven victims they have arrested without charge. As the time of writing, Daniel Gobay and Matan Klembiap are still detained in the police custody for allegedly possessing bladed weapons.

Story 4: Twenty detainees were tortured for jokingly welcoming the arrival of new detainees

Victims:

1. *Pelius Tabuni*
2. *Gidion Hanuebi (Bob)*
3. *Serko Itlai*
4. *Yoris Fernando*
5. *Ami Wenda (Soy)*
6. *Roy Olvin Wally*
7. *Ormi Wandik*
8. *Roy Kabarek*
9. *Irsan Mananggal (Irs)*
10. *Yosua Merahabia*

11. *Samuel Waren*
12. *Yakobus Bue*
13. *Hendro Wambrau*
14. *Ibe Huby*
15. *Kaharudin*
16. *Kaleb Mantanaway*
17. *Immanuel Mauri*
18. *Zikenele Hisege*
19. *Widodo Santoso*
20. *Ahmad Alia*

Alleged perpetrators:

1. *Eli Asip Wamuar, prison guard*
2. *Bonifasius Manuputy, prison guard*
3. *Yulianan Wanane, prison guard*
4. *Juwaini, head of Abepura Correctional Facility's Security Unit,*
5. *Nuridin, head of Abepura Correctional Facility*

Date of incident: 21 January 2013

Place of incident: Abepura, Papua

AHRC-UAC-025-2013, AHRC-UAU-003-2013

On 21 January 2013 at 6pm, 20 detainees were tortured and ill-treated by prison guards at the Abepura Correctional Facility over their remarks “welcome to the prodeo hotel” and “welcome to isolation” address to three detainees who had newly arrived. After hearing the remarks, prison guards Bonifasius Manuputy and Yulianan Wanane gave orders to the coordinator of the inmates (*tahanan pendamping, tamping*) to unlock the cell where the five detainees are held, and ordered them to come out. They were ordered to walk, in a crouch position, about 100-150 meters to the guards’ office.

When they reached the office, prison guards Manuputy and Eli Asip Wamuar started beating them. They whipped them with a thick white wire measuring ten inches in diameter and two meters in length. The other detainees in other cells had to make noise asking Bonifasius not to stop torturing the detainees.

By 6:30pm that day, prison guard Wamuar again gave orders to unlock Cell Nos. 2, where seven prisoners are held; and 3, where eight prisoners are held. They were all ordered to walk towards the office in a crouch position similar to the five detainees. They were also whipped by Wamuar using the thick wire. As a result, the prisoners suffered wounds and injuries to different parts of their body including arms, back, and shoulder. Some parts of their body were wounded and bruised. One of the prisoners, Pelius Tabuni, had his left arm broken due to severe beatings.

After the torturing and beating the detainees, the prison guards simply put the prisoners back into their respective cells. None of the detainees had received medical treatment from the prison’s clinic despite the severity of their injuries. When incident happened, Nuridin, head of the Abepura Correctional Facility; Juwaini, Head of the Correctional Facility’s Security Unit, were present.

By March 2, after the incident was exposed Nuridin was transferred to another prison facility in East Java province and was replaced by Nico Elias. However, the government, notably the Head of Ministry of Law and Human Rights's local office in Papua, Demianus Rumbiak, denies that his sacking and replacement arises from the torture incident. They claimed, however, that the Madiun Correctional Facility where Nuridin would be transferred to needs to be rejuvenated, and it is hoped that Nuridin along with his experience will be able to improve the situation there.

Nuridin, however, is the latest head of the prison facility to have been replaced over allegations of perpetrating and condoning torture. In April 2012, Nuridin's predecessor, Liberti Sitinjak, was also replaced after the torture of 42 detainees and prisoners in the said facility was also exposed by human rights groups.

Story 5: Police tortured, pulled out the fingernails of a man buying mineral water

Victim: Frengki Uamang

Alleged perpetrators: Officers from Mimika Sub-District and Kwamki Baru District Police

Date of incident: 27 to 28 November 2012

Place of incident: Kwamki Baru District, Papua

AHRC-UAC-201-2012

At 11am on 27 November 2012, Frengki Uamang went to visit a church and to buy mineral water from a local shop. Here, two unidentified men, wearing civilian clothes, had come out from the car they were riding in and arrested Frengki. One of the men introduced himself as a police officer. The police took Frengki to a place where they questioned him of the reason why he was visiting the church. But when Frengki explained he was attending a religious event, but the police instantly told him: "Don't lie to us. You want to buy weapons, so don't lie to us!"

The police took Frengki to Kwamki Baru Sub-District Police where they questioned and accused him of committing various criminal activities, one of which was for supposedly providing food for the armed members of the OPM. While in the police custody, the police tortured Frengki for four hours. They kicked him by their boots; they beat his chest, legs, thighs, head, ears, face and chin. Due to the beatings of his legs and thighs, he could not walk for four days.

Later they took Frengki out of the police station and drove him to the Irrigation Street in Mimika. On their way, the police again tortured Frengki by pulling his fingernails using pliers. About ten police officers were present. The police asked Frengki to show them two houses where OPM's armed members were allegedly hiding in. But Frengki told them that he himself is only a visitor and had no idea of what houses they were talking about. The police took Frengki to a plantation area, ordered him to slither on his stomach with his handcuffs on. They pointed their guns at Frengki telling him to pray. One of them told Frengki, 'you killed my fellow police officers. You are a member of the OPM's military wing.' The officer accused that Frengki is from Kali Kopi where one of the headquarters of the OPM's military wing is located. The police also randomly opened fire towards the trees to create the impression that they were in crossfire against the OPM's military members.

One of the police officers then took Frengki to the Mimika Sub-District Police. Here, Frengki was again interrogated; however, this time the police asked him of his link to the shooting that took place in the place owned by the PT Freeport, an American gold mine company. When police held Frengki at the police station for one night, his hands and legs were chained to a table. The police released Frengki the following day after it became clear he was not involved with the OPM at all.

Story 6: Prison guards torture 42 prisoners demanding better treatment and prison condition

Victims:

1. *Selfius Bobii*
2. *Luis Kossay*
3. *Terianus Tabuni*
4. *Wayus Hubi*
5. *Markus Dabi*
6. *Octo Iknia*
7. *Fredy Masyrom*
8. *Agus Hisage*
9. *Habel Itlay*
10. *Titus Kogoya*
11. *Randy*
12. *Kostan*
13. *Donny Sineri*
14. *Epenus Itlay*
15. *Adrian Walangitan*
16. *Muhammad Ramly*
17. *Orgenes Epa*
18. *Elia Komba*
19. *Raffles Yoku*
20. *Agus Monmut*
21. *Jubair*
22. *Edi Baransano*
23. *Sulario*
24. *Ortis Sineri*
25. *Kalvin Kapisa*
26. *Parmen Wenda*
27. *Dominikus Marian*
28. *Nius Heba*
29. *Narto*
30. *Acok*
31. *Pas Wenda*
32. *Lukas Sawen*
33. *Yoram Sawen*

34. *Chore Daundi*
35. *Luther Ohee*
36. *Dedi Dores*
37. *Hanan Mambay*
38. *Yufri Mameta*
39. *Hendrik Kenelak*
40. *Stenly Palondong*
41. *Alfian Palendeng*
42. *Erens Apromis*

Alleged perpetrators: Liberti Sitinjak, Herman Mulawarman, M. Hutabarat, Juwaini, Olof Itaar, Sarlota Hai, Hardiman, Peneas Kobia, Magrid Kawai, Elly Wamuar, Viktor Paembang, T. Kambu, Bony Manuputy, Wembi Hamadi, Viktor Rio Sitania, Zakarias, Wilson Sibarani, Rahmad, Capung Bc. Ip., Felix Kusali

Date of incident: 30 April 2012

Place of incident: Class II.A, Abepura Correctional Facility, Papua

AHRC-UAC-099-2012

On 30 April 2012 at 12pm, prisoner Selfius Bobii argued with Liberti Sitinjak, head of Class II A of the Abepura Correctional Facility, when the latter refused to allow the former to conduct some creative activity. Sitinjak was acting on orders of Juwaini, head of the Correctional Facility's Security Unit (KPLP). Juwaini ordered to place Selfius in an isolation cell; however, he resisted and insists that he should not be punished because he did not do anything wrong.

Other prisoners who are supportive of Selfius, yelled at the prison guards telling them to put him back to his cell but they were ignored. They took offence of what the prisoners told them. After putting Selfius in an isolation cell, the prison guards went to the cells where the prisoners were yelling. They took the prisoners out of their cell and beat, kicked and hit them with wooden blocks and iron sticks. They whipped them with thick ropes, dragged them to the front yard and asked them to walk on a crouching position for about 200 metres.

While they were doing this, the guards kept on beating and kicking them, stepped on their fingers and toes. Two prisoners named Hendrik Kenelak and Otto Ikinia fainted and one named Parmen Wenda had his arm broken. The prison guards repeatedly told them: 'you are all stupid, that is why you end up here'. The torture and ill-treatment lasted for about two and a half hours. The guards also took away and burn the prisoners' personal belongings after they searched inside their cells.

Selfius was taken to the Papua Regional Police Station where he was questioned and taken back to the Correctional Facility on 3 May 2012. After the pressure and intervention from civil society, Libery Sitinjak was replaced by Nuridin as the head of the Correctional Facility.

Story 7: A man arrested for illegal drugs, tortured and denied access to his lawyer

Victim: Munawir Alamsyah

Alleged perpetrators: Officers of Narcotics Unit of North Sumatera Regional Police

Date of incident: 7 April 2012

Place of incident: Medan, North Sumatera
AHRC-UAC-085-2012

On 7 April 2012 at 9am, Munawir Alamsyah was arrested for illegal drugs near Asrama Street in Medan. Upon arrest, the policemen beat Munawir injuring his lips, eyes, face and bruised his back. One of his ears was bleeding while his friend who was with him at that time was shot on his right arm.

Munawir was brought to the police station nine hours after his arrest. Before that, he was taken to a house in Ring Road, Medan where the police continuously beat him while he was interrogated. The next day, when Munawir's legal counsel attached to the Dhi'IraKh & Associates, came to see him at the police station to provide legal assistance they were refused access to the victim. The police questioned Munawir in absence of his legal counsel. One of the police officers, Iptu Helmi Sembiring, said: 'there is no use asking for legal assistance from lawyers. It's just a waste of money. It will be better if you just leave this to the police and the prosecutors.'

On 9 April 2012, when Munawir's legal counsel sent a letter to the Chief of North Sumatra Regional Police requesting that another the investigation should be conducted in their presence; however, police rejected their request claiming that there was no need to do so because Munawir was represented by a lawyer appointed by the police, obviously not of the victim's choice, when the police questioned him on 7 April 2012. When Munawir's lawyers asked for details of the lawyer represented Munawir the police did not give any further information. Munawir's lawyers were never allowed to meet him and provide him legal assistance.

Munawir's legal counsel also requested that a medical doctor examine him. They also filed a complaint with the Professionalism and Security Division of the police (PROPAM), an agency who had jurisdiction to hear administrative complaints, concerning the excessive use of force. However, at the time of the writing, the police have not taken any necessary measures to respond to the request and complaint.

Story 8: Police warn victim not to tell the doctor they tortured him

Victim: Rokki Hutapea

Alleged perpetrators: about six unidentified officers of Medan District Police; Head of North Sumatera Regional Police

Date of incident: 30 January 2012

Place of incident: Medan, North Sumatera

AHRC-UAC-197-2012

On 30 January 2012, Rokki Hutapea was arrested by policemen attached to the Medan District Police without warrant over allegations of aggravated theft. About six unidentified policemen were involved in arresting him. They tied Rokki's hands behind his back, blindfolded him with adhesive tapes and forced him to get into a car. Inside the car, the police beat Rokki until they

reached the house of Aseng, another person also allegedly involved in the theft. Aseng, however, was later released without any clear justification.

Rokki and Aseng were later taken to an unknown and remote place. The police took Rokki out from the car and forced him to sit on the ground. As he was sitting, the police started beating him on his back, arms and head using a wooden block. They took his blindfold off and poured brake fluid on his head telling him that the brake fluid would help stop the bleeding on his head. Despite the severity of his injuries, the police did not take Rokki directly to the hospital but to Medan District Police. It was only after Rokki begged the police to him to take him to the hospital that he was finally taken.

At the hospital, the police warned Rokki not to tell the doctors what had happened to him. He was told that he should only tell the doctor that the injuries that he had suffered were due to fight or a fall. Rokki had 12 stitches outside and four inside the head. Other parts of his body were bruised.

After the incident, on 8 February 2012 Rokki's mother filed a complaint with the Criminal Division of the North Sumatra Regional Police hoping that they would hold a criminal investigation about her son's case. The complaint shed filed is registered as STTLP/140/II/2012/SPKT I. On 14 February 2012, she also filed a complaint with the Professionalism and Security Affair Division (Propam) against the same police station registered as STPL/36/II/2012/Propam.

However, after filing the complaint, the police have not provided Rokki's mother updates about the development of her son's case. No information were also given whether any investigation to the complaint she filed have taken place. The lawyers of Rokki and his mother have repeatedly sent letters to the police but the latter did not provide them information.

Story 9: Policemen only get four years imprisonment for the death of two boys

Victims:

1. *Faisal, 14 years old*

2. *Budri, 17*

Alleged perpetrators: AKP Syamsul Bahri, Iptu Al Indra, Aipda Irzal, Randy Agusta

Date of incident: 28 December 2011

Place of incident: Sijunjung, Padang, West Sumatera

Status of the case: The judgement was delivered by the Muaro Sijunjung District Court on January 29, 2013.

AHRC-UAC-018-2013

On 28 December 2011, Faisal and his brother, Budri, were found dead hanging in the bathroom of the Sijunjung Sub-District Police Station. The police denied torturing the victims to death and claimed they committed suicide. But the autopsy conducted on the victim's bodies revealed they had bruises, and an independent investigation by the National Human Rights Commission (Komnas HAM) concluded their death was premeditated.

Komnas Ham found evidence which rejected the police's claims that the victims hang themselves. For example, the clothes used in hanging the body belongs to the police, the toes of one of the victims touched the floor, which indicates the victim was not likely to have hanged himself. The police later admitted that it might have been possible that several policemen had tortured the two; however, they refused to accept that their death was as the result of such abuse.

The four police officers were charged with three optional articles under the Penal Code concerning physical assault: for physical assault leading to death under article 351 (3); for physical assault causing severe injuries under Article 351 (2) and for common physical assault under Article 351 (1). Of these three, article 351 (3) carries the most severe sentence for a maximum punishment of seven years imprisonment.

However, in filing charges against AKP Syamsul Bahri and Randi Agusta, the prosecutors filed charged under article 351 (1), against Iptu Al Indra and Aipda Irzal, they filed charges under article 351 (2); and article 80 (1) for physical assault towards children under the Children Protection Law to indict Iptu Al Indra. Since the victims died in custody, the prosecutor could have filed charges under article 80 (3) of the Children Protection Law but it did not do so.

It was clear that the charges filed against the policemen were not proportionate to the severity of the crime that the police had committed, notably the death of these boys in the police custody. The accused were only held responsible for the physical injuries but not the death of the victims arising from torture. The judges hearing the case shared the prosecutor's views when they rejected the claim for restitution filed by the prosecutors on behalf of the victims and by the Witnesses and Victims' Protection Agency.

The judges in this case did not consider the investigation report by Komnas HAM and the LBH Padang. The court hearing the case did not invite Komnas HAM who could have provided expert testimonies. In the judgment delivered by the Court, Iptu Al Indra, head of the Sijunjung Sub-District Police's Criminal Unit, was sentenced to three years imprisonment; AKP Syamsul Bahri, chief of Sijunjung Sub-District Police, for 18 months imprisonment; Aipda Irzal, head of the Intel Unit and Randi Agusta, the police investigator, for two years imprisonment.

Story 10: Court renders light sentence to policemen who tortured and executed a man for 'serving the country'

Victim: Yusli, 23 years old

Alleged perpetrators: Kemidjo, chief of Cisauk Sub-District Police and four other officers

Date of incident: 26 December 2011

Place of incident: At the Research Centre for Science and Technology (Puspitek), Tangerang
AHRC-UAC-028-2012, AHRC-UAU-015-2013

On 26 December 2011, Yusli died in the police custody fourteen hours after he was arrested allegedly for stealing motorcycle by three persons carrying long rifles came at his home in Bogor, West Java. At the time of his arrest, he was beaten, handcuffed and dragged towards a car

that took him away. When his family looked for him at several sub-district police stations, all the police stations denied knowing neither Yusli's arrest nor who kept him in custody.

At 5pm, Mr. E. Jurjani, community head of the Mekarsari sub-district, informed Yusli's family that he died and they can claim his body at the Kramat Jati hospital. Mr. Jurjani gave the victim's family IDR 2,000,000 (about USD 222) 'as a form of sympathy' but on condition that they sign a blank paper, which they refused, allegedly to be used as a statement confirming they would keep silent and not to take action against the police.

Upon claiming Yusli's body at the hospital, a man who introduced himself as a police officer attached to the Cisauk sub-district police station, informed them that it was his friends and Kemidjo, chief of the Cisauk sub-district police station, who arrested Yusli. Yusli's family had also gone to the Cisauk sub-district police station looking for him but they denied taking him in their custody. This police officer now explained that Yusli allegedly attempted to escape prompting the police to shoot him.

But the police's claim that Yusli fought it out with the police could not have been possible. When his family saw his dead body, the injuries he had indicates he was tortured and executed while in the police custody. He had injuries to his head, claw marks on his right chest, gunshot wound to his left chest, lacerations on his face and several bruises on his forehead, chin, hands and body. Yusli's family reported this case to the Tangerang district police.

After complaining to the police station, at the funeral another man approached Yusli's family giving them IDR 3,000,000 (about USD 333) as a gesture of sympathy from Mr. Kemidjo. He also mentioned that Mr. Kemidjo had given money to Mr. Jurjani, a person who had offered the family a bribe earlier, asking them whether they had received money.

After reporting to the police's Division of Professionalism and Security (PROPAM) on January 2, 2012, the family was informed on January 31, 2012, by phone that their complaint had been referred to PROPAM at the Jakarta Metropolitan police. There were four police officers, namely Sutrisna, Aan Triharianto, Ricky Ananta Sembiring and Hermanto who were questioned regarding Yusli's arrest, detention and death in custody. Of the four, Ricky and Hermanto were charged for maltreatment resulting in severe injuries and Aan for manslaughter under articles 351 (2) and Article 359 of the Penal Code respectively. Sutrisna was not included in the charge.

On 4 March 2013, the Tangerang District Court sentenced Riki and Hermanto were to two years imprisonment and Aan for five years imprisonment. During the trial, the judges rather give weight to the police's version that Yusli tried to wrestle the gun from the officer and that the shooting was accidental. Also, since the accused are officers 'who serve the country', the court considered this as mitigating factor to justify the imposition of light sentence. This court's judgement disregarded evidence that Yuli had been severely tortured before the police executed him by shooting him to his chest.

Story 11: Soldiers attack activists, villagers because a drunk informant told them they were separatists

Victims:

1. *Melianus Wantik*
2. *Edo Doga*
3. *Markus Walilo*
4. *Pilipus Wantik*
5. *Wilem Kosy*
6. *Elius Dabi*
7. *Lamber Dabi*
8. *Othi Logo*
9. *Nilik Hiluka*
10. *Hukum Logo*
11. *Martinus Mabel*
12. *Saulus Logo*

Alleged perpetrators: Seven officers of the Kurulu military sub-district command (Danramil Kurulu)

Date of incident: 2 November 2011

Place of incident: Umpagalo village, Kurulu sub-district, Jayawijaya, Papua

AHRC-UAC-005-2012

On November 2, 2011, soldiers attacked three activists, namely Melianus Wantik, Edo Doga and Markus Walilo; and villagers Pilipus Wantik, Wilem Kosy, Elius Dabi, Lamber Dabi, Othi Logo, Nilik Hiluka, Hukum Logo, Martinus Mabel and Saulus Logo, after they were provoked by a villager that a meeting between the OPM and civilians was happening in their village in Umpagalo, Kurulu, Jayawijaya.

The soldiers were attached to the Kurulu Military Sub-District Command (Danramil Kurulu). They went to the village acting on the false information provided by Alex, a villager who was seen to have drunk and gambled with members of the pro-Jakarta militia *Barisan Merah Putih*, before provoking the soldiers with his false information. The soldiers nevertheless proceeded to the villager without obtaining permission from their commanding officers to proceed.

When the armed officers arrived in Umpagalo at 11pm, they started beating the three local activists, stabbed the civilians with their bayonets, forced them to crawl and doused them with water for an hour. They also beat the victims with wooden sticks, kicked them, stepped on them, pointed their guns at them, threatened to cut their heads and shoot them.

The soldiers took all the victims to the 176/ Kurulu military headquarters of Wim Anesili Wamena battalion branch (Pos TNI Batalyon 756 Kurulu cabang Batalion Wim Anesili Wamena) where they were questioned for two hours. The victims were released and had to treat their injuries with herbal medicines because they were too afraid to go the hospital which was located by the military post.

When the colleagues of the victims filed complained at the Kurulu sector police, they refused to register their complaint telling them the victims had no substantial evidence to prove their allegations; and argued that the crimes committed by the soldiers is outside their jurisdiction as stipulated in Law no. 31 of 1997 on Military Court.

Mr. Ibnu Tri Widodo, head of the Military District Command (Korem) 172/PWY, confirmed there were seven soldiers involved in the attack. He earlier mentioned they were held in custody of the Wamena Military Police to be tried in the military court. All the soldiers were on duty at the time of the incident have transferred to another area.

Story 12: A soldier gets away with attacking a villager whom he thought was a competitor in his business

Victim: Yani Meage, 18 years old

Alleged perpetrators: Two members of the 756th Wimaneseli Infantry Battalion

Date of incident: 31 May 2011

Place of incident: Kurima district, Yahukimo regency, West Papua

AHRC-UAC-121-2011

On 31 May 2011 at 2:15pm, 18-year-old Yani Meage was with his elder sister, Ms. Kallek Meage and her children, riding on a motorcycle on their way home when a soldier assaulted him in Kurima district, Yahukimo regency, in the Papuan highlands. The soldier attached to the 756th Wimaneseli Infantry Battalion was at the Kurima Military Post when he attacked Yani because he assumed he was competing with his business of hiring passengers for his motorcycles.

When the soldier approached Yani, he argued with him, threatened him and slapped his face. He also reported Yani to his squad leader who joined in continuously attacking him. They punched his stomach, struck his ears and sides of his body. The soldier held Yani to repeatedly kick and punched him causing him several injuries. The next day, Yani reported to JAPH & HAM, a local human rights organisation, but one of their staffs who were assisting him had been intimidated by the commander of the 756th Battalion. The soldiers warned the staff not to take any action on the case.

On 12 June 2011, Yani met with Parloi Pardede, who is the Deputy Post Commander of the 756th Battalion at the 1702/Jayawijaya military district staff headquarters. After the meeting, Yani and the Deputy Post Commander signed an agreement that the soldiers who assaulted Yani should be punished; however, none of the soldiers involved were punished.

Story 13: Two men convicted for life imprisonment over evidence taken by way of torture

Victims:

1. Sun An "Anlan"

2. Ayong, 51 years old

3. Ang Ho, 34

Alleged perpetrators: Unidentified officers of Medan Timur Sub-District Police and Medan City District Police; Tagam Sinaga (head of Medan Timur Sub-District Police); Rahmat Ginting; Ronal FC Sipayung

Date of incident: 1 to 4 April 2011

Place of incident: Medan, North Sumatera

AHRC-UAC-193-2012

On 1 April 2011 at 8am, about six policemen questioned Ang Ho as he and his wife were about to check out at a hotel in Medan. The policemen questioned him on allegation he was involved in a murder case. They took Ang Ho's necklace by force, ordered him to undress, took a photograph of him holding a gun from the police and repeatedly beat him. Ang Ho was taken to another room in the hotel where his cousin, Sun An, was also held by the police. Here, the police continued beating and interrogating Ang Ho. One of the policemen forced him Ang Ho to take off his underwear and sexually assaulted him.

Before taking him to Medan Timur Sub-District police station, the policemen took Ang Ho inside a car moving him around the city. Inside the case, the police beat Ang Ho while asking him questions of places he had no idea about. The beatings and interrogation continued even after he reached the police station. At the police station, a policeman kicked Ang Ho's private parts and Tagam Sinaga, Head of the Police Station, slapped him so hard that his denture fell off. The police also used hypnosis in interrogating him.

On April 2 at 1:30am, when Ang Ho's wife spoke to Ang Ho, the police officers asked her to persuade her husband to confess. At 7am that day, Ang Ho's cousin, Sun An, was arrested by officers attached to Asahan District Police without arrest warrant. Both Sun An and Ang Ho were brought to the headquarters of the Mobile Brigade of Command in Medan. Here, about ten police officers beat Ang Ho while in police custody severely beat him, strangled him and burnt his body with cigarette butts. The beating was so severe that could hardly move his jaw.

Under this condition, Rahmat Ginting, a police officer, typed the dossier of the investigation report. The lawyer assigned to him was not of his own choice. Ang Ho was forced to sign the dossier by squeezing his hand to hold a pen. Ang Ho could not understand what was written in the document because he was not fluent in Bahasa Indonesia and speaks mostly Hokkian (a Chinese dialect) in his daily life. He could also not read properly since he did not finish his elementary education.

At 4pm, Ang Ho's wife followed the police taking him to the Mobile Brigade Command Headquarters of the Regional Police of North Sumatera. At the same time, Sun An was in another room in the headquarters being tortured by about twenty policemen. He was beaten and kicked upon the orders of First Police Inspector Adjutant, Aiptu Baharuddin, of the Medan City District Police Station. He was also forced to sign the investigation report. On April 3 at 12am, Sun An transferred to the Medan City District Police (Polresta Medan) station. Here, he was tortured further by Tagam Sinaga. A policeman beat Sun An's face while another policemen, Ronald FC Sipayung, placed a chair on his head and sat on it.

At midnight, the policemen blindfolded Ang Ho, they ordered him to undress, tied his hands and foot with adhesive tapes, and told him to sleep on the floor. While on the floor, they poured cold water on him making it difficult for him to breathe. They trampled on his hand, stomach and foot. The policemen threatened Ang Ho that they would torture him in this manner repeatedly. For Sun An's part, the policemen tortured him in the same manner as well. One of the policemen, Bahruddin, withdrew money amounting to fifty million rupiah (around USD 5000) from Sun An's bank account after taking his ATM card and personal identification number (PIN).

Ang Ho and Sun An were tortured by the policemen attached to the Medan City District Station for two weeks. At 12am every day during this period, for four hours every day the policemen took them to a room where they would be beaten, kicked and their bodies burnt with cigarettes.

When the trial on Ang Ho and Sun An was concluded, they were sentenced to life imprisonment by a local court despite questions to the lack of sufficient evidence. The Supreme Court also dismissed their appeal to the conviction.

Story 14: Court's order to rehabilitate torture victim acquitted from charges not implemented

Victim: Syamsul Arifin

Alleged perpetrators: Police Brigade Idihuda, Police Brigade Gatot Mulyono, and two others unidentified police officers from East Java Regional Police

Date of incident: 8 February 2011

Place of incident: Surabaya, East Java

AHRC-UAC-056-2013

Syamsul Arifin was on his way to work when two plainclothes policemen attached to East Java Regional Police approached him. The policemen, Police Brigade Idihuda and Police Brigade Gatot Mulyono, took Syamsul to an empty mosque where they interrogated him for allegedly stealing a television. The policemen ignored Syamsul's plea that he had not stolen anything. They beat him all over his body with a wooden stick. One of the policemen threatened him that if he refused to confess 'he would be treated like an animal.' When Syamsul requested for the policemen's identity, they tortured further.

From the mosque the police took Syamsul to the East Java Regional Police station in a car. Inside the car, his hands were cuffed and his head wrapped with three layers of plastic bag. The plastic bags were tied to Syamsul's neck tight that he could hardly breathe. Two other policemen were also beating him repeatedly. For 53 days in detention Syamsul no visitors were allowed to see him.

After five months of trial, on 4 July 2011 the Surabaya District Court (Judgement No. 1213/pid.B/2011/PN) acquitted him from charges. The prosecutor submitted an appeal to the Supreme Court but was dismissed by the court in 2012 (Judgement No. 2152/Pid./2011). The Surabaya District Court and the Supreme Court has issued an order granting rehabilitation and restitution of Syamsul; however, the court's order has yet to be implemented.

Story 15: Journalist threatened for exposing illegal logging business

Victim: Ahmadi

Alleged perpetrators: First Lieutenant Faisal Amin, military member of Military District Command 0115 Simeuleu, Aceh

Date of incident: 21 May 2010

Place of incident: Simeuleu, Aceh

AHRC-UAC-079-2010

On 19 May 2010, journalists Mr. Ahmadi of *Harian Aceh* and Mr. Aziz of *News Investigasi Medan* were tortured and their family were threatened to be killed after exposing the police and soldier's illegal logging business. Ahmadi and Aziz had collected evidence while on assignment to investigate a flooding in Alapan district that the policemen at Alapan District Police Station and the Alapan Military Sub-District Command were involved in illegal logging.

When Ahmadi and Aziz contacted First Lieutenant Faisal Amin from the Simeuleu Military District Command to get his side, he asked them not to publish any information about the logging business. Ahmadi's paper, *Harian Aceh*, ignored the soldier's request by publishing a story on 21 May 2010. After it was published, the soldiers summoned Ahmadi and Aziz to the shooting range in a Military District Command field. A military officer, Kardiari, of the same unit, picked up the journalists to meet Amin. Amin, however, let Aziz leave saying he had "no business" with him but only with Ahmadi.

Here, when Ahmadi asked Amin why he summoned him, he did not give any explanations. Amin took Ahmadi's mobile phone, laptop, and threw them away. When Ahmadi tried to get his phone back Amin draw his gun and started shooting at targets in the range. While shooting, he shouted: "You liar! You have humiliated me three times. I told you not to publish it but you insisted." Amin elbowed Ahmadi and threatened to kill his family if he would not retract the content of the article. Amin released another shot at the target objects on the field. He ordered Ahmadi to take off his clothes, which he refused to do.

After Ahmadi was allowed to leave, he filed a complaint at the Simeuleu District Police Station against Amin for intimidation and assault. He had himself examined at the hospital for his swollen face and bruised chest. The Head of the Public Relations section of the Iskandar Muda Military Regional Command Yuli Maroko admitted Amin's assault on Ahmadi. The Head of Military District Command 0115 Simeuleu Aceh, Wirana Prasetya Budi, had apologised to him, and the Wirana Prasetya sent a staff member from District Command 0115 Simeuleu Aceh to his house providing him and his family protection.

Story 16: Torture victim talks about how he was tortured and escaped from the soldier's custody

Victim: Tuanliwor Kiwo

Alleged perpetrators: unidentified military members of the Kwangkok Nalime post

Date of incident: 9 May 2010 at 9am

Place of incident: Yogorini village, Puncak Jaya, Papua

AHRC-UAC-178-2010, AHRC-STM-013-2011

On May 9, 2010 at 9am, Tuanliwor Kiwo (also known as Anggen Pugu Kiwo) was arrested while travelling on a motorcycle to Mulia in Papua. He was asked to enter a military post. In his testimony, he described how he suffered physical and psychological tortured for 32 hours while being questioned about activities of separatist groups and weapons villagers were allegedly keeping.

Soldiers pulled his penis with pliers. His chest, stomach and thighs burnt with hot iron rod. They tied his hands and smashed his body against hard objects. After putting him underneath piles of wood, they set fire on it and removed him before he could receive major burns. They wrapped his head with plastic bag. After tying his limbs, they stepped on him for a long period. His nostrils was broken, his mouth and head bled due to beatings. His suffered cuts in his mouth, ears and nose when they roughly shaved his head and beard. His skin was burnt with a mixture of chilli, washing powder and salt. A lit cigarette was forced inside his nose. They threatened to cut his throat, cut his body into two with an axe and hung him upside down. They tied his legs with barbed wire, fractured his back due to beatings with a wooden pole and put him inside a plastic sack. His legs and hands swelled due to tight and prolonged period of cuffing.

At daytime, Mr. Kiwo was exposed to sunlight naked for long period. He lost consciousness, had panic attacks, cramps and suffered excruciating pain. On the second day, he was given basic treatment cleaning his wounds with antiseptic fluid, injections in his swollen feet, hands and thighs and his broken nostrils stitched. They gave him some clothes.

On 11 May 2010, Mr. Kiwo said when he could no longer bend his limbs, the soldiers removed the handcuff. At night time, he heard the soldiers talking that they were planning to execute him. He also heard phone conversation between the post where he was in and other units of the military about how he was subjected to torture. Here, he untied his body and managed to escaped before they could kill him. He was able to walk but with great difficulty in escaping due to the swelling of his legs.

On 24 January 2011, a military court in Jayapura sentenced the military personnel responsible for the torture to 9-12 months imprisonment for 'disobeying orders'.

Story 17: Three policemen guilty for violating code of conduct

Victim: Sushandi bin Sukatma, also known as Aan

Alleged perpetrators: Victor B. Laiskodat (Chairman of the Artha Graha building); Johnny Siahaan (High Commissioner of the Police at Maluku District Police); two unidentified officers from the criminal investigation unit of Maluku District Police

Date of incident: 14 to 15 December 2009

Place of incident: Artha Graha commercial office Building, Jakarta

AHRC-UAC-026-2010, AHRC-UAU-022-2010

Mr. Aan (also known as Mr. Sushandi bin Sukatma) was questioned on charges of illegal drugs in Artha Graha commercial office Building, Jakarta on 14 December 2009 by Johny Siahaan, High Commissioner of Police; Second Inspector John Wattimanela, and Obet Tutuarima, Head of Police Brigadier. The three policemen were from the Maluku Regional Police Station, about 2500 kilometres away.

Under their custody, the policemen did nothing when a civilian, Mr. Victor B. Laiskodat beat Mr. Aan severely. The next day, Mr. Aan was taken to Jakarta Metropolitan Police Office where he was charged for possessing illegal drugs. They recorded the date of his arrest as December 15 not 14.

On 17 May 2010, South Jakarta District Court acquitted Mr. Aan from fabricated charges. However, neither was there a compensation provided to him nor the three policemen were held accountable. Mr. Aan's wife filed a complaint to the Professionalism and Security Division of the police (PROPAM) on 29 December 2009 who did conduct an investigation. On February 18, 2010, Mr. Oegroseno, head of PROPAM concluded that the Jakarta Metropolitan Police Office committed several serious violation of the code of conduct in Aan's case.

On March 18, 2010, Mr. Bambang Hendarso Danuri, the National Head of Police, issued a letter ordering the Head of the PROPAM to investigate the allegation against the policemen violating the code of conduct. Despite this, the three police officers still have not been disciplined.

Story 18: Policemen who tortured a man convicted for maltreatment

Victim: JJ Rizal

Alleged perpetrators: Four officers of Beji Sub-District Police

Date of incident: 5 December 2009

Place of incident: Depok, West Java

AHRC-UAC-178-2009, AHRC-UAU-008-2010, AHRC-UAU-012-2010

Mr. J.J. Rizal was arrested on December 5, 2009, during a music concert at the Margo City Shopping Centre in Depok city. Prior to his arrest there had been numerous reports of pick pocket thefts in this mass gathering and these were reported to the sector police of Beji. Mr. JJ Rizal had just arrived moments before at the nearby train station from Jakarta and was trying to find a motorcycle taxi to get to his home, when he was suddenly grabbed by a group of policemen. The police suspected Mr. Rizal to be one of the alleged pickpockets and arrested him. When arresting the victim, the police officers beat him about the head and pointed a gun at him. Mr. Rizal shouted for help; however, the bystanders did not dare to interfere with the police action. The violence perpetrated on the victim resulted in a split upper lip, bleeding from the nose, swollen eyes and cheeks.

He was also struck about the ears which resulted in damage to his hearing. Some of the officers involved in the arrest did not wear uniforms. Others only identified themselves as police officers after the victim was detained.

After some inquiries about this serious incident to the police station, on December 6, 2009, Police Commissioner Adjutant Mr. Sukardi the Chief of Beji Sub-District police, acknowledged to the media that four of his subordinates arbitrarily arrested Mr. J.J. Rizal and falsely accused him of theft. Mr. Rizal then filed a complaint against the police at the Jakarta Metropolitan Police. The internal disciplinary unit of the Jakarta Metropolitan police investigated the complaint of the victim against four police officers whose names were withheld. Chief of Beji Sub-District police thereupon requested his subordinates to go to the victim's house and apologise, which they did.

The four policemen have since been charged with police violence and arrested. On 13 January 2010 after an investigation, the Jakarta Metropolitan Police delivered the case to the high office of the public prosecutor in Bandung, West Java.

On 3 March 2010, three of them were convicted and sentenced to three months imprisonment each by Judge Syahri Adamy for violation of Article 170 (1) (violence openly committed by united forces) and 351 (1) (maltreatment) of the Indonesian Penal Code. The public prosecutor asked for a five-month sentence, but the judge reduced that sentence, acknowledging the fact that the defendants have families and already offered apologies to the victim.

Story 19: Policewoman electrocuted a female suspect in her custody

Victim: Mrs. Mulyana

Alleged perpetrators: Unidentified officers of Natar Sub-District Police and Jakarta Metropolitan Police

Date of incident: 24 July 2009

Place of incident: Jakarta and Natar, Lampung

AHRC-UAC-175-2009

On 24 July 2009 at 3am, Mrs. Mulyana, 24, was illegally arrested by police officers from Natar and Jakarta at her home in Natar. During the trip to the Natar sector police station an officer of the Jakarta Metropolitan police, Mr. Eva Agustina, interrogated Mrs. Mulyana regarding a bank robbery at BNI in Jakarta that her husband may have been involved with. Mrs. Mulyana said that she did not know about the robbery. In response she was electrocuted by Agustina six times, using three different parts of her right arm. Two more electroshocks were used on the victim while the car sat parked in front of the sector police station.

The interrogation continued at the station at around 3.30am, during which Mrs. Mulyana was beaten and pulled around by her hair, while being asked for information about the location of stolen money. By 4.10am no information had been obtained from the victim, and she was reportedly taken to her brother's house in a police vehicle. During this trip a police officer Ade Ros allegedly hit the detainee in the face another three times and pulled at her hair. At 2pm the

next day she was re-arrested and driven to Jakarta, a trip of a few hundred kilometers by car and ferry.

After arriving at the Jakarta Metropolitan Police Station the victim was once more kept in the transport vehicle on station premises and electrocuted by Agustina. In the meantime her husband, Mr. Azwan Effendi had surrendered to the North Sumatera police after arriving in Medan and had been taken to the same station in Jakarta to be interrogated alongside his wife.

At 2:10pm on 25 July Mrs. Mulyana was taken to the second floor of Unit III of the Criminal and Violence department where Agustina electrocuted her again in front her husband. The shocks were applied to her stomach. As a result of the interrogation we are told that Effendi's alleged partners in the bank robbery were arrested by the same officers.

The two detainees continued to be interrogated about the missing money until 6pm, with electric shocks reportedly used every 15 minutes. No new information about the money was reportedly obtained. The police then kept Mrs. Mulyana in detention at the station for five more days until July 30 when, with no evidence to warrant further detention, she was released at 1pm.

Since Mrs. Mulyana's release she has continued to receive intimidating telephone calls from persons claiming to be Jakarta Metropolitan police officers. A month ago three officers came to her house and demanded that she give a statement for the investigation report into the complaint that she made at the station. She refused out of fear. The harassment has led the victim to file a report with the internal disciplinary unit of the national police headquarters, with the help of NGOs.

Story 20: Police tortured a bus driver to admit murdering five persons

Victim: Kiten Tabuni

Alleged perpetrators: Unidentified officers of Security Implementation Unit, KP3 Airport, Wamena

Date of incident: 23 July 2009

Place of incident: KP3 Airport, Wamena regency, Papua

AHRC-UAC-168-2009

On 23 July 2009 Mr. Kiten Tabuni was driving a public bus along Yebe-wenas street in Wamena at 2pm, heading to Bolakme, when police officers in a patrol car ordered him to stop. An officer told him that police from the Jayawijaya sector headquarters had been looking for him, but would not explain why.

Tabuni was taken to the KP3 airport security unit and illegally detained after being informally accused of taking part in the murder of five Javanese persons in earlier in the month. The officers allegedly beat Tabuni badly to force a confession, using their fists, regulation weapons and helmets, and kicking him around his face, head, and legs. His relatives were not informed of his detention; they assumed that he had been working regularly and heard the news two days later from eye witnesses.

On Monday, 24 July 2009, his family went to the Jayawijaya police sector headquarters in Wamena, along with staff from a local human rights organisation, to check on his condition. They were told by the chief police officer that Tabuni had been arrested by the KP3 airport police, but the chief at the headquarters eventually contacted the KP3 security unit on behalf of the family and received confirmation. A day later the headquarters produced a formal letter of arrest.

However when the headquarter chief sent for the victim, to check his identity and investigate the charges against him, it was quickly discovered that there were no credible details linking the man to the crime. The chief officer apologised to the victim's family and he was released.

Tabuni needed eight days of treatment at the Public Hospital of Wamena (Rumah Sakit Umum), and his medical report noted that he suffer from headaches and aches relating to his beatings in custody. However the family of the victim has not been able to get a copy of this report to pursue compensation.

Story 21: Man dies due to torture for allegedly stealing a tire

Victim: Susanto

Alleged perpetrators: Unidentified officers of Krueng Raya Police

Date of incident: 9 July 2009

Place of incident: Krueng Raya Police Station, Aceh

AHRC-UAC-105-2009

Mr. Susanto was arrested on 9 July 2009 after the owner of an automotive workshop in Aceh filed a report against him for stealing a tire. Without waiting for the arrest warrant to be issued, officers from the Krueng Raya Police Station confronted him at a coffee shop in the Krueng Raya Market. Susanto reportedly ran and hid, causing the police to call for reinforcements: 15 officers and three police cars. According to eyewitnesses, three shots were fired in the incident and Susanto was arrested in Lampoh Raya and taken, mostly unharmed, to the Krueng Raya Police Station.

He emerged from three hours of detention with extensive injuries and was taken straight to the nearest health clinic by police, where medical personnel declared his condition critical and ordered his immediate transfer to the Zainal Abidin Hospital. Police then contacted Mr. Susanto's family.

At 7pm a relative called Dasmi visited the hospital and was told that Susanto's condition was still critical. At 10pm he was pronounced dead. When the victim's body was delivered to his family, they saw evidence of violent abuse: they report that his right leg bore deep wounds, there was a stab wound on his left toe, a roughly stitched wound on the back of his head and bruises around his eyes.

Story 22: Police chief orders men to assault students on protest

Victims: Fachrurozi, Maksum, Rino Hadinata

Alleged perpetrators: Darwin Ginting (Chief of City of Medan Sub-District Police); unidentified officers of City of Medan Sub-District and Medan Metropolitan Police

Date of incident: 14 May 2009

Place of incident: Medan

AHRC-UAC-135-2009

Three student activists, namely Mr. Fachrurrozi, Mr. Maksum and Mr. Rino Hadinata, took part in a peaceful demonstration on 14 May 2009 in front of the Grand Atares Hotel in Jalan Sisingamangaraja Kota Medan. The police assaulted them, had them arbitrarily arrested and tortured while in police custody.

The three men, all are members of the student organisation Pancasila Students Group (Mapancas), were protesting against the hotel's facilities that they have advertised to their guests and customers in their leaflets. The hotel claims they have a swimming pool for children and a fitness centre, but these are non-existent.

Three days prior to the demonstration, the group had complied with the requirements on matters regarding demonstrations. They had sent, as required by Indonesian law number 9 of 1998 article 10 paragraph 1 regarding freedom of opinion in the Public Area, information about their planned demonstration to the Chairman of North Sumatra Regional Police.

However, despite having complied with the requirements, Darwin Ginting who is the Chief of City of Medan Sub-District Police threatened the demonstrators and allegedly gave verbal orders to his subordinates to assault and shoot protestors during their demonstration. He was reported to have said: "if the demonstrators move one step forward, hit them or if necessary shoot and I will take responsibility".

After hearing the orders, the police commenced the attack and began violently dispersing the demonstrators. Darwin Ginting and the other police officers grabbed bamboo sticks to beat and assault the demonstrators, particularly the three student activists which resulted in them suffering severe injuries. They were taken to the Medan Metropolitan police and were detained until 24 June 2009.

As one of their lawyers visited them in jail following their arrest, he found torture marks and severe injuries the bodies of the arrested student activists. Through the lawyer's conversations with them, he also noticed that the victims appeared to be mentally disturbed that he could not discuss with them about their treatment or the case in details properly. This strongly suggests that they might have been suffering from a post traumatic stress syndrome due to torture.

The three student activists have been falsely charged with committing assault and violence under article 170; committing violence against person or property; and for maltreatment under article 351 the Indonesian Criminal Law (Case No. 2187/Pid.B/2009/PN.Mdn). Their case was examined by Medan District Court who sentenced them to three to nine month imprisonment.

Story 23: Police tortured a man to admit his a drug dealer

Victim: Zaenal M. Latif

Alleged perpetrators: Ten police officers of Cilegon Police Station, including Ipda Dedi Herdiana

Date of incident: 29-30 April 2009

Place of incident: Cilegon Police Station

AHRC-UAC-065-2009

On April 29, 2009 at 10:30pm, Zaenal M. Latif was held and then detained by more than ten police officers in Cilegon City, Banten province. The police, who disguised themselves as thugs, arrested him in the area of Taman Bonakarta complex. He was waiting for a ride with a friend named Nunu when the incident took place.

While Latif was held in detention, Ipda Dedi Herdiana, who had introduced himself to the victim as a member of the narcotics division, had repeatedly assaulted Latif on his head. There was no reason given for his arrest. The police later took him to Cilegon Police Station where they took a urine sample. The result of the test was negative.

About five police officers wearing civilian clothing questioned Latif in an interrogation room, during which he was punched in his face and back. One of the officers burned Latif's left hand with a cigarette while the others forced Latif to confess and admit that he was a drug dealer. The officers also brought two persons called Upik and Neng into the interrogation room, who claimed that Latif was known to them and that they knew about his illegal drug activities. However, Latif was later unexpectedly released.

At 11:30pm on the same day, four police officers arrived at a room rented by Latif in Jombang Kali, Cilegon. They arrested Latif again without providing any arrest warrant. The officers punched Latif on his face and body as well as handcuffed his hands. Latif had his hands and fingers trampled by the police officers as well. He was not able to identify the torturers because they had their faces covered.

After the police officers could not find evidence that would convict Latif as a drug dealer, they took him back to the Cilegon station. At the station, officer Briptu Rahmat threatened that if Latif did not confess to be involved in dealing drugs by 5am the following day (April 30 2009) then the police may have to kill him, as ordered by his supervisor. A gun was pushed against Latif's leg during the interrogation.

Latif was released on the next day after previously been asked to change his clothes which were dirty due to the bloodstains. Latif was also warned by the police not to tell anybody of what had happened to him.

Story 24: A farmer dies in police custody due to torture

Victim: Carmadi

Alleged perpetrators: Aiptu Sutrisno; unidentified officers of Tegal and Slawi Police; medico-legal officials responsible for conducting the autopsy of the victim's body

Date of incident: 14 April 2009

Place of incident: Tegal, Central Java

AHRC-UAC-111-2009

Mr. Carmadi was planting rice with his parents in Pakulaut village on April 14 when they were approached by two plain clothed police officers. One was later identified as Aiptu Sutrisno. The police brought Mr. Carmadi to the Tegal Police Station and placed him in custody, but without a legally required summons letter. They told the man to give a statement regarding an attack that took place four days earlier in his village on someone belonging to the campaign team of the Indonesia Democratic Party of Struggle (*Partai Demokrasi Indonesia Perjuangan*, PDI-P) legislative candidate.

The police took Mr. Carmadi to Slawi Hospital to meet with the attack victim, Mr. Imron, and his brother. Mr. Imron reportedly told the officers that he knew Mr. Carmadi and Mr. Imron's brother allegedly said that Mr. Carmadi was not the attacker.

On the same afternoon, Mr. Carmadi's relatives visited him and found that his head was bleeding, and that he was injured across his upper body. Mr. Carmadi told them that officers had severely beaten him and that his tongue was torn, the left side of his body hurt badly and he couldn't hear out of his left ear. He also told them that he had confessed to having attacked Mr. Imron under duress, although he had not. Mr. Subur demanded that the police should arrange medical treatment but nothing was done so the two men stayed at the police station for most of the following day.

At 4pm the police presented Mr. Carmadi's parents with an official order for his detention. He was moved to the police station at Slawi. On April 16 during a family visit the victim told them that he had been vomiting ever since the torture, and reportedly identified one of the police officers who had tortured him.

At 10pm of the same day the local village head contacted Mr. Carmadi's father, Mr. Kusnadi, to let him know that he had been summoned to the station by police, and he had been told by a police investigator named Rudi that Mr. Carmadi had fainted and fallen during an interrogation. He was taken to Slawi hospital where he died. On 17 April an autopsy was performed at the hospital and his body was taken home for burial.

The family turned to PROPAM which advised them to lodge a complaint with the head of the Criminal Investigation Division. On 4 May, Mr. Kusnadi and Mr. Haryono paid a visit to the Internal Affairs Department. At this point the police was claiming that the autopsy showed that Mr. Carmadi died due to suicide. Yet after receiving the autopsy report, the family learned that the autopsy results and the police story did not match up with the wounds on Mr. Carmadi's body, or the earlier claim that he had fainted under interrogation. The family also registered a report at the National Police Commission, the National Human Rights Commission and the District Police in Tegal Central Java, but so far no progress has been made.

Story 25: A man was executed in police custody

Name of victim killed: Bayu Putra Pradana

Alleged perpetrators: Unidentified officers in Bogor and North Jakarta

Date of incident: 2 to 4 April 2009

Place of incident: Bogor, West Java, as well as North Jakarta Police Station

AHRC-UAC-066-2009

On April 2, 2009 at 2pm Mr. Munadi received a phone call from his daughter-in-law Ade Nur, telling him that his son, Bayu Putra Pradana, had been taken away by six or seven people who claimed to be officers for the North Jakarta police force. Munadi went straight to the North Jakarta police station after the call, but was told that his son was not detained there. Munadi inquired at two neighboring police offices but he was told the same thing. He returned to the North Jakarta police station at 5:15pm, but there was still no word.

At 11pm Munadi received another call from Ade Nur who informed that the police had returned to and ransacked the place where she lives with Bayu. They did not find anything but one officer left his number with Ade Nur (021-97301867). Munadi called the number and, to get through, pretended to be a friend of the policeman. When the officer took the call, Munadi says he heard his son screaming for mercy in the background. Munadi asked who was screaming and asked the police to stop harming them; yet the officer pretended not to hear and hung up. Five minutes later the officer called back and asked for the identity of the caller. When Munadi explained that he was the father of Bayu, the officer hung up again.

Munadi went straight back to the station (at around 11:30pm) and went to the fourth floor to meet with those in the office of the second highest detective in command, Mr. Santoso. Munardi recounted what had happened that day and asked after his son, and an officer looked into it and told him that Bayu was being held in Bogor, West Java.

On April 4 at 3pm Munardi got a phone call from Ade Nur, who told him that Bayu had been pronounced dead in CM Hospital from two gunshot wounds to his chest and stab wounds on both his legs. It is not clear on which day he had died.

Meeting with Santoso, Munadi was told that Bayu had been shot by the police after he tried to escape during a crime scene reconstruction. Yet in the hospital later that day he found his son's corpse covered with other wounds, including gaping wounds on his wrists and hands and more than 10 stab wounds on his legs. They were not wounds, he says, of a man who would be able to run away.

Despite phone calls and visits to the police station, Munadi was unable to get anyone to help him with the release of the body from the hospital. On April 5 around 11am an officer finally arrived from the police station to arrange their collection of the body, which the family buried in their village in Cirebon, West Java.

Story 26: Inhuman treatment of a political prisoner inside prison

Victims:

1. *Bukthar Tabuni*
2. *Yusak Pakage*
3. *Selpius Bobii*
4. *Cosmos Yual*
5. *Nelson Rumbiak*
6. *Ricky Jitmau*
7. *Elias Tameka*

Alleged perpetrators: Prison guards of Abepura Correctional Facility identified as Adrianus Sihombing, Elly Awii; Marthen Imbiri; Iof Itlai; Rianto; Yosep Yembise; Nikson Yarusrai

Date of incident: 1-5 February 2009

Place of incident: Abepura Correctional Facility, Papua

AHRC-UAC-014-2009

On February 1, 2009, Mr. Buktar Tabuni, who was originally arrested on December 3, 2008 on charges of treason, was taken into custody at Abepura Correctional Facility in Papua province. Following his arrival at the prison, Mr. Tabuni was beaten by a prison official. This beating caused a severe injury to the eye, and he is now unable to see properly.

Six other detainees at the correctional facility who are also political prisoners reacted against the unprovoked beating and filed a formal complaint with the director of the prison. However, following the complaint the six prisoners were subjected to torture and ill-treatment by the prison guards. The treatment is reported to have included: punching; slapping of the eye; kicking with jackboots; as well as slaps about the face and neck.

Subsequently, after the severe beating the six prisoners along with Mr. Tabuni were transferred to an undersized cell without windows. The cell was unhygienic and human excrement was found on the floor. The victims were placed in severe danger as the prison guards left them in the cell for four days without access to water or food.

Following this period of inhumane treatment, 16 police men came to the prison on 5 February 2009 at 8am to transfer the victims to the police prison in Jayapura. During the transfer, the seven prisoners were not allowed to wear clothes but underwear.

Story 27: Police shot at, arrest and tortures villagers protesting against mining operation

Victims:

1. *M. Saleh Husain*
2. *H.A. Wahab*
3. *Abdurahman*
4. *Ridwan Yusuf*
5. *Afandi*
6. *Imran*
7. *M. Nur*
8. *Nasrin*

9. *Hasanudin*

10. *Suhardin*

11. *Hartati and a child, Burhan,*

13. *Masrun*

14. *H. Ahmad Yasin*

15. *A. Karim*

16. *Arifin*

17 *Aris*

Alleged perpetrators: Unidentified officers of Wera Sub-District and Bima District Police

Date of incident: 22 July 2008

Place of incident: Wera, Bima, West Nusa Tenggara

AHRC-UAC-174-2008

On 21 July 2008, at 6am approximately 700 villagers of Pai Village, Wera District, in West Nusa Tenggara gathered at a venue to commence a demonstration against the construction of a mine in their village, which will destroy their traditional livelihoods and natural habitat. At 8:30am they started moving towards the city of Bima using four buses and one truck. They arrived at 10:30am and gathered at a community arena. Afterwards, they marched towards the local government office. During the march, they protested and demanded that the licenses of the mining operation of Indomening Corp. (IC), Liand Intan Mandiri Corp. (LIM), and Jagad Mahesa Karia Corp. (JMK) to be revoked. At the front of the local government office they demanded to meet with government officials, however, none of the officials were willing to meet with them. After waiting for some time, the head of Local Mining Services came out and held a dialogue with the representatives.

During the dialogue, the head of Local Mining Services, Mr. Sahbudin, spoke unpleasantly to the villagers saying that there were only a few people who were truly against the mining operations of the above mining corporations. After the dialogue ended, the villagers then moved to the Office of the Local Legislative Council. The villagers demanded that the members of the Local Legislative Council accommodate their requests. After protesting in front of the council's office, the Head of Commission A of the Local Legislative Council came out and met with the villagers. Disappointed with the bad result of the meeting with the officials, the villagers moved back to the paruga community arena. They were particularly disappointed with the Local Government of Bima under the leadership of Mr. Fery Zulkarnaen (Regent of Bima) and the Local Legislative Council. The villagers then decided to go to the base camp of the iron sand mining area, which was near their village. Triggered by anger and outrage, the villagers destroyed the base camp. They destroyed the roof top and the wall, and they wanted to burn the place down, but they decided not to. After this event, some people went back to their homes while others stayed at the ruined base camp.

On the following day, 22 July 2008, at 8am, the local police came to the base camp in riot gear which included shields, sticks and firearms. Once the police arrived at the area, they began shooting at the villagers and arrested 18 people (1 of them was female and there was one child). None of the villagers were injured by the arbitrary shots. The 18 people who were arrested were then taken to Wera Sub-District and Bima District Police. All of the people arrested were

tortured, which resulted in one man being severely injured and he is currently in a coma and under intensive care. One woman and her child were released from prison the same night. Hundreds of villagers ran to the mountain to hide because they feared being arrested and tortured by the police.

On 23 July 2008, the 16 arrested villagers were released from custody after negotiations with the local government, Bima District Police and the village representatives.

Story 28: A man accused of stealing oil palm nut tortured to death

Victim: Adi Sahrianto

Alleged perpetrators: An officer identified as Anjasmara Siregar (North Sumatra Regional Police) and three other unidentified persons

Date of incident: 26 March 2008

Place of incident: Deli Serdang, North Sumatera

AHRC-UAC-118-2008

On 26 March 2008, Mr. Adi Sahrianto was arrested by Mr. Anjasmara Siregar, an officer from North Sumatera Regional Police on false allegations that he had stolen an oil palm nut. They blindfolded him while taking him in a car towards the Regional Police Station.

At the time of Sahrianto's arrest, there was a violent confrontation that have taken place in the village between villagers in the Bulan Bintang village and the group of militia working for the State's plantation Company (PTPN II) that just subsided. The confrontation was a result of their dispute over ownership of land where the villagers are occupying. Sahrianto had been working in their village as a gate keeper.

After Sahrianto's arrest, Mr. Iqro Ramadhan, head of a local organization providing assistance to these villagers called Juma Tombak as well as an advocate of land disputes issues, had contacted the local police station inquiring about Sahrianto's arrest. It was Ramadhan who had able to confirm that Sahrianto was, at the time, in police custody supposedly for charges of theft.

However, at 10:05pm that day, the victim's brother, Adi Syahputra, had been informed by the police that his brother had been taken to the hospital in Medan, the capital of North Sumatera Province. After hearing the information, Syahputra and Sahrianto's family immediately proceeded to Medan. But when they arrived at the hospital, they found out Sahrianto had already died.

Sahrianto's corpse had had traces of burns all over it. A person who had cleaned the victim's body had also relayed to Syahputra that he had also notice several visible injuries to his brother's corpse while he was cleaning it; for instance, bruises on his neck and back, and his head also had cuts. No autopsy report has been provided to the victim's families that could have explained these injuries.

When Syahputra reported his brother's deaths in police custody before the North Sumatera Regional Police, the police refused to take action for reasons that they have no jurisdiction over

the case. Syahputra had to make a complaint to the other police station, Deli Serdang Local Police Station.

However, the police had already exonerated themselves from any accountability in his brother's death in absence of a thorough investigation. One of the police officers, Mr. Darmawan Sutawijaya who is the vice director of the Criminal Department of the North Sumatera Regional Police, has claimed the victim has already been suffering from severe injuries even before the police arrested him. He claimed that he had been beaten by hundreds people after he was caught stealing the palm oil nut.

Mr. Sutawijaya claimed the police had come to the village after receiving a phone call from the villagers. The police supposedly tried rescuing the victim by taking him to a hospital for medical attention but he died on his way. However, KontraS office in North Sumatera said that no such incident of a man beaten for theft that had taken place. Neither Sahrianto nor any villagers had been seen beaten contrary to police's claims.

There have been strong suspicions that Sahrianto's arrest and subsequent death had something to do with the continuing land dispute. It is reported that the police officer who arrested him, Mr. Anjasmara Siregar, was the same person whom the villagers had stopped when he tried to forcibly enter into the village. There are also allegations that he and the other men could have had connections with the company whom the villagers had in conflict with.

Disappointed with the police's failures to investigate Sahrianto's death thoroughly, KontraS and the villagers in Bulan Bintang held a demonstration in front of the North Sumatera Regional Police Station. They demanded the police to conduct a proper investigation into Sahrianto's death.

A few days later, the Regional Police had contacted Sahrianto's family and interviewed them regarding details of his death. The police arrested Perdamaian Sitepu, a member of the Pam Swakarsa few days afterwards. The group is a civilian militia founded by the military who had been involved in countering the student movement in 1998. However, the police officer involved, Anjasmara Siregar, have not been subjected to any investigation. The police instead had arrested Iqro Ramadhan, the person who had earlier inquired at the police's stations and had confirmed Sahrianto's was in their custody, for his supposed involvement in the violent confrontation between the villagers and the company's men that happened that same day.

Story 29: A police intelligence officer tortured a man who wants to kill him

Victim: Sumadi

Alleged perpetrators: Maryono (Metro Jaya Police); Deli and Boy (subordinates of Maryono at Metro Jaya Police); unidentified officers of Benteng Police

Date of incident: 4 July 2007

Place of incident: Tangerang

AHRC-UAC-227-2007

At 10:30am on 4 July 2007, Sumadi and his two friends (Agus and Saran) were eating at a food stand by the Tangerang State Courthouse while waiting for the trial of Mrs. Lurah, who is Sumadi's employer and also legal guardian. As they were eating, Maryono, a member of the Intelligence and Protection Unit of the Metro Jaya police station in Jakarta, passed by the food stand dressed in plainclothes. Maryono used to work for Metro Tangerang police station before he was stationed in Jakarta, and he was a neighbour of Sumadi. Having good relations with him, Sumadi and his friends greeted him and inquired about his return to the area. Maryono at first refused to reply, but then he said to Sumadi, "I heard that it was you who wanted to kill me". It was alleged that Maryono's subordinates, Deli and Boy, received a text message that stated Sumadi was going to murder Maryono, which Sumadi denied.

Subsequently, Maryono slapped Sumadi across the face and Sumadi reacted by slapping him back. A fight then broke out between the two of them. Sumadi's friends tried to intervene by holding the two men back. Maryono then called for Deli and Boy who at the time were also not in police uniform to come and arrest Sumadi. Sumadi's friends decided to run into the courthouse and find Mrs. Lurah and Yadi to help them. When they all came looking for Sumadi, they saw Maryono tightly holding Sumadi's arms. Yadi tried to release Sumadi from Maryono's grasp, but Maryono grabbed Yadi's hair, while Deli put his arm around Yadi to stop him further and Boy grabbed Yadi's T-shirt. At the same time, Yadi witnessed Maryono violently and repeatedly hitting Sumadi's face with his fist. Yadi, Mrs. Lurah and Agus tried further to help Sumadi, who eventually was able to release himself from Maryono's clutches. However, when Sumadi tried to get away, the three officers chased after him and grabbed his hair, while dragging him into a public transportation. In the vehicle, they brutally stepped all over Sumadi's body.

The three policemen took Sumadi to Benteng Police Station in Tangerang City. At the station, Sumadi was subjected to further beating by several police officers whose identity could not be identified. Due to the assault by the police, Sumadi suffered from a concussion, two open wounds on his head, swollen and bruised eyes and lips, and the skin on his chin was ripped. Sumadi was brought to the hospital to assess his injuries and a medical report was taken.

Maryono, Deli and Boy reported Sumadi to the Benteng Police Station on charges of assaulting a police officer and allegedly threatening to kill Maryono. Thus, Sumadi was placed under arrest and charged under criminal law by two officers named Irwan and Agus who are from the aforementioned police station. However, his arrest warrant was issued a few days after he had been in jail. Moreover, his family was not allowed to visit him until two days after the incident on 6 July 2007.

On 9 July 2007, the victim was transferred to the Metro Tangerang police station by the investigative police commissioner Supriyanto due to the reason that there were too many police officers getting involved in this case. Through his wife, Ni Komang, the victim has reported this incident on 5 July 2007 to the Metro Jaya Police Department in Jakarta where the main perpetrator, Maryono is stationed.

Story 30: A man lost his hearing due to police torture

Victim: Hendrik Sikumbang

Alleged perpetrators: Yusril and other unidentified police officers of Pekanbaru police

Date of incident: 14 June 2007

Place of incident: Pekanbaru, Riau

AHRC-UAC-205-2007

At 3:30pm on 14 June 2007, Hendrik Sikumbang was riding his motorcycle with his friend, Rizal Tanjung, on his way to Padang Cultural Park and a car with blue color followed him. This car cornered Sikumbang's motorbike so that he was unable to move. Subsequently, several men wearing police uniform came out of the car. One of them, Yusril, a former member of West Sumatera Police Regional office, who is currently stationed at Pekanbaru police office, ordered Sikumbang to get into the car. Sikumbang resisted by asking, "Why do I have to come with you?" to which Yusril replied, "Just get into the car and we will tell you later inside." Since Sikumbang knew that Yusril is a police officer, he questioned the motivation behind their action: "Are you trying to arrest me? If so, show me the warrant!"

Refusing to answer, the officers grabbed Sikumbang and tried to shove him into the car. Sikumbang used all his force to hang on to the car's door, but then the policemen started yelling that there was a robbery and that Sikumbang was the thief. All this commotion captured people's attention on the street and everyone nearby saw the incident. Sikumbang could not resist any longer and he was taken inside the car.

Meanwhile, Rizal Tanjung informed what happened to Sikumbang to Syaiful who is the Head of Pemuda Pancasila- Padang Division branded by the state as a vigilante youth group. When Syaiful received information that Sikumbang was "abducted" by the police, he approached the West Sumatera Police Regional office and the Pekanbaru police station. Syaiful was informed by a police officer in Pekanbaru that his friend was not arrested but only questioned to obtain the whereabouts of Joni Rambai, a suspect in a murder case.

As the car was whizzing around in the city, the police continued to beat Sikumbang with their bare hands and with a gun. While Sikumbang was being assaulted, his cell phone kept ringing, and a text message came from Syaiful. It read, "Hen, I am at Padang police station now, I want to report that you have been 'abducted'." Yusril knew who Syaiful was, so he turned off Sikumbang's cell phone and told the driver to head to Padang police station. At the station, Sikumbang was released by Mukti Juharsa, Chief of Padang District Police because there was no prior coordination between the Pekanbaru police office and the Padang police office.

Due to the 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 a doctor the membrane in Sikumbang's ear had cracked and would cause him hearing loss.

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.

Story 31: A man who mistook a woman as his girlfriend was tortured for inadvertently touching her

Victim: Kurniawan (Iwan)

Alleged perpetrators: Unidentified police officers of Tegal District Police

Date of incident: 3 May 2007

Place of incident: Tegal, Central Java

AHRC-UAC-201-2007

At around 7.30pm on 3 May 2007, Kurniawan had just taken his friend home using a bicycle to Mintaragen Village, Tegal, when he saw a woman riding a bike. From her appearance, Kurniawan believed the woman to be his girlfriend, Dewi. He then approached her and touched her body, but when the woman turned to face him, it was in fact not his girlfriend, but another woman by the name Dwi Astuti. He tried to move away from her, but she grabbed him and they both fell off their bicycles. The woman began to yell for help and subsequently around ten men came to the location and started beating Kurniawan. The policemen nearby arrested Kurniawan and took him to the Tegal District police station.

At the police station, the officers kicked his chest and placed both his feet under the legs of the table while several other police officers sat on top of the table. This was done to force a confession and to charge him on a crime against obscenity and assault of the chastity of a woman. After obtaining his confession the police detained him.

Kurniawan is unable to identify the police officers because they were not in uniform during the interrogation. Meanwhile, Kurniawan's family was able to visit him in jail on 7 May 2007, but the visiting times were limited by the police. Kurniawan's family received a detention warrant from Tegal resort police on 22 May 2007 in which the Tegal attorney's office extended his detention.

Kurniawan's family has not filed a formal complaint to Komnas HAM or to the police fearing further negative repercussions from the authorities.

Story 32: A man fractured his arm, skull due to police torture

Victim: Teguh Uripno

Alleged perpetrators: First Brigadier Police' Syarifudin and Arifin and other seven unnamed police officers, all attached to the Serpong Sub-District Police

Date of incident: 20 to 21 April 2007

Place of incident: Serpong, Tangerang

AHRC-UAC-169-2007

Teguh Uripno was arrested on 20 April 2007 for defending himself against a police officer who attacked him for reasons unknown. Following his arrest, at 11 am on the same day, his family immediately went to Serpong police station. When they arrived at the police station, they were prevented from seeing the victim so they returned on the following morning. However, once again they were not allowed to see the victim. No sufficient reasons were given to them by the police as to why they were not allowed to meet him.

At 3:30pm on the same day, 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 the body. Medical reports indicate his body showed several torture marks, his arm was broken, he had a fractured skull and severe bruising. The cause of his death was due to blunt force trauma to his skull.

It is reported that two police officers, namely First Brigadier Police' Syarifudin and Arifin, allegedly perpetrated the brutal beating of the victim while he was in their custody. Seven other police officers, whose names are yet to be identified, have likewise been accused as accomplices. Despite the gravity of the victim's case there was no substantial progress, not have any charges been filed against the alleged perpetrators.

Although the Criminal Unit of Tangerang police has already commenced their investigation the process by which it is being conducted is not satisfactory. The Uripno family likewise already filed a formal complaint with Komnas HAM who in turn demanded an investigation. However, the Serpong police have yet to make any serious investigation into the case.

Story 33: Police tortured a teenage boy whom they arrested for whistling at a woman

Victims:

1. *Odi Modokh*
2. *Arnoldus Janggur*
3. *Albertus Benda*
4. *Marseinus Janggur*
5. *Dohol Janggur*
6. *Beni Herwanto*

Alleged perpetrators: Officers of Manggarai District Police in Nusa Tenggara

Date of incident: 29 and 30 January 2007

Place of incident: Manggarai Resort Police Station in Nusa Tenggara district

AHRC-UAC-121-2007

On 28 January 2007 at around 10pm, Mr. Odi Modokh and his five friends namely Mr. Arnoldus Janggur, Mr. Albertus Benda, Mr. Marseinus Janggur, Mr. Dohol Janggur, and Mr. Beni Herwanto were socializing outside a local convenience store on Yos Sudarso Road when an attractive woman passed by. The young teenage boys whistled and cat-called at the woman. A few minutes later, the said woman returned with a man and singled out one of the boys, Mr. Albertus Benda. The man started to quarrel with Mr. Benda. Overhearing this argument, Mr. Modokh intervened on his friend's behalf and began to quarrel with the couple as well. He apparently then slapped the man. The couple then left.

At around 11pm that same night, Mr. Modokh, Mr. Benda and their friends were on their way home when six men on motorbikes barricaded their way. Grabbing Mr. Modokh, they then proceeded to the Manggarai District Police Station in the South-Eastern district of Nusa Tenggara. After being informed about the incident, Mr. Modokh's family rushed to the

Manggarai Resort Police Station and begged the Deputy Chief of Police to ensure that young Odi would not be tortured. They stayed at the police station until 1:00am the following morning, waiting for word of their young son.

It is alleged that Mr. Modokh was severely tortured whilst in detention; he later identified one of his abductors and a police officer, Eko Chayora, as one of the two officers who tortured him. On 29 January 2007, the five friends of the victim came to the said police station with their families to enquire about their friend. All five boys were detained overnight at the police station, where they too were brutally tortured by the said two officers on 30 January 2007.

It has been reported that Mr. Arnoldus Janggur sustained severe head injuries from his ordeal, and fell into semi-consciousness. He along with the other five friends remains in detention at the Mangarrai Resort Police Station and the police have not provided any medical attention for them. Meanwhile, no investigation has been launched into the alleged torture of the victims by any of the police and governmental authorities.

Story 34: Police stripped a homosexual partner naked and forced them to perform oral sex

Victims: Hartoyo, Bobby

Alleged perpetrators: Unidentified officers of Banda Raya Police; 16 unidentified civilians; employee of Pesona Cafe locating below Hartoyo's boarding house in Banda Aceh

Date of incident: 22-23 January 2007

Place of incident: Banda Aceh

AHRC-UAC-068-2007, AHRC-UAU-060-2008

On 22 January 2007 at 11:30pm, an NGO activist Mr. Hartoyo, was at home with his partner, Bobby, when two men kicked down his front door and barged into his home. One of the men was identified by Mr. Hartoyo as an employee of Pesona cafe below his boarding house. The two men proceeded to vandalize Mr. Hartoyo's property before physically assaulting both Mr. Hartoyo and his partner. Mr. Hartoyo and Bobby were then forced out of their home and ordered to go outside by their attackers, where a crowd of consisted of 15 people had gathered. The beatings and verbal abuse continued outside the house. Mr. Hartoyo specifically recalled the words of one of his attackers; "You outsiders slander us; you soil our place with your filthy tricks!"

Mr. Hartoyo was then ordered to immediately vacate the boarding house, and was marched back to his room to pack his belongings. Mr. Hartoyo's ID card and wallet were taken from him, and he was then made to squat on the ground with his partner, while his attackers deliberated on what to do next. They eventually decided to inform the local police authorities.

At 1:30am on January 23, four officers arrived at the scene in an official police vehicle. Mr. Hartoyo and Bobby were then taken to the Banda Raya police station. At the station, both men were allegedly made to strip down to their underwear, and were then viciously beaten and verbally abused by the officers. In his testimony, Mr. Hartoyo alleges that the officers sexually abused him and then forced his partner to perform oral sex on him. Mr. Hartoyo

started weeping and attempted to push his partner away, only to be kicked and scolded by the officers who took some perverse "enjoyment" out of their humiliation.

The victims were then dragged to the police station courtyard where they were made to squat on the ground in their underwear. Officers then sprayed them with ice-cold water from the courtyard hosepipe. At this point, Bobby asked the officers for permission to go to the toilet. The officers refused, and instead forced him to urinate on Mr. Hartoyo's head.

Mr. Hartoyo and his partner were then taken to a police lock-up, where they were detained until the morning. Mr. Hartoyo requested several times to contact his family to inform them of what had happened yet his request was denied. While in his police lock-up, Mr. Hartoyo was instructed by the officers to introduce himself to the detainee who already occupied the cell. When Mr. Hartoyo innocently stated that he was a homosexual, an officer entered the cell and severely beat him. According to Mr. Hartoyo, he was treated with complete contempt by all the officers he encountered during his detention.

Even though this incident took place in January 2007, it is reported that neither a proper investigation has been conducted nor has on-going adequate information been provided to the victim. A trial to examine the abuse experienced by Mr. Hartoyo and his partner was held at Banda Aceh District Court on 8 October 2008. Sugeng Budiyanto was appointed as judge in charge of this case. Investigating officer Brigadier General Sudjono acted on behalf of the Public Prosecutor. The accused were police officers Rahmat Hidayat, Wahyu Pratama, Wahyudi Saputra and Amrizal. Mr. Hartoyo was summoned on the same day of the trial was held.

It was reported that the accused was initially indicted under articles 170 in conjunction with 422 of the Penal Code regarding on violence against persons or property to extract a confession. After the investigation process was set in motion, the prosecutor treated the case as a minor offence.

During the trial, the judge did not examine the perpetrated acts of torture but rather focused on the sexual orientation of Hartoyo. He further advised him to turn away from this sin. He gave the impression that the accused should be allowed to beat and assault the victim on the grounds of his different sexual orientation.

After Mr. Hartoyo delivered his testimony at the trial, all of the accused accepted it without objection. They also apologised to Mr. Hartoyo. The court delivered its judgement on the same day and sentenced the four accused to three months' imprisonment, six months probation and a fine of IDR 1,000 (USD 0.1). In justifying such light punishment, the court argued that the perpetrators are police officers who are needed by their country and that they have confessed their acts. The court also argued that both parties have forgiven each other and that the perpetrators have only committed a minor offence.

Story 35: Policemen tortured a woman they accused of counterfeiting money worth USD6
Victim: Ni Ketut Suratni

Alleged perpetrators: Chief Brigadier I Made Wiguna and Brigadier Erwin Suprayoga

Date of incident: 3 January 2007

Place of incident: East Denpasar, Bali

AHRC-UAC-020-2007

Mrs. Ni Ketut Suratni was arrested by East Denpasar Sub-District Police in Bali on 3 January 2007 when she was shopping in market, suspected of counterfeiting money valued at IDR 50,000 (USD 6) that she paid at the market. She denied her involvement in the crime but she was taken to the East Denpasar Police Sector in Bali as they were suspicious about her connection with the counterfeiting network. Despite the lapse of almost three weeks her charge is still under scrutiny by police.

During the evening of the same day when the victim's son Mr. Gede Ananta went to the police station to see her, he found that her right cheek was badly swollen and that she appeared to have been struck about the face many times. The victim's son asked his mother about the injury and she replied that she had been severely hit and kicked by two police officers, Bripka I Made Wiguna (Police ID: 68010139) and Brigadier Erwin Suprayoga (Police ID: 76100156) during the interrogation.

On 11 January 2007, Mr. I Wayan Gangsar, the victim's husband, reported the case to PROPAM of Bali Regional Police. On the night of 11 January, the victim was examined by public medical doctors at the police hospital for a medical report for injury case that was then issued by 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 by independent doctors as the previous medical report had been issued by doctors from the police hospital.

Story 36: Two men tortured for illegally occupying a house and stealing motorcycle in separate incidents

Victims: Rudi Sebastian, Kurniawan

Alleged perpetrators: Four officers of Garut Correctional Facility named Ahmad Syarif, Nana, Catur and Oki; officers of Jati Asih Sub-District police

Date of incident: 16 August 2006, 8 September 2006

Place of incident: Garut Correctional Facility in West Java, Jati Asih Sub-District police in Bekasi

AHRC-UAC-312-2006, AHRC -UAU (formerly UP)-215-2006

On 16 August 2006, Mr. Rudi Sebastian was arrested by officers of the Garut Attorney General's Office and detained at the Garut Correctional Facility where he was brutally tortured by four correctional officers. Mr. Sebastian was imprisoned after he was sentenced to one-year imprisonment by the Garut District Court on 21 March 2006 for occupying a house without a valid permit.

Mr. Sebastian suffered severe bodily bruising and injuries; two broken fingers, swelling of the eyes, hands and legs and unable to walk. The next day of his arrest, when Mr. Sebastian's wife (Mrs. Imas Tini) visited him at the correctional facility, he identified his torturers as Ahmad Syarif, Nana, Catur and Oki. On August 22, Mrs. Imas Tini made a complaint to the institutional authorities, but was threatened by the Chief of the Garut Correctional Institution, who allegedly said "You could complain to the police. But we cannot guarantee [the safety of] Rudi's life". Undeterred, Mrs. Imas Tini filed a formal complaint with the Resort Police of Garut. They gave her the letter code: Pol. STPL/1124.VIII/2006/SPK. However the following day, Mrs. Tini was barred from seeing her husband by officers at the Garut Correctional Facility.

In a separate case, on 8 September 2006, Kurniawan, the driver of a public transportation car was arrested by officers of the Jati Asih Police on the allegation of having stolen a motorcycle; the allegation which was not supported by conclusive evidence. The arresting officers ordered him to run which Kurniawan refused to do so. He was afraid that the police were intended to shoot him, which they would then manipulate in their police report as an attempt to escape arrest and therefore sure evidence of his guilt. This practice is commonplace in Indonesia and many other Asian countries. Kurniawan was then detained at the Jati Asih Police station.

At the police station, it was alleged that two police officers used torture as a means of forcing Kurniawan's confession. This involved severe beatings, burning him with cigarette butts, stamping on him, severe intimidation and death threats. Kurniawan was detained for one night, and then subsequently released without charges due to a lack of conclusive evidence.

Kurniawan filed a complaint with the Metro Jaya Regional Police, but it was later rejected by the Chief of Jati Asih Police at that time, Arjun Komisariss Hotlan HS. Meanwhile, the Jati Asih Police denies that Kurniawan was ever arrested and detained by them.

On 18 September 2006, Mr. Hotlan Siagian offered Mr. Kurniawan's father Kusmana a bribe in the amount of IDR 2-3 million (approximately USD 375) to revoke the official complaint earlier made by Mr. Kurniawan against alleged perpetrators. The father however refused to accept Mr. Siagian's bribe.

On 18 November 2006, the disciplinary commission of the Bekasi District Police found Brigadier Nugroho, one of the alleged perpetrators, guilty of arresting Mr. Kurniawan on the baseless charges of allegedly having stolen a motorcycle, and then brutally torturing him at Jati Asih Police station on the said date. Despite Brigadier Nugroho's incontestable guilt, the disciplinary commission passed a lenient disciplinary sentence: demoting the Brigadier in rank, and freezing all due salary increases. The disciplinary hearing was handled internally within the police but further action has not been taken for legal action against the alleged perpetrators.

Furthermore, despite the victim's testimony, in which he clearly identified more than one perpetrator, no further disciplinary or legal measures have been taken by Bekasi District Police authorities against the other perpetrators.

Story 37: Police tortured two men for asking how long they would stay at police station for questioning

Victims: Arafik Bin Amri, Hendri Bin Suandi, Hendra Gunawan

Alleged perpetrators: 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 – all are officers of Buay Runjung Sub-District Police, South Sumatera

Date of incident: 23 November 2005

Place of incident: Buay Runjung Sub-District Police, South Sumatera

AHRC-UAC-020-2006

On 23 November 2005, at 10am Arafik Bin Amri and Hendri Bin Suandi went to buy two cows, one each from the villages of Kota Aman and Negeri Batin Baru, South Sumatera. They went with Hendra Gunawan, a driver. After buying the cows and obtaining the necessary permission and reference letters from the head of both villages, the three men began their journey home. On the way, at 8pm, two officers from Buay Runjung Sub-District police stopped them and ordered them to turn in to the police station, ostensibly so the police could check their permission letters. The officers asked Arafik and Hendri for a permit letter from the OKU Selatan District Police, which in fact it was not necessary for the men to obtain as they were still in the same district.

After waiting for one hour, Arafik and Hendri asked the officers how much longer it would take. One officer became angry and began to hit Arafik with his gun and a flash light in the front yard. The second officer hit Hendri and threatened to shoot Hendra Gunawan if he attempted to help them.

After assaulting Arafik, the officers dragged him away by his legs to the back yard. They then stripped him naked and put him in the custody room until midnight. Subsequently, the Chief of Buay Runjung Sub-District police came and questioned both Arafik and Hendri, as well as some officers. Arafik told him that he had been tortured by some police officer and asked for his clothes, wallet, mobile phone and money. Although his clothes and wallet were returned, Arafik lost his mobile phone and a sum of IDR 200,000 (USD 20).

The police chief then allegedly went to question some other officers, leaving Arafik and Hendri with the officers inside his office. The victims were further assaulted at this time by these officers. At 2:30 am, a police officer named Roni brought them to OKU Selatan District Police where they were detained. At 7am, two officers in the detention room further assaulted them. A few hours later, they were released.

The next day, Arafik's family made a complaint to the Buay Runjung Sub-District Police, resulting in the arrest of the perpetrators a few days later. Although an inquiry into the incident was said to be ongoing, there are concerns that with the lack of transparency in the inquiry. There is likely to be little disciplinary or criminal action taken against the officers.

Story 38: Police tortured villagers for allegedly murdering three policemen

Victims:

1. *Sahidu*
2. *Hasanudin*
3. *Bambang*
3. *Lai*
4. *Nanga*
5. *Masuna*
6. *Kahar*
7. *Raya*
8. *Asani*
9. *Olimin*

Name of alleged perpetrators: Unidentified officers in Central Sulawesi Regional Police, one of them identified as Bripda Max

Date of incident: 27 October 2005

Place of incident: Central Sulawesi

AHRC-UAC-239-2005, AHRC-UAU (formerly UP)-120-2006

On 27 and 28 October 2005, 312 villagers from Dusun Salena surrendered to the Central Sulawesi Regional Police Office, where they were interrogated over the killing of three Central Sulawesi Regional Police officers several days earlier. The police then arrested 11 of the villagers as murder suspects of the three police officers. Ten of them were held in special custody, while one of them was kept separately. The ten villagers who were in special custody were beaten repeatedly, including being hit on their heads with guns and kicked with boots. The police also forced them to do 100 push ups, remove their clothes and hold each others' penises. The suspects were only fed rotten food twice a day.

On 13 December 2005, a complaint of torture was made to the commander of police. Brigadier General Oegroseno, Chief of Central Sulawesi Regional Police denied that torture had taken place, but promised to investigate the complaint and punish the perpetrators if they were found to have committed torture.

The three police officers that were killed on 25 October 2005, died in a clash between the police and villagers in Dusun Salena, Kelurahan Buluri, Kota Palu, Central Sulawesi. The clash occurred when the police attempted to arrest Madi, the leader of a 'deviant' religious sect and his followers. Madi, who practices traditional self defence medicine, has been accused by the police for spreading heretical Islamic beliefs. Two high ranking officers from the Resort Police (Polresta) of Palu and one officer of the Police Intelligence Service (Intelkam) of the Central Sulawesi Regional Police were killed in the clash, as was one civilian. The police and military then encircled the village, forcing the villagers to run away. They returned from hiding in the forest and surrendered to the police on 27 and 28 October 2005.

On 17 May 2006, the District Court of Central Sulawesi sentenced Raya, Kahar, Lai, Olimin, Hasanuddin, Bambang, Asani and Sahido (30) to nine years imprisonment. This was the case even though the men retracted their confessions during the trial, which they said they had made after being tortured. They described the brutal methods of torture and showed their injuries. Furthermore, 11 witnesses from the village of Dusun Salena stated that the 10 suspects were not

involved in the attack on the police officers. According to their testimony (which corresponds to that of the suspects'), only three persons attacked the police.

The two other suspects, Nanga and Masuna, were acquitted; the judge noted that they had helped the police with information regarding Madi's whereabouts. The prosecutor however, has asked for an appeal to be heard at the Supreme Court regarding their acquittal. Together with the 10 farmers, the police had arrested one other man, Arifin, in October 2005, who was detained separately. The district court sentenced Arifin to five years in prison under emergency law, for hiding weapons.

Story 39: Family of torture victim pay bribe to soldiers for his release

Victim: Bagus Ariyanto

Alleged perpetrators: Unidentified military 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

Place of incident: 15-16 October 2005

Date of incident: Army Station of Detachment Supplies and Transportation Jaya Raya (Denbekang Jaya Raya)

AHRC-UAC-213-2005

On 15 October 2005 at 9:30 am, Bagus Hariyanto was arrested by a group of military officers at Tambak Street Central Jakarta. He was accused of stealing a bicycle which was owned by a military officer. Bagus was brought to the station of Detachment Supplies and Transportation Jaya Raya.

According to the neighbours who witnessed the incident at the station of Detachment Supplies and Transportation Jaya Raya, the perpetrators denuded and forced him to run and do some push ups, and tied him to a pillar. The military had not informed the family that they kept Bagus at their station. The family went to the detachment and asked for information on Bagus only after the witnesses informed them on what had happened.

Bagus was released on the next day after his family gave IDR 270,000 (USD 27) as payment for the bicycle. At that time Bagus's entire body was full of injuries, blister husk, broken hand and a lead bump. He could not walk well. It was learned that his heart is no longer beating normal. On 17 October 2005, Bagus passed away in his home. He was not taken to a hospital for treatment because his family did not have money to bring him to the hospital.

In the evening, the family reported the incident to the Detachment Supplies and Transportation Jaya Raya 44-12, TNI AD. Lieutenant Colonel M Hafil Aminuddin, a representative of the detachment group Denhar Jaya 44-12. He has apologized to the family and promised to investigate the case.

On 18 October 2005 after the burial of Bagus, the Commander came and gave money worth IDR 1,200,000 (USD 120) to express condolences to the family. But he demanded the family to sign a letter stating that they will not sue the military officers and that he promised to conduct an

investigation. The Head of Public Relation of Jakarta Military Regional Command, Lieutenant Colonel Apang Sopandi, told the press that Bagus died due to an overdose.

On 12 October 2005, the Jakarta Military Regional Command exhumed the victim's body and performed an autopsy. The result of the autopsy proved that the victim was attacked by hard object to his head and his bones had been broken, which was contrary to the report of Lieutenant Colonel Apang.

League of Young Kesatria (Ikatan Remaja Kesatria), a youth organisation in Bagus's village reported to the National Police of Republic Indonesia on 24 October 2005 regarding the torture of Bagus. Yet no action was taken against the civilians who were involved. On October 27, Indonesia Legal Aid and Human Rights association regional Jakarta (PBHI-Jakarta) assisted the family to make a complaint about the torture case to the Military Police (Pondam Jaya).

The latest information received reveals that the Military Police have already conducted an investigation and announced that 10 military officers involved in the case have been detained in the Military Police Office and are undergoing investigation.

Story 40: Police tortured a man they alleged stealing money

Victim: Fitriyanto "Sanep"

Name of alleged perpetrators: Unidentified officers of Belitung Timur District Police

Date of incident: 12 September 2005

Place of incident: Belitung Timur

AHRC-UAC-210-2005

At 11am on 12 September 2005, Fitriyanto was waiting for a passenger in Manggar Belitung Bus Terminal when a police officer named Buya told him that he had been looking for by Gantung Sector Police. He forced Fitriyanto to go with him to the Belitung Timur District police station where several police officers accused Fitriyanto of stealing money worth around IDR 130,000,000 (around USD 12, 967), some gold and a generator from a Gantung resident. Although Fitriyanto professed his innocence, the police began to assault him to make him confess.

The police officers hit the victim one by one, using their hands, helmet and wood. They hit his face, head, back and legs. The officers then took him in a police car to look for Gajul--the other alleged criminal--and to bring him to the Gantung Resort Police. At the same time, two police officers from Resort Police Belitung Timur (one of them was identified as Simanungkalit) ransacked Fitriyanto 's parents' house to search for incriminating evidence. It was done without a search warrant and they did not notify the head of the village as required by law.

At 11pm, Fitriyanto's parents came to the police station to look for their son. They were told by the officers that Fitriyanto had not been arrested and that his whereabouts were unknown by the police. The parents also looked for him at the Gantung Resort Police yet they were told that the information was confidential and that they should come again tomorrow.

On 13 September 2005, in the morning, Fitriyanto's parents went back to the Gantung Resort Police, but learned that their son had been moved to the Belitung Timur District Police. Finally, at 3pm, his parents and lawyer were able to meet Fitriyanto. He had injuries on his face, head and legs, and could not walk very well. Among the police officers present at the time were Lili, Wahyudi and Buya. Before the officers released the victim, officer Lili apologized to Fitriyanto's parents and said that Fitriyanto was not guilty.

The victim was then brought to a small hospital, examined by a doctor and treated with traditional medicine. He was accompanied by his parents and officers Buya and Yuhri. After two hours at home, Fitriyanto suffered acute headaches and threw up. He was then taken to the emergency room in a public hospital where he was treated for eight days.

Story 41: Torture of men the police alleged as involved in bomb blast

Victims:

1. Jumaedi
2. Jumeri
3. Mastur Saputra
4. Sutikno and other unidentified villagers of Pandajaya, South Pamona sub-district, Poso, Central Sulawesi

Alleged perpetrators: 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 Regional Police; the Anti-Terror Detachment 88 of the National Police; the Buru Sergap units of the Central Sulawesi Regional and Poso District Police, as well as officers of the Police Intelligence Service (Intelkam) of Central Sulawesi Regional and Poso District Police

Date of incident: 1 to 10 June 2005

Place of incident: Pandajaya village; Mulia Pendolo Hotel, Pendolo village; Poso Lake, Pendolo village; Pendolo Sub-district police station; Poso District police station

AHRC-UAC-140-2005

On 1 July 2005, at 8am police officers from the South Pamona Sub-district Police led by Sub-district Police Chief Wusuk, went to the house of Jumaedi in a truck of the Police Mobile Brigade (Brimob). Upon entry, the officers ransacked the house without displaying a permit and took several personal documents with them. Jumaedi was then arrested, again without being shown any permit or arrest warrant, and taken to the Pendolo Sectional Police Station. There he asked for a search permit but this was denied. He was given and forced to sign an arrest warrant without having read it. He was then taken to Hotel Mulia, Pendolo Village to be interrogated.

At Pendolo Village, Jumaedi was interrogated by an unidentified officer and several other officers from Poso District Police. The investigating officer tried to force Jumaedi to confess that he had stayed in Tentena the night before the bombing. After about one and a half hours, the victim was handed another arrest warrant which he was ordered to sign. After signing, his hands were tied together. While being tied, Jumaedi saw Police Commissioner Rikynaldo and several Brimob officers. Jumaedi, Mastur Saputra and at least four others were then ordered to sit down inside a truck of the Brimob. They were then taken to the Poso District Police Station.

Jumaedi was interrogated again for several hours. The police investigator, who was wearing civilian clothes, tried to force him to confess involvement in the bombing in Tentena. Later, he also tried to force him to confess involvement in earlier violence in Mamasa, and that he had brought explosive material to a person called Saifullah. Jumaedi's refusal to confess was followed by beatings on his mouth, fingers and chest. His solar plexus and stomach were punched each time the police investigator thought that he was answering the questions too slowly. He was beaten at least four times. The interrogating officer reportedly told Jumaedi that there are no human rights here. The interrogating officer also refused the victim an attorney, stating that this would slow down the investigation. The next day, he was interrogated again until late afternoon. He was intimidated and refusals to confess what he was ordered to were followed by repeated assaults. As punishment for his refusal to confess, Jumaedi was given food only once during the four days he was interrogated. The victim was detained until 10 June 2005, at which point he returned to his family.

Mastur Saputra was also arrested on 1 June 2005 in a separate occasion. Five police officers wearing civilian clothes came to his house at 6.30am. Saputra was then taken to Mulia Hotel by a car. At about 9am he was interrogated and tortured by those officers and was forced to confess that he had been involved in the Tentena bombing. While being interrogated he was intimidated, his head was covered with a plastic bag, and he was strangled with a plastic string. He was then beaten in the stomach three times, and a fourth blow hit his solar plexus that he got unconscious. As he got his conscious back, Saputra was then taken to another room where he was slapped and his hands were trampled on. He was slapped again until he could not hear anything. After that, his hands were tied and he was taken to the Poso District Police Station in a truck of the Police Mobile Brigade (Brimob) together with seven other persons, including Jumaedi.

On the following day, Saputra was interrogated and intimidated from 11am until about 2am by a person known as Suparman. After several days in a cell in the Poso District Police Station, Saputra and five others were taken to Mamasa where he was further interrogated and intimidated in an attempt to confess his involvement in riots that had happened earlier. After that, he was taken back to Poso, and from there to Pendolo, where he was asked to sign an arrest warrant. Mastur Saputra was released few days later on 10 June 2005.

In addition to Jumaedi and Mastur Saputra, Jumeri was also arrested at around 3pm as he was cutting cocoa fruits in his field. The officers who arrested him were those from Brimob of Central Sulawesi Regional Police led by Police Commissioner Rikynaldo. The officers took him to Hotel Mulia in Pendolo where Jumeri was interrogated by police officers who tried to force him to confess his involvement in the 28 May bombing in Tentena, Poso. Because he refused to make this false confession, Jumeri was severely beaten. He was then hung by his feet and beaten by at least 15 persons in civilian clothes. According to the information received, from the clothes they wore the 15 persons are suspected to be thugs who are often used and paid by the security forces to do 'dirty works'. After that, Jumeri was again interrogated by police officers who tried to force him to confess his involvement in other attacks, which were carried out in the Mamasa Regency in 2004 and 2005. His refusal to confess was again followed by severe assaults. At nightfall he was brought to and detained at the Pendolo Sectional Police Station.

On the next day on 2 June 2005, Jumeri was taken to his field in Pandajaya Village by several police officers, including Police Commissioner Rikynaldo. There he was given a pickaxe and ordered to dig a whole without being explained what it was for. After digging an approximately one meter deep hole, Jumeri was ordered to get into it to which Jumeri refused. Upon refusal, the officers kicked him until he fell into the hole. The officers then filled in the hole until Jumeri was buried up to his neck. Police Commissioner Rikynaldo laughed and said: 'We have told you to confess' and then hit his head with the handle of a pickaxe. Jumeri was then forced to eat raw chillies, had his head pointed by four rifles and ordered to get up - which was impossible because he was buried inside the hole. After about 30 minutes he was freed and taken to a nearby river where he was pushed into the water four times. At about 10am Jumeri was taken to the South Pamona Sectional Police Station in the town of Pendolo. On the way there he was continuously beaten by Police Commissioner Rikynaldo. He was kept there until night.

Jumeri was taken in handcuffs to the Tentena Sub-District police station on 2 June 2005 at night and at 5am on the next day he was taken to Poso District Police station. There he was interrogated, intimidated and tortured by the officers who threatened him and tried to force him to confess for having carried out the Tentena bombing. Upon refusal to confess, he was severely assaulted by the officers. The interrogation went from early afternoon until night. On June 10, Jumeri was released as there was no evidence to prove his involvement in the 28 May bombing at Tentena as alleged.

As what happened to Jumeri and others, Sutikno was arrested on 1 June 2005 at 3pm and was taken to Hotel Mulia. He was beaten by police officers before being taken to the hotel as he was asking for an arrest warrant. At the hotel, he was ordered to walk in a squatting position. Then he was taken into a room of the hotel and interrogated about a bomb he allegedly had possessed. There he was beaten several times by the interrogating officers.

At about 6.30pm, he was taken to Poso Lake, where he was forced to strip and remain in the water for about two hours. He was then ordered to walk in a circle. Failure to walk in a circle was followed by repeated beatings. Sutikno was then ordered to climb up a tree. His buttock was pushed with rifles while he was up in the tree. After that he was taken to Pendolo Sub-district police station, where he was kept for two nights, and then he was taken to the Poso District Police Station, where he experienced more abuse during interrogations.

From 7 July until 13 July, the Poso District Court conducted a *habeas corpus* proceeding to examine the allegation on arbitrary arrest, detention and torture of Jumeri, Mastur Saputra, Jumaedi and Sutikno. However, the District Court only found that arbitrary arrest and search had taken place, but failed to conclude that the police was responsible for torturing and arbitrarily detaining the four victims. The Court argued that examining these two allegations is not their jurisdiction.

Story 42: Prison guards tortured a man for allegedly maltreating his girlfriend

Victim:

1. *Elfrianus "Alfred" Ulu*

Alleged perpetrators: Yupiter M. Bolla, Ferdinand S. Kluk, Benyamin Lede Kana, Nelson Hatu Riwu, Yusuf Stefanus Dalla (all are prison guards of Penfui Correctional Facility, Kupang)

Date of incident: 5 to 8 March 2005

Place of incident: Kupang, East Nusa Tenggara

AHRC-UAC-148-2005

On 23 February 2005, at 10pm, Alfred Ulu was detained at the Kupang District police station for allegedly maltreating his girlfriend Yuni Cangri. However, he was only given an arrest letter few days late on February 26 2005. Alfred was detained at the police station until 5 March 2005, when he was brought to the Penfui Correctional Facility. This was done in violation of arrest and detention procedures as Alfred had not been sentenced by the court to a prison term.

During 5-8 March 2005 Alfred was brutally tortured by five prison guards named Yupiter M. Bolla, Ferdinand S. Kluk, Benyamin Lede Kana, Nelson Hatu Riwu, and Yusuf Stefanus Dalla. He was beaten, kicked, hit with various objects including blocks of wood, chairs and a door handle. As a result, Alfred suffered from swellings on his face, feet and hands, a bleeding nose, numerous bruises and disturbances of his eye-sight. His requests for medical attention were ignored, until he was finally brought to the Bhayangkara hospital in Kupang on March 26 in a state of unconsciousness.

The medical examination revealed that Alfred's optical nerve had been damaged. On 2 April 2005, the victim's family reported the incident to the Kupang district police. After repeated pressure from several rights groups, the Director-General for Prisons and the East Nusa Tenggara office of the Ministry of Justice and Human Rights agreed to bear the medical costs that on 6 May 2005 Alfred was brought to the Cipto Mangunkusumo hospital in Jakarta. The examinations there found that he was suffering from a brain infection that caused his loss of eye-sight. Towards the end of May 2005, Alfred was brought back to Kupang. He now suffers from blindness and it was not clear whether further medical treatment will help, or who will bear the cost of such treatment.

In July 2005 the Kupang District police officially declared Yupiter M. Bolla as a suspect in Alfred's torture. On 5 August 2005, Chief of Kupang District police Mr. Agus Nugroho stated that due to the lack of evidence and witnesses, no other persons could be charged as suspects. Furthermore, he claimed that Yupiter Bolla had confessed to having carried out the torture alone. Few days later on 9 August, the state attorney Mr. Hindiyana stated that the investigation of Yupiter Bolla was complete and that he would be charged for maltreatment under article 351 paragraph 2 of the Indonesian Penal Code.