

Written statement submitted by the International NGO Forum on Indonesia Development (INFID), a non-Governmental organization on special consultative status

Item: 11 a
Torture and Detention

Since the ratification of the Convention Against Torture / CAT by the Indonesian Government through Law No.5/1998 and the existence of Law No.2/2002 on the Police Force, Law No.3/2002 on the Security and Defense and Indonesian Army Law No.34/2004, actually there is a new hope for the people of Indonesia to be kept away from any form of arbitrarily torture and detention, but so far the country still keeps carrying out arbitrarily torture and detention acts in various places in Indonesia. Besides, with Indonesia joining the international coalition against terrorism has an impact to the increase of the intenseness of the tension between the citizen and the government where the government tends to abuse the power. In the other hand, the Anti Terrorism Act provides the justification for arbitrary arrest and torture for the parties accused as terrorists.

Since the ratification of the Convention in 1998, the government bears the responsibility of integrating the CAT convention regulation into the national law of Indonesia. The Criminal Code (KUHP) only regulates abusive criminal acts without accommodating torture act carried out by the government apparatus. As a result, if there is a criminal responsibility on torture cases the executor can only be charged of abusing with a different element of crime and can be punished although it might not be maximal. The national law regulation also does not provide the mechanism and procedure of compensation to the victims of torture acts. The case of arbitrarily torture and detention are still going on country wide in Indonesia. In general, the police still torture the criminals or suspected criminals to obtain information or to force them doing the criminal acts. Based on the notes made by KontraS, during 2005, as many as 239 people suffered the criminal acts of torture and 117 people experienced arbitrary arrest and detention done by the Indonesian Army, National Police, and the police unit of the civil service for the public tranquility and order (Satpol PP trantib).

In Poso and Palu--Central Sulawesi, the police practice arbitrary torture and arrest to people accused of bombing, mysterious shooting or mutilation. It is a common occurrence, the arbitrary arrests and tortures were practiced to obtain information, but then the victims were released because the accusations could not be verified.

For example, after the bomb explosion in Tentena Market on 28 May 2005 which caused 22 casualties, the police and Detasemen 88 (The National Police's special unit to eradicate terrorism in Indonesia) in Poso arbitrarily arrested four people of Pandajaya, one of whom is an activist of the Institution for the Development of the Study and Human

Right of Central Sulawesi (Lembaga Pengembangan Studi dan Hak Asasi Manusia Sulawesi Tengah /LPSHAM). Those who were arrested were common farmers and merchants who comprehended nothing. In the interrogation process they were forced to admit as terrorists and experienced being tortured by being hit, hung upside down and interrogated without being fed until they were buried alive to admit things they did not do. Relating to this, the victim filed a pretrial of illegal arrest, search without warrant and torture. The court of justice granted the pretrial of illegal arrest, search without warrant and gave the compensation to the victim. The Police began the investigation of the torture experienced by the victims only after being requested by the victim and an NGO, although the outcome of the investigation has not been made clear until today.

Meanwhile in North Sumatra on 27 April 2005 in Karang Gading village, Labuhan Deli – Deli Serdang the police apparatus of Hampan Perak arbitrarily arrested Pandi related to the people's land domination by PT. Richard Agung. The act was motivated by the government interests in protecting the interest of the domination of the land by the State plantation company (PTPN) and private endeavor, the incapability to integrate the enterprise built in an area to the condition of local people such as what happened in Porsea which caused rejection by the people, and was always solved by terror, intimidation and arbitrary arrests and detention.

Torture also occurred in Kupang, Nusa Tenggara. Alfred was arbitrarily arrested and imprisoned by the police in Kupang on 23 February 2005. Then he was sent to the prison in Penfui -- Kupang and was tortured by five officers. He was beaten with hard objects such as wooden bar, table and door padlock and he was also kicked. As a result, his face, feet and hand were swollen, his nose bled, bruised and his eyesight was obstructed. He was totally blind. The district police (Polres) headquarter then held some investigations against the executors on the incident. The court sentenced only one officer guilty for the abuse, while the other four were not sentenced.

The result of a research by Legal Aid Institute (LBH) Jakarta done in some prisons in the area of DKI Jakarta reflected that the tortures and cruel treatments are still being practiced. The result of the research openly also becomes the indicators of other prisons in Indonesia.

Based on the description above, we request that:

1. The Commission for Human Rights of UNO to request the Indonesian Government to provide complete information on the implementation of the Convention Against Torture.
2. The Commission for Human Rights of UNO to immediately request the Indonesian Government to halt all forms of tortures and cruel methods of punishments.
3. The Commission for Human Rights of UNO to immediately request the Indonesian Government to integrate the entire national regulatory legislation as the implementation of CAT and provide sufficient compensation mechanism and procedures for the victims of torture.
4. The Commission for Human Rights of UNO to request the Indonesian Government to invite the Special Rapporteur Torture to monitor the practices of tortures and

other cruel methods of punishment, inhuman and degrading human values in Indonesia.

5. The Commission for Human Rights of UNO to request the Indonesian Government to ratify Optional Protocol of CAT
6. The Commission for Human Rights of UNO to request the Indonesian Government to include the principles of anti torture and principles of anti arbitrary arrests in the Criminal Acts Draft.

Written by KontraS and HRWG