Torture: Rates Rising, Actors Expanding


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KontraS is a human rights organization established on 20 March 1998. This organization was initiated by a number of pro-democracy activists from various backgrounds in Indonesia. In its initial establishment, KontraS’ main focus was to advocate for cases of kidnapping and forced disappearances, a serious crime rampant under the New Order regime.

One of the cases advocated by KontraS was the case of kidnapping and forced disappearance of 23 activists in 1997-1998. Out of all of them, 9 activists were returned alive, 1 was found dead, while 13 were still missing until today.

After the fall of the New Order regime, KontraS developed into a human rights organization with the mandate of wider advocacy efforts which was not limited to kidnapping/forced disappearance cases. KontraS also advocated for a variety of issues and cases, particularly those within the dimension of civil and political rights, among which were torture, death penalty, TNI-POLRI (Indonesian National Armed Forces and Police Force) Brutality, etc. Currently, KontraS existed in seven provinces, including Aceh, North Sumatera, DKI Jakarta, East Java, East Nusa Tenggara, South Sulawesi and Papua.

For more information, please visit www.kontras.org
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<th>Abbreviation</th>
<th>Description</th>
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</thead>
<tbody>
<tr>
<td>AD</td>
<td>Armed Forces</td>
</tr>
<tr>
<td>AKBP</td>
<td>Police Adjunct Senior Commissioner</td>
</tr>
<tr>
<td>Brimob</td>
<td>Mobile Brigade</td>
</tr>
<tr>
<td>CAT</td>
<td>The Convention Against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment</td>
</tr>
<tr>
<td>CIL</td>
<td>Customary International Law</td>
</tr>
<tr>
<td>CRC</td>
<td>The Convention of Rights of the Child</td>
</tr>
<tr>
<td>DPR</td>
<td>House of Representatives</td>
</tr>
<tr>
<td>DUHAM</td>
<td>Universal Declaration on Human Rights</td>
</tr>
<tr>
<td>HAM</td>
<td>Human Rights</td>
</tr>
<tr>
<td>ICCPR</td>
<td>the International Covenant on Civil and Political Rights</td>
</tr>
<tr>
<td>ICJ</td>
<td>International Court of Justice</td>
</tr>
<tr>
<td>KDRT</td>
<td>Domestic Violence</td>
</tr>
<tr>
<td>KontraS</td>
<td>The Commission for The Disappeared and Victims of Violence</td>
</tr>
<tr>
<td>KOMNAS</td>
<td>National Commission</td>
</tr>
<tr>
<td>KOMPOLNAS</td>
<td>National Police Commission</td>
</tr>
<tr>
<td>KOMJAK</td>
<td>Prosecutor’s Commission</td>
</tr>
<tr>
<td>KUHP</td>
<td>Criminal Code</td>
</tr>
<tr>
<td>KUHAP</td>
<td>Criminal Procedure Code</td>
</tr>
<tr>
<td>KY</td>
<td>Judicial Commission</td>
</tr>
<tr>
<td>LAPAS</td>
<td>Correctional Facility</td>
</tr>
<tr>
<td>LPSK</td>
<td>Witness and Victim Protection Agency</td>
</tr>
<tr>
<td>MABES</td>
<td>Central Headquarter</td>
</tr>
<tr>
<td>MPR</td>
<td>People’s Consultative Assembly</td>
</tr>
<tr>
<td>NAD</td>
<td>Naggroce Aceh Darussalam (Aceh)</td>
</tr>
<tr>
<td>NTB</td>
<td>West Nusa Tenggara</td>
</tr>
<tr>
<td>OPCAT</td>
<td>Optional Protocol to the Convention Against Torture</td>
</tr>
<tr>
<td>OPM</td>
<td>Organisasi Papua Merdeka / Free Papua Movement</td>
</tr>
<tr>
<td>ORI</td>
<td>Ombudsmen of The Republic of Indonesia</td>
</tr>
<tr>
<td>PP</td>
<td>Government Regulation</td>
</tr>
<tr>
<td>PERPANG</td>
<td>TNI Commander Regulation</td>
</tr>
<tr>
<td>PERKAP</td>
<td>Chief of Police Regulation</td>
</tr>
<tr>
<td>POLRI</td>
<td>Indonesian National Police (INP)</td>
</tr>
<tr>
<td>POLDA</td>
<td>Provincial Police Commands</td>
</tr>
<tr>
<td>POLRES</td>
<td>District Police Commands</td>
</tr>
<tr>
<td>POLSEK</td>
<td>Sub-District Police Commands</td>
</tr>
<tr>
<td>PBB</td>
<td>United Nations (UN)</td>
</tr>
<tr>
<td>PROPAM</td>
<td>Profession and Security Division / Internal Supervisory Division</td>
</tr>
<tr>
<td>RMS</td>
<td>Republic of South Maluku</td>
</tr>
<tr>
<td>RI</td>
<td>Republic of Indonesia</td>
</tr>
<tr>
<td>RUTAN</td>
<td>Detention House</td>
</tr>
<tr>
<td>RUU</td>
<td>Draft Bill</td>
</tr>
<tr>
<td>SP2HP</td>
<td>Notice on Progress of Investigation</td>
</tr>
<tr>
<td>TNI</td>
<td>Indonesian Armed Forces</td>
</tr>
<tr>
<td>Tapol/Napol</td>
<td>Political Prisoners</td>
</tr>
<tr>
<td>UUD</td>
<td>The Constitution</td>
</tr>
<tr>
<td>UU</td>
<td>Regulation / Bill</td>
</tr>
<tr>
<td>UN</td>
<td>United Nations</td>
</tr>
<tr>
<td>----</td>
<td>---------------</td>
</tr>
<tr>
<td>UPR</td>
<td>Universal Periodic Review</td>
</tr>
<tr>
<td>VLCT</td>
<td>The Vienna Convention on the Law of Treaties</td>
</tr>
</tbody>
</table>
Chapter I
Preface

As a part of the effort to prevent torture and other cruel acts, as well as to encourage State’s improvements and accountability against torture, The Commission for The Disappeared and Victims of Violence (KontraS) had, for the past four years, conducted monitoring, documentation and advocacy of cases of torture and other cruel acts in Indonesia.

Every year, following the momentum of International Day in Support of Victims of Torture on the 26th of June, KontraS issued an annual report on the state or portrait of the practice torture and other cruel acts still occurring in Indonesia during the period of June 2013 to June 2014. Additionally, this report also coincided with the 30th (thirtieth) year anniversary of the World Anti-Torture Day. 1

Reports published by KontraS related to torture and other cruel and inhumane acts included:

b. Year of 2011-2012: “Torture Increases Drastically!” 3
c. Year of 2012-2013: “Victims Are Still Tortured” 4
d. Year of 2012-2013: “KontraS’ Report on The Use of Firearms in Violence” 5
e. Year of 2013: “TNI At The Turning Point” 6
f. Year of 2011: YouTube version of Papua: “KontraS' Study of Human Rights on Defining Torture in Papua (Case Study of Torture in Youtube)” 7

These reports were KontraS’ contributions as a civil society organization promoting human rights. As affirmed in Law No. 39 of 1999 on Human Rights, articles 100 to 103, every individual, political and civil society organization, and even NGOs had the right to participate in the enforcement and promotion of human rights, submit reports on human rights abuses, as well as proposals on policy formulation.

To date, KontraS noted that torture and other cruel acts were still recurrent, and even had the tendency to increase every year. This was caused by many factors, among which were 1) torture was still the method of choice for security apparatus in many levels of legal proceedings; 2) penalties for perpetrators of torture and other cruel acts were still low in frequency and tended to be administrative in nature; 3) there was no reparations for the victims or victims’ families, and 4) there were no regulation or rule on the national level that determines punishments related to torture and other cruel acts.

1 Commemorated every 26th of June, after the enforcement of “The United Nation Convention Against Torture and the Other Cruel, Inhuman or Degrading Treatment or Punishment” by the UN. This Convention took effect on 26 June 1987, which was also commemorated as World Anti-Torture Day.
5 Accessible at: http://kontras.org/data/Laporan%20KontraS%20tg%20Senjata%20API.pdf
6 Accessible at: http://kontras.org/data/TNI%20dijang%20Titik%20Ballik_Laporan%20KontraS%20soal%20TNI%202013.pdf
7 Accessible at: http://www.kontras.org/data/Kajian%20papua.pdf
For the past four years, KontraS recorded, *firstly*, that during 2010 – 2011, there were 28 (twenty eight) cases of torture and other cruel acts, in which 49 (forty nine) people were victims of torture and other cruel acts by TNI/POLRI. Out of 49 (forty nine) cases of torture and other cruel acts, 21 (twenty one) cases were committed by the police officers with total victims of 31 (thirty one) people, while 7 (seven) cases were perpetrated by TNI officers with total victims of 18 (eighteen) people.\(^8\)

*Secondly*, in 2011 – 2012, KontraS documented 84 (eighty four) cases of torture and other cruel acts, in which 243 (two hundred and forty three) people have been victims of torture and other cruel acts committed by the Police officers and the military officers as well as prison officers. 14 (fourteen) cases were committed by the police officers, 60 (sixty) cases committed by the military officers and 12 (twelve) cases committed by the prison officers.\(^9\)

*Thirdly*, in 2012 – 2013, practices of torture and other cruel acts had increased. There were 100 (one hundred) cases of torture and other cruel acts, in which POLRI was still the dominant actors / main perpetrators. As many as 55 (fifty five) cases committed by the police officers, with total victims of 149 (one hundred and forty nine) people injured and 5 (five) people dead; 10 (ten) cases by the military officers with total victims of 10 (ten) people injured and 2 (two) dead, and in the third position of perpetrator is the prison officers with 35 (thirty five) cases and total victims of 45 (forty five) people injured and 8 (eight) dead. Meanwhile 6 (six) people experienced other acts of torture (sexual crime during detention and negligence on medical assistance) perpetrated by the police officers and the prison officers. Out of all aforementioned incidents, KontraS received around 17 (seventeen) cases of torture and other cruel acts reported directly by the victims or their families.\(^10\)

*Fourthly*, in the period of 2013 – 2014, KontraS documented 108 (one hundred and eight) cases of torture and other cruel acts.\(^11\) The cases can be described as follow 80 (eighty) cases committed by the police officers, 10 (ten) of them committed by the military officers, and 18 (eighteen) other involved prison officers. The fallouts of those practices were 20 (twenty) people dead, 155 (one hundred and fifty five) injured, and 107 (one hundred and seven) experiencing physical or psychological suffering, such as deep trauma, difficulty in communicating and tendency to shut oneself out, while 1 (one) victim’s whereabouts was still unknown.

### Table of Torture Actors For The Past 4 Years\(^12\)

<table>
<thead>
<tr>
<th>No</th>
<th>Year</th>
<th>Police</th>
<th>TNI</th>
<th>Correctional Facilities Wardens</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>2010 – 2011</td>
<td>21</td>
<td>31</td>
<td>7</td>
</tr>
<tr>
<td>2</td>
<td>2011 – 2012</td>
<td>14</td>
<td>60</td>
<td>12</td>
</tr>
<tr>
<td>3</td>
<td>2012 – 2013</td>
<td>55</td>
<td>10</td>
<td>35</td>
</tr>
<tr>
<td>4</td>
<td>2013 – 2014</td>
<td>80</td>
<td>10</td>
<td>18</td>
</tr>
</tbody>
</table>

\(^8\) KontraS Report, Supra Note 2
\(^9\) KontraS Report, Supra Note 3
\(^10\) KontraS Report, Supra Note 4
\(^11\) In the period of July 2013 – 2014, KontraS received 18 (eighteen) complaints on torture and other cruel acts, and 90 (ninety) other cases were (already) documented by KontraS.
\(^12\) KontraS’ Documentation
The yearly increase of torture and other cruel acts by state actors, as had been documented and reports received by KontraS for the past 4 (four) years, showed that the fundamental problems of the practice of torture nowadays were not much different (from before), namely:

1. The absence of a transparent, accountable, honest and fair law enforcement system against torture actors or torture perpetrated by law enforcement officers;

2. An internal/ethical mechanism that emphasized administrative punishments or penalties were still used in punishing the perpetrators of torture and other cruel acts, which actually tended to legalize impunity against the perpetrators;

3. A lack of understanding and/or knowledge on law enforcement officials’ part, in terms of victims’ rights during investigation, or of perpetrators of torture and other cruel acts, which affected sanctioning or punishments in a way that they did not provide a deterrent effect so torture and other cruel acts continued to happen every year;

4. No change or revision on the legislation, in particular the Criminal Code (KUHP) and Criminal Procedure Code (KUHAP), regarding articles on punishments against torture practices and other cruel acts, and the absence of a special legislation on torture;

1.1. The Method of Data Collection

This report uses a number of methods to collect data and facts regarding practices of torture and other cruel acts from the past year. The methods were the same as the ones used in similar reports published by KontraS:

a. *Investigation and/or monitoring of cases;* KontraS routinely conduct investigations and direct monitoring on cases of torture and other inhumane acts occurring in several regions in Indonesia; for example the cases which occurred in Papua, between 2012 and 2013, the torture that resulted in Aslin Zalim’s death in Bau-Bau, Southeast Sulawesi province, or the kitchen ware factory workers’ torture and slavery in Tangerang in 2013.

b. *Legal assistance to victims and their families;* the legal assistance by KontraS was at least based on a number of factors: direct reports from the victim or their family to KontraS, reports through letters and reports through e-mails. In the legal assistance process, KontraS also collected and explored the facts and information of the case involving the victims or family of victims. For example, the torture of Kasmir Timumun, which took place in the police office of the Biau sub-district, Central Sulaweswi province; or the kidnapping and alleged torture of Dedek Khairudin by a TNI soldier

In the period of July 2013 – June 2014, KontraS received 18 (eighteen) reports related to torture and other cruel acts; 90 (ninety) cases had been documented by KontraS.
c. Monitoring of media and other secondary documents; in addition to using the primary data from cases assisted by KontraS, this report also used secondary materials, one of which was data obtained by monitoring mass media. A number of media sources were quite consistent in providing information on torture incidents, for instance Kompas, Detik.com, Tribun.com, Tempo, Jawa Pos, Okezone.com, etc. Aside from mass media, KontraS also received complaint letters from victims or family of victims and response letters from related state institutions.13

1.2. Goals and Scope of Report

This report had at least two goals, namely:

1. As a form of documentation, publication and information related to forms, patterns and state responses to cases of torture and other cruel acts;

2. As an advocacy material to push for settlement of cases, by pushing for legal proceedings against the perpetrators, reparations of rights for the victims or their families, as well as to change and improve state legislation and policies related to torture and other cruel acts.

13 See: Soerjono Soekanto, Pengantar Penelitian Hukum, Jakarta: Universitas Indonesia Press, 1982, page 52
2.1. **Objectives of Torture**

Based on KontraS’ advocacy notes and results of monitoring on the rampant practices of torture and other cruel acts, in general, KontraS discovered a pattern on victims who were vulnerable to practices of torture and other cruel acts, which could be categorized into four sections:

*First*, lower-middle class society who in general did not or could not have access to information to legal aid. Due to this lack of access, lower-middle class society easily became targets of torture and other cruel acts. These groups were usually vulnerable to torture during the research and investigation process by POLRI.¹⁴

Additionally, members of the upper middle class society also had the potential to receive similar treatment as victims of torture and other cruel acts, even though the potential was not as high as members of the lower middle class. The potential increased if members of the upper middle class were in conflict against a network who had “proximity and/or power” (to law enforcement officials), even when the upper middle class members had understanding or access to legal aid. Such as the case of Sun An and Ang Ho who were made suspects of alleged premeditated murder of Kwito and Dora Halim on 29 March 2011 in Medan, North Sumatera. Peculiarities were found in the legal process, in the forms of torture from the police to both victims during the interrogation process. Aside from torture and other cruel acts, investigators also made efforts to blackmail the victims and their family.¹⁵

*Second*, Political Prisoners also experienced torture and other cruel acts. This was usually due to their involvement in pro-independence movements and other political activities (OPM –Papua-; RMS –Maluku-). Practices of torture against political prisoners were commonly done by the police officers or prison officers.¹⁶

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¹⁴ The case of torture against Cipulir Street Children by Metro Jaya (Jakarta) Police in 2013; the case of torture against Aslin Zalim by Baubau Sub-District Police in 2013.


Third, Groups that can be categorized as armed criminals (terrorists or groups that disrupted public order), often tortured by TNI and/or POLRI -Detachment-.  

Fourth, communities fighting for their lands which were grabbed by corporations, and then tortured to death by TNI-Army and security apparatus acting outside of their authorities as they were providing special protection to the corporations.  

2.2. Perpetrators’ Motive and Methods of Torture

Perpetrators’ Motive

Practices of torture and other cruel acts were usually used as interrogation method and “articulation of power relations”, in which torture and other cruel acts were done as shortcuts to obtaining confession from suspects and/or victims, as well as an arena for Police officers to showcase the power relations (between them and the suspects), therefore giving rise to arrogant behavior from the law enforcement officers against the victims. As a result, even victims who were not yet named suspect, when put under police authority, were vulnerable to torture and other cruel acts. For example, in the case of Aslin Zalim and the case of kitchenware factory workers, we could clearly see the articulation of power relations displayed by both members of the Police and those who were exploiting law enforcement as oppression tools.

1. Power Relation/Arrogance of Law Enforcement Officials

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17 The case of torture in Poso Sub-District Police by Detachment 88 in 2012. Accessible at http://www.kontras.org/index.php?hal=siaran_pers&id=1639
18 The case of torture against Anak Dalam Tribe in Jambi, March 2014.
In the case of the death of Mr. Aslin Zalim, the articulation of power relation or arrogance by members of the Police could clearly be seen, in this case Chief of Baubau Police Force: Police Adjunct Senior Commissioner (AKBP) Joko Krisdiyanto, Sik, who was strongly suspected of ordering the arrests and detention with accompanying torture against the victim “only because” the vehicle driven by the victim broke down in the middle of the road the same time the vehicle used by the Chief of Police passed by. Feeling that his journey was interrupted, the Chief immediately ordered arrest and detention of the victim on the spot, without warrants. After the arrest, the Chief ordered drowning the victim along with other detainees in a fish pond. Aside from drowning, police officers also allegedly committed violence which resulted in the death of the victim the following day, with heavy injuries on the right side of his back, bruising under his left eye, as well as fingertips and nails that were turning blue and wrinkled.

2. Obtaining Confession

Aside from display of power relations or arrogance from the law enforcement agencies, torture and other cruel acts were often used as punishment in order to obtain confession from victims or suspects in relation to the alleged cases. Law enforcement officers frequently used torture and other cruel acts as a shortcut during the interrogation process, so the investigation process could easily be closed by the investigator with confession from victims or suspects of crime.
There were many cases of criminalization or manipulation of cases, usually starting from torture and other cruel acts done by the investigator.\(^{19}\)

3. Power Relation between Law Enforcement Agencies and Business Owners

Another motive could be from conflicts in business, such as what happened in the case of intimidation, torture and shootings of tens of workers in a kitchenware factory in Tangerang by Kelapa Dua Police Mobile Brigade, Banten District Police and Sepatan Sub-District Police Mobile Brigades, in which the owner of the kitchenware factory “conspired” with the local police. The form of conspiracy was through excessive monitoring and control of the workers, or even intimidation by the police force by shooting the ground in front of the workers. In addition, the workers were frequently arrested, confined, and physically abused in a special chamber if they tried to escape.\(^{20}\)

4. Lack of Knowledge and Adherence to Laws Prohibiting Torture and Other Inhumane Acts

The case of forced disappearance of Dedek Khairudin by TNI Officers showed that there was still incomprehension of law and the prohibition against torture and other cruel acts from law enforcement officers, in this case from TNI officers as regulated in TNI Commander Regulation (Perpang) No. 73/IX/2010 on Opposition Against Torture and Other Cruel Treatments in Law Enforcement.

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\(^{19}\) Criminalization of Danes, Criminalization of Sun An, Criminalization of Edih Kusnadih, Criminalization of Rahmatullah, etc.

\(^{20}\) This action is a cruel and inhumane act, as prohibited by the International Covenant on Civil and Political Rights, article 8, paragraph 3(a), "No one shall be required to perform forced or compulsory labour"
Within the Indonesian National Army, Dedek Khairudin was a victim of forced disappearance by TNI whose location was still unknown even though the perpetrators had been arrested by the institution. Previously, Dedek Khairudin was taken by Mardian (a member of the military base) and several other marines in order to look for Dedek’s friend—Fendi Tato—who allegedly beat up a Marine named Jul. During Dedek Khairudin’s disappearance, it was suspected that he was tortured by the perpetrators in order to obtain information regarding Fendi Tato’s whereabouts.\footnote{21}

KontraS then found a number of intentions or motives behind the torture and other inhumane acts in this period of June 2013 to June 2014. According to our monitoring, there were 34 (thirty four) incidents of torture that were done in order to force confession over a crime, 40 (forty) incidents were done as a form of other cruel punishments, 2 (two) incidents to force the victims to give false information and only 3 (three) incidents happened in order to obtain information from their victims, while 11 (eleven) others occurred in forms of death in custody as well as other motives and intentions.

**Tabulation of Torture Motives\footnote{22}

<table>
<thead>
<tr>
<th>Motive of Torture</th>
<th>Police</th>
<th>TNI</th>
<th>Warden</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>To obtain information</td>
<td>2</td>
<td>-</td>
<td>2</td>
<td>4</td>
</tr>
<tr>
<td>As a form of punishment</td>
<td>25</td>
<td>9</td>
<td>15</td>
<td>49</td>
</tr>
<tr>
<td>Forcing Confession of Crime</td>
<td>42</td>
<td>-</td>
<td>-</td>
<td>42</td>
</tr>
</tbody>
</table>

\footnote{21}{The perpetrator was a member of TNI}
\footnote{22}{KontraS Doc}
2.3. The Methods of Torture

Aside from documenting the motives of the perpetrators of torture and other cruel acts, KontraS also documented methods of torture and other cruel acts often used by law enforcement officers. KontraS discovered these methods from the documentation and complaints from the past year, which consisted of:

1. Violence resulting in physical injuries, either with bare hands or certain instruments, such as: beating or kicking; shooting by firearms; stabbing or using sharp instruments; electrocution by electrical or shocking instruments; burning body parts; whipping; mutilation/denailing; blinding by light; tight binding; hooding; and forced consumption of drugs (pharmacological manipulation).

2. Violence resulting in psychological distress in the forms of intimidation; terror; threats or coercion; degrading treatments; forced stripping; sexual assault or rape; submerging body or head in water; hooding; isolation or solitary confinement; and confining or kidnapping.

3. Intentional negligence as in many cases of death in custody, such as depriving access to food and healthcare and depriving access to security/protection.

Methods of Torture and Other Cruel Acts
June 2013 – June 2014

<table>
<thead>
<tr>
<th>Methods of Torture</th>
<th>Actors</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Police</td>
<td>TNI</td>
</tr>
<tr>
<td>Beating / Kicking / Physical Violence</td>
<td>70</td>
<td>10</td>
</tr>
<tr>
<td>Tight Binding</td>
<td>8</td>
<td>-</td>
</tr>
<tr>
<td>Shooting</td>
<td>4</td>
<td>-</td>
</tr>
<tr>
<td>Electrocuting / Shocking</td>
<td>12</td>
<td>-</td>
</tr>
<tr>
<td>Forced Stripping</td>
<td>5</td>
<td>2</td>
</tr>
<tr>
<td>Stabbing with Sharp Tools</td>
<td>1</td>
<td>-</td>
</tr>
<tr>
<td>Hooding</td>
<td>5</td>
<td>-</td>
</tr>
<tr>
<td>Threatening / Psychological Distress</td>
<td>11</td>
<td>2</td>
</tr>
<tr>
<td>Using Light Source / Flashlight</td>
<td>1</td>
<td>-</td>
</tr>
<tr>
<td>Pharmacological Manipulation</td>
<td>1</td>
<td>-</td>
</tr>
</tbody>
</table>

This method came in a variety of forms and manners, starting from treating the detainee like animals (feral treatment), humiliation, force feeding, to dehumanizing punishments. In some cases, victims were forced to do things that degrade themselves, such as: boot-licking, calling oneself an animal, forcing them to eat improper food, etc. in order to deteriorate victim’s mental and psychological condition, such as what happened to AAP (17) in Madiun, East Java, on 30 January 2014. The victim said he was forced by the perpetrators to knock on all his neighbors’ doors and call himself a dog.

KontraS’ Documentation
Based on the aforementioned discovery, KontraS also tried to document instruments or devices commonly used in torture in the period of June 2013 – June 2014. Some of these devices were generally used as a tool to wound the victims. However, a number of torture devices were also used to paralyze the victims’ senses and cause psychological distress. The following were a number of instruments commonly found in torture practices, according to KontraS’ monitoring:

**Tabulation Based on Torture Actors**

<table>
<thead>
<tr>
<th>Torture Instruments</th>
<th>Actors</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bare Hands</td>
<td>68</td>
<td>10</td>
</tr>
<tr>
<td>Electrical Instruments</td>
<td>12</td>
<td>-</td>
</tr>
<tr>
<td>Instruments for Mutilating / Denailing (such as Pliers)</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>Paddling Instruments (such as Rattan/Wood/Iron Bars)</td>
<td>7</td>
<td>1</td>
</tr>
<tr>
<td>Binding Instruments (such as Cords/Rope/Handcuffs/Duct Tapes)</td>
<td>8</td>
<td>2</td>
</tr>
<tr>
<td>Whipping Instruments (such as Cords/Ropes)</td>
<td>3</td>
<td>3</td>
</tr>
<tr>
<td>Instruments for Hooding (such as Cloths/Plastic Bags)</td>
<td>5</td>
<td>-</td>
</tr>
<tr>
<td>Burning Instruments (such as Cigarettes/Lighters)</td>
<td>3</td>
<td>-</td>
</tr>
<tr>
<td>Flashlights</td>
<td>1</td>
<td>-</td>
</tr>
<tr>
<td>Drugs</td>
<td>1</td>
<td>-</td>
</tr>
<tr>
<td>Firearms</td>
<td>12</td>
<td>2</td>
</tr>
<tr>
<td>Sharp Instruments (such as Knives)</td>
<td>1</td>
<td>-</td>
</tr>
<tr>
<td>Others</td>
<td>10</td>
<td>1</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>132</td>
<td>20</td>
</tr>
</tbody>
</table>

25 KontraS Documentation
The Impact of Torture

Torture had a deeply psychological and traumatic impact on the victims or the family of victims, such as the tendency to not report the experience due to many reasons, for instance due to lack of knowledge, distress and fear of further consequences. Torture also had an impact to the community, such as crisis of trust to the law enforcement agencies, particularly TNI / POLRI, which was caused by the lack and/or absence of transparency in punishing perpetrators of torture. In addition, the institutions in which the perpetrators worked tended not to provide access to the public to monitor their mechanism or processes.

The impact of public’s distrust to the law enforcement agencies was obvious from a number of cases advocated by KontraS, particularly cases of torture which conducted by law enforcement agencies:

Buol Community’s crisis of trust after the death of a detainee in Biau Sub-district Police, in which after the death of Kasmir Timumun in the holding cell of Biau Sub-district Police, Buol Chief of Police AKBP Amin Litarso issued a statement much too early that the victim died by suicide. This was contradictory to the condition of the victim’s body—which was full of injuries—when returned to his family. The premature statement gave the impression of abandoning responsibility and stirred the anger of the victim’s family and the community, which finally came to Biau Sub-district Police Headquarter and asked for accountability over the death of Kasmir Timumun in the holding cell of Biau Sub-district Police Headquarter.
The absence of response from the police force to the demands of the community worsened the situation and caused clashes between the residents and the police force. 22 (twenty two) residents were reported injured while 6 (six) residents died of shooting and 5 (five) residents were detained in Biau Sub-district Police Headquarter.

Clashes occurred again the following day in which the residents conducted sweeping of the police force. A number of police stations/facilities were reportedly destroyed and 7 (seven) police-owned vehicles burned, while in Lamadong I village residents burned the Momunu sub-district police headquarter and barracks.

2.4. Identifying Torture Locations

Based on results of monitoring and complaints from the community documented by KontraS, there were a number of locations commonly used by the perpetrators to torture victims, such as Police Station/Headquarter, Military/TNI Institutions, Police/Military Service Vehicles, Public Places, Private Places such as vacant buildings, houses, or grounds that were difficult to access, and holding places or correctional facilities. From the documentation results, as many as 50 (fifty) incidents of torture happened in Police Stations, 16 (sixteen) incidents happened in private locations, 10 (ten) incidents in public spaces/locations, 4 (four) in military/police service vehicles, 3 (three) in military/TNI institutions, and 16 (sixteen) in correctional facilities, while one other victim admitted not knowing where they were tortured. The following were examples of locations of torture during June 2013 – June 2014:

1. Police Office or Police Station; In KontraS’ records, Police Station/Office was one of the places where torture and other inhumane acts most frequently happened, with 50 (fifty) incidents for the past year. Torture and other inhumane acts in the police station/office commonly happened during interrogation/investigation process. In a number of cases, victims were forced to give testimony or even confess to a crime by the police officer, such as what happened to Iwan Juru Tulis (23) and Mardon Bae (18) during examinations in North Halmahera district police headquarter, in 7 January 2014.26 The victims said they were subjected to torture and inhumane acts by police officers during examination. At the time, their heads were covered by black plastic bags (hooding), and then they were beaten and kicked to force them to confess to the crime. In addition, the victims were also whipped with power cords by the perpetrators.

2. Military/TNI Institutions; Torture and other inhumane acts in TNI military institutions (posts/bases) commonly occurred as a form of punishment for the victims. In a number of incidents, victims actually came to TNI base to make complaints or were summoned by a TNI Official, such as what happened to Agus Sudarsono at Kupang’s TNI Marine’s Military Police Base (POM TNI AL) on 29 July 2013.27 The victim stated that he was subjected to beatings and physical violence by members of TNI when he made a report regarding a torture incident

which occurred the day before. In another event, Alibasri and Sudirman admitted to being tortured in a TNI Task Force Post in Lede sub-district, Ternate, North Maluku on Wednesday, 11 December 2013. According to the victim’s testimony, initially he was summoned by TNI officer about a procession after the North Maluku gubernatorial election hearing in the constitutional court the day before. However, when they got to the TNI base, both victims were beaten at once by the perpetrators. The victims were also whipped and stripped by force. The perpetrators even used pliers to pinch the victims’ nose, lips, and thighs (mutilating and denailing).

3. **Police/TNI Service Vehicle:** Torture also frequently occurred inside the service vehicle of the Police or TNI Officers. Mostly, victims were forcibly picked up by the perpetrators/in the process of arresting the victims and shoved into the service vehicle to be taken to the Police station. During the trip, victims were subjected to torture and other inhumane acts by the police, such as what happened to Anandar (27) in Palu, Central Sulawesi on 28 November 2013. The victim was picked up by force by the police from his home in relation to an alleged domestic violence case. The victim stated that he was electrocuted by the police officer when transported in the service vehicle/car from his home to the Palu District Police Station. While Rizki Siregar (19), economics student of University of North Sumatera (USU) admitted to being beaten and electrocuted in relation to alleged possession of drugs in Medan, 24 March 2014.

4. **Private Locations:** Aside from the aforementioned locations, torture also occurred in other private locations, such as the case of the kitchenware workers, in which victims were intimidated (threats of harm) in the kitchenware factory during work hours. In the case of Anak Dalam Tribe torture in Jambi, the victims were forcibly picked up by TNI officers and taken to a factory and tortured until the victim obtained head injuries. Then the victim was forced by the TNI officer to walk into a room within the company area, strip and lie face down on the floor (strapped by force). Then the TNI officer beat the victim’s body with rattan sticks (beatings and physical violence) until the victim bled. While Titus’ friend, Puji, was struck on the temple with a TNI officer’s weapon by the Head of Security of PT. Asiatic Persada named Domingus (beatings and physical violence), then beaten by around 30 people consisting of PT Asiatic Persada’s security officers, TNI and Police officers until Puji died within the company area with his hands cuffed (tight binding or cuffing). Aside from those, certain locations such as research areas that were only accessible by certain institutions, such as the Research Center for Science and Technology area in Serpong, Gudang Pelabuhan, which was far from the community’s reach, were also used as locations for torture and other cruel acts by law enforcement officers.

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5. Public Places/Locations: In a number of cases, torture and other inhumane acts also occurred in public spaces. Public spaces/locations were defined as places which were easily accessed by the community/residents, such as open fields or wherever victims were arrested, that not infrequently, the residence also openly witnessed the torture. Torture and inhumane acts in public spaces were commonly aimed to punish the victims, such as what happened to 2 (two) inmates, Dodi and Suding, in Tanjung Redeb, East Kalimantan, on 21 June 2013. The victims, who escaped from the Class-IIB Detention House in Tanjung Redeb was tortured by the wardens who caught them. According to witness’ testimonies, the victims were beaten (beatings and physical violence) and bound with rope (tight binding or cuffing) around the neck, hands, and legs. As they were transported, one of the officers kept kicking and stepping on the victims’ body and head. The event was revealed when the video of the torture recorded by a resident circulated widely within the community.

6. Detention/Correctional Facilities: Detention/correctional facilities were also one of the locations where torture and inhumane acts frequently occurred. Based on KontraS’ monitoring, at least 16 (sixteen) incidents of torture and inhumane acts happened there. In general, torture and inhumane acts that occurred in detention/correctional facilities were done as a form of punishment for the victims. In the case of Ade Saswito (26), the victim was even isolated

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by the warden in a special holding cell (isolation or solitary confinement) in Class-IIB Melaoboh Correctional Facility and was not allowed to interact with other detainees (sensory bombardment). As a result, because the victim could not withstand the torture, he died of a disease contracted during the detainment in the special holding cell/isolation. Aside from that, there was also allegation of deprivation in access to healthcare which caused the death of the victim.

### Tabulation of Torture Locations

<table>
<thead>
<tr>
<th>Torture Locations</th>
<th>Actors</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Police Stations</td>
<td>57 2 -</td>
<td>59</td>
</tr>
<tr>
<td>Police Service Vehicles</td>
<td>5   - -</td>
<td>5</td>
</tr>
<tr>
<td>TNI Headquarters / Bases</td>
<td>-   3 -</td>
<td>3</td>
</tr>
<tr>
<td>Private Locations</td>
<td>16 4 -</td>
<td>20</td>
</tr>
<tr>
<td>Public Locations</td>
<td>9   1 1</td>
<td>11</td>
</tr>
<tr>
<td>Unknown</td>
<td>3   1 -</td>
<td>4</td>
</tr>
<tr>
<td>Correctional Facilities</td>
<td>-   - 19</td>
<td>19</td>
</tr>
<tr>
<td>Total</td>
<td>90 11 20</td>
<td>121</td>
</tr>
</tbody>
</table>

### Infographic

**Praktik Penyiksaan & Tindakan Manusiawi Lainnya di Indonesia Per-Juni 2013 s/d Juni 2014**

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33 KontraS’ Documentation
Aktor Penyiksaan dan Tindakan Tidak Manusia Lainnya di Indonesia per Juni 2013 s/d Juni 2014

Kondisi Korban Penyiksaan di Indonesia per Juni 2013 s/d Juni 2014

Conditions of Torture Victims in Indonesia per-June 2013 – June 2014

- 21 Dead
- 139 Injured
- 57 Others

Victims of Torture in Indonesia per-June 2013 – June 2014

- 132 Male
- 51 Female
- 16 Children
3.1. **International Laws and Principles of Human Rights**

As a member of the United Nations as well as member of UN’s Human Rights Council, Indonesia was under the obligation to respect and uphold various legal instruments and human rights principles recognized and practiced by many countries. The government of Indonesia should not formulate regulations or policies aimed only to avoid its obligations dictated by the International Human Rights Treaties, in particular ones already adopted into national laws, declarations, principles and precedents of the international legal practices recognized as norms and customs, binding many countries in the world to respect them.

In relation to torture and other inhumane acts, Indonesia must respect the Universal Declaration of Human Rights (UDHR), specifically Article 5, which stated:

“No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment”.

Aside from UDHR, in line with the spirit of Reformation, Indonesia strengthened the national legal system by issuing the Decree/TAP of MPR (People’s Consultative Assembly) of Republic of Indonesia No. XVII/MPR/1998 on Human Rights. This decree demanded the government of Indonesia to spread the concept of human rights to all citizens of Indonesia. In addition, the government also had the obligation to ratify various human rights instruments as long as they did not contradict Pancasila and the Constitution of 1945.

Indonesia was a member of the International Covenant on Civil and Political Rights/ICCPR. In relation to torture practices, it was specifically stated in Article 7 that:

“No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. In particular, no one shall be subjected without his free consent to medical or scientific experimentation.”

Indonesia also became a state party of the Convention Against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment (CAT), after Indonesia ratified the convention through Law No. 5 of 1998 on 28 October 1998. Based on Article 27 paragraph 2,
the convention took full effect on 28 November 1998, which was 30 days after the government of Indonesia officially adopted CAT.38

The Anti-Torture Convention defined torture and other inhumane acts as follows:

**Article 1, Paragraph (1) The Convention Against Torture**

The term "torture" means any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions.

Modes and forms of torture in Indonesia kept growing. In a number of cases, for example, torture actors did not only consist of state apparatus, such as Police or TNI officers, but also involved non-state actors, namely parties in power, such as business owners. For example, the slavery of the kitchenware workers case in May 2013. During May to November 2013, KontraS had assisted at least 88 (eighty eight) slavery victims, originating from Tangerang, Pandeglang, and Ciamis.39 The situation painted a clear picture of how non-state actors could be involved in torture practices as regulated in Article 16 of the Anti-Torture Convention:

**Article 16**

Paragraph 1, Each State Party shall undertake to prevent in any territory under its jurisdiction other acts of cruel, inhuman or degrading treatment or punishment which do not amount to torture as defined in article I, when such acts are committed by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. In particular, the obligations contained in articles 10, 11, 12 and 13 shall apply with the substitution for references to torture of references to other forms of cruel, inhuman or degrading treatment or punishment.

Paragraph 2, The provisions of this Convention are without prejudice to the provisions

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38 Article 27 (2) CAT stated that for each State ratifying this Convention or acceding to it after the deposit of the twentieth instrument of ratification or accession, the Convention shall enter into force on the thirtieth day after the date of the deposit of its own instrument of ratification or accession.

Aside from the already-adopted Covenant and Convention binding the government of Indonesia, a number of International Human Rights legal instruments must also be considered, among which were:

a. The Convention of Rights of the Child.40
b. UN Standard Minimum Rules for the Treatment of Prisoners.41
c. UN Body of Principles for the Protection of All Persons Under Any Form of Detention or Imprisonment42
d. UN Basic Principles on the use of Force and firearms by Law Enforcement Officials,43
e. UN Basic Principles and Guidelines on the Rights to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law.44

3.2. Torture Violated the Jus Cogens Norm

Aside from the abovementioned human rights instruments, it was important to reiterate that torture also violated the Customary International Law, particularly the Jus Cogens norm.45 In the Statute of International Court of Justice (ICJ), Article 38 Paragraph 1(b) clearly stated that the customary international law consisted of two elements, namely state practice and law enforcement (opinio juris).46

UDHR, CAT and a number of international human rights legal instruments must be understood as a part of the customary international law practice widely recognized by countries around the world. From the perspective of state practice and opinio Juris, it was an inherent responsibility of all countries with no exception to punish perpetrators of torture.47

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41 Adopted by the first United Nations Congress on the Prevention of Crime and Treatment of Offenders, held at Geneva in 1955, and approved by the Economic and Social Council by its resolutions 663 C (XXIV) of 31 July 1957 and 2076 (LXII) of 13 May 1977
42 Adopted by General Assembly resolution 43/173 of 9 December 1988
44 Adopted and proclaimed by General Assembly resolution 60/147 of 16 December 2005 (UN Basic of Principles on the Rights to a Remedy and Reparation)
45 For information on Jus Cogens norm, see Van Schaack & Slye, supra note 13, at 496 A jus cogens norm is “(a) mandatory or peremptory norm of general international law accepted and recognized by the international community as a norm from which no derogation is permitted.” Black’s Law Dictionary 876 (8th ed. 2004).
46 Statute of the International Court of Justice (ICJ), article 38 paragraph 1 b The Court, whose function is to decide in accordance with international law such disputes as are submitted to it, shall apply; (b)International custom, as evidence of a general practice accepted as law;
47 See Dolly M.E Filaritiga and Joel Filaritiga, Plaintiffs – Appellants, v. Americo Norberto Pena – Irala, Defendant – Appellee, 630 F.2d 876 U.S. See also: International Court of Justice, Belgium v Senegal, Questions Relating to the Obligation to prosecute or Extradite, Judgment of 20 July 2012, para 121. Another example is the case of torture which was committed by the son of former Liberian president Charles Taylor (…). Cited
Thus, based on that explanation, CAT was one of UN’s human rights instruments that bound not only the countries that had ratified the convention, but also all countries without exception, which were unconditionally obligated to prosecute torture practices occurring in their territory. This was as reiterated in the provisions of Article 2 of CAT, which stated that “Each State Party should take effective legislative, administrative, judicial or other measures to prevent acts of torture in any territory under its jurisdiction”.

In relation to the Jus Cogens norm, article 52 of The Vienna Convention on the Law of Treaties (VLCT) clearly stated that Jus Cogens was a peremptory norm of the international human rights law. This could be interpreted that prevention and prosecution against torture was absolute and bore no exception in any form or condition.

One of the applications of the Jus Cogen norm could be seen in the Furundzija case, in which the international and national courts had recognized that torture violated the Jus Cogens norm. Meanwhile, a more concrete example of the application and recognition of the customary international law and violation of the Jus Cogens norms could be seen in the inter-Americas court practices, in which the court firmly prohibited torture under the United States territories because it violated the Jus Cogens. Thus, the government of Indonesia, which was also a member of UN’s Human Rights Council as well as a state party of CAT, had the obligation of punishing torture actors, including those assisting and facilitating the practice of torture.

3.3. Legislation on National Level

Meanwhile, on the national level, Indonesia had a number of legislations that prohibited all kinds of torture practices and other inhumane acts. In the 1945 Constitution, particularly in Article 28 g paragraph 2, it was stated that:


48 General Comment No 2 paragraph 16; Article 2, paragraph 1, requires that each state party shall take effective measures acts of torture not only in its sovereign territory but also “in any territory under its jurisdiction.” The committee has recognized that “any territory” includes all areas where the state party exercises, directly or indirectly, in whole or in part, de jure or de facto effective control, in accordance with international law.

49 Article 54 of the VCLT; “A treaty is void if at the time of its conclusion, it conflicts with a peremptory norm of general International law. For the purpose of the present Convention, a peremptory norm of general International law is a norm accepted and recognized by the International community of state as a whole as a norm from which no derogation is permitted and which can be modified only by a subsequent norm of general International law having the same character.”

50 ANTO FURUNDZIJA was born in Travnik on 8 July 1969, and currently resides in Dubravica, Vitez. During the war, he was a commander of the JOKERS working out of their headquarters (the "Bungalow") in Nadioci near Vitez. Untuk informasi detail tentang kasus ini bisa diakses di http://www.icty.org/x/cases/furundzija/ind/en/fur-1ai980602e.pdf.


“Each person has the right to be free from torture or inhuman and degrading treatment and shall be entitled to obtain political asylum from another country.”

In the 1945 Constitution, Indonesia also had a number of legislations which clearly strengthened and reiterated the prohibition of torture, among which were:

a. Law No 5 of 1998 on Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

b. Suspects had the right to legal assistance or counsel (Articles 54, 55, 56, 70 paragraph (1) of the Criminal Procedure Code (KUHAP) and Article 37, Law No. 48 of 2009 on tentang Judicial Power)

c. Law No. 39 of 1999 on Human Rights; Article 33 Paragraph 1:

“Everyone has the right to freedom from torture, or cruel, inhuman and degrading punishment or treatment.”

Article 66 Paragraph 1

“Every child has the right not to be the object of oppression, torture, or inhuman legal punishment.”

d. Law No. 26 of 2000 on Human Rights Court, which stated that torture was a part of a systematic crime (crime against humanity).

However, Komnas HAM (the National Commission on Human Rights) did not recognize individual torture cases as a part of crime that should be prosecuted, as regulated in provisions of Law No. 26 of 2000 on Human Rights Trials and Law No. 39 of 1999 on Human Rights. For example, the torture case on Puncak Jaya, Papua, in which KontraS tried to report the cases occurring in 2011, but Komnas HAM actually recommended that KontraS report the case to Military Police, because the case did not have elements of systematic and widespread.⁵⁴

The next case was the Sape, Bima – West Nusa Tenggara case, reported by KontraS to Komnas HAM, which was not followed up by Komnas HAM with a pro justitia investigation because the human rights abuse occurring in this case was not a serious human right abuse, even though in KontraS’ investigation there were elements of systematic and widespread. Komnas HAM at that time only encouraged the perpetrator, a civilian, be tried through a police process and the perpetrator from the military institution be tried in a military court.


Furthermore, police institutions also contained a number of internal regulations prohibiting torture and other cruel acts, such as:


**Article 10 Point E**

“In enforcing the law, each officer/member of National Police is obligated to obey the Code of Conduct, that is not to incite, tolerate torture and other treatments or punishments that are inhumane or degrading, as well as using one’s superior’s order or other special circumstances such as being in a state of war to justify torture.”

**Article 23**

“Detention measures must always conform to the international human rights principles and standards on detention as follows: (a) everyone whose freedom was taken from them has the right to be treated humanely and with respect in consideration of their inherent dignity as a human being; (e) detainees must not be tortured, treated cruelly and inhumanely, given degrading treatment or punishments, or other threats.”

**Article 24**

“In making arrests, officers are prohibited from: (d) demanding anything from or blackmailing the detainees.

**Article 36**

“The suspect’s rights are as follows: g. in case of suspects alleged of a criminal offense which is punishable by death or penalty of fifteen years or more, or to those who are poor and committed an offense punishable by penalty of five years or more, who do not have a legal advisor, the official in concern must appoint a legal advisor for them and each appointed legal advisor should give their assistance free of charge (pro-bono); q. suspects have the right to contact and receive visits from clerics; r. suspects have the right to seek and promote a witness and/or someone specific to provide information which is beneficial for themselves.”

b. Chief of Police Regulation No. 14 of 2012 on Management of Criminal Offense Investigation, Article 2, which stated that: “The aim of this regulation is (a) as a guideline in the management of criminal offense investigation in police environment; (b) to implement a management of investigation that covers an effective and efficient planning, organization, implementation, monitoring and control; and (c) as an evaluation and assessment of the investigator’s performance in the investigation process of a criminal offense in order to realize orderly administration of investigation and legal certainty.”
However, the existence of the Internal Regulation in the Police force was not enough to stop the practice of torture. In fact in the previous chapter of KontraS’ 1-Year Report on Torture in 2013-2014, torture actors were still predominantly originated from Police Institutions. The applied internal punishment mechanism (code of ethics) must also be accompanied by a criminal law mechanism as a deterrent.

Meanwhile, in relation to external monitoring function, the formation of the Indonesia Ombudsman Agency based on Law No. 37 of 2008 mandated to perform the function of investigating alleged maladministration in delivery of public service as regulated in Article 7 Point D, was expected to be continuously maximized so torture actors involving public officials such as the Police Institution, TNI and others received fair punishments.

The existing regulations on National and International levels were supposed to be a reference for the government of Indonesia to minimize the torture practices occurring in state institutions such as Polri, TNI and others. Thus, the Government of Indonesia must urge state institutions such as the Police and TNI to criminalize their own officials who were proven to have practiced or turned a blind eye to torture and other inhumane acts.

The flaw in Indonesian legislation, such as the absence of a specific definition on Torture and Forced Disappearance in the KUHP as well as the absence of specific legislations on Torture and Forced Disappearance, became a flaw in enforcing the law against the perpetrators. As an example, the case of forced disappearance of Dedek Khairudin on 28 November 2013\(^5\) proved that forced disappearance was a continuous crime and allowed the possibility of the same crime to be committed in the future as long as the State failed to establish clear laws against perpetrators of force disappearances. Thus, the Government had to initiate the draft bill of Anti-Torture and ratify the International Convention for the Protection of All Persons from Enforced Disappearance (ICCPED).

4.1. State Response

The rising number of cases on torture and other cruel acts without the counterbalance of prevention and punishment for the perpetrators showed the government’s lack of seriousness in preventing and stopping the practice of torture and other cruel acts, even though the government had ratified various regulations on prohibiting torture and other cruel acts which had been adopted into the Constitution.

In addition to the Constitution, law enforcement officials such as TNI and POLRI had also adopted many kinds of regulations against torture and other cruel acts into its internal regulations, such as POLRI with the Chief of Police Regulation (Perkap) No. 8 of 2009 on the Implementation of Human Rights Principles and Standards in Performing the Duties of the National Police and Perkap No. 14 of 2012 on Management of Criminal Offense Investigation. Meanwhile, TNI had regulations against torture regulated under TNI Commander Regulation (Perpang) No. 73/IX/2010 on Opposition to Torture and Other Cruel Act in the Law Enforcement by TNI.

The absence of punishment against perpetrators of torture as referred to in the provisions of Article 1 of the Convention Against Torture resulted in the low number of torture cases processed up to the judicial mechanism. During the four years KontraS had documented torture practices and other cruel acts in Indonesia, not one case received justice in which the perpetrators got the punishments they deserved. The Government of Indonesia always made excuses, claiming they were waiting for an amendment or revision of the Criminal Code (KUHP), while the plan to revise KUHP had been going on for the past 20 (twenty) years.

Similar to the past years, a number of advocacy efforts against the practice of torture and other cruel acts were done by KontraS, which consisted of several advocacy stages both through National and International Legal Mechanisms. Herewith we show our records of advocacy against torture practices and other cruel acts:

4.2. National Advocacy

1. A Crippled Criminal Mechanism

From a number of cases advocated by KontraS on torture and other cruel acts by law enforcement officials, a few cases were reported by KontraS through criminal mechanism such as reporting to the police. However, there were some aspects to be noted on the legal mechanism in reporting cases of torture and other cruel acts, among others:

   a. The absence of regulations in the law on the crime of torture;

1. Referring to the case of Shooting and Torture of Sami village residents, Lambu sub-district, Bima district, West Nusa Tenggara:
West Nusa Tenggara Police through Letter No. RI/606/ VI/ 2014/ Bid Humas

“that on the alleged breach of discipline by the police officers, the West Nusa Tenggara Police has processed and given disciplinary sanctions to 11 (eleven) officers of West Nusa Tenggara Police Force.”

2. Referring to the clarification letter on the handling of the case of shooting by Papua Police Mobile Brigade officer, dated 26 May 2014

“On the actions of the three Mobile Brigade officer, the police, in this case Unit Chief of Papua Police Mobile Brigade as their direct superior had conducted a disciplinary hearing against the three officers and imposed sanctions to the respective Mobile Brigade officer, as follows:

a. Written warning;

b. Postponement of Training for 1 (one) year;

c. Postponement of Promotion for 1 (one) period or 6 (six) months;

d. Detention in a special cell for 21 (twenty one) days

3. Referring to the reply of the request for information on the handling of the shooting of 2 (two) Morowali residents, dated 17 June 2014 of North Sulawesi Police; that disciplinary sanctions had been imposed on the 15 (fifteen) officers involved in the shooting.

The punishment mechanism of police officers alleged of torture and other cruel acts through the code of conduct was proof that the legal vacuum on punishing the practice of torture had been interpreted in a simple manner by the State, ergo only punishing the perpetrators through ethical mechanism.

b. A reporting mechanism that required the reports to go through internal mechanism, and subsequently stopped at the internal mechanism.

For example:
According to the Notice on Progress of Investigation from Profession and Security Division Chief of West Java Police, dated 28 May 2014, the case of torture by Taraju Sub-district, Tasikmalaya District Police Officer against Sulaiman:

That in the Police’s internal investigation the following things have been discovered:

1. Brigadier Egi Gustiawan, Nrp 84080084 bound the suspect’s hand and covered the suspect’s eyes with duct tape as well as electrocuted the suspect with electric paddles twice on the back and the wrists;
2. Brigadier Riki Umar Hasan, Nrp 83020248, threw a scrap plastic bottle of Pocari Sweat beverage to the suspect’s left cheek because the suspect’s testimony was convoluted;
3. Brigadier Iwan Laksono, Nrp 85100286, struck the suspect’s right
cheek 1 (one) time because the suspect’s testimony was convoluted;

On the aforementioned cases, the Profession and Security Division of West Java Police chose to use internal (ethical) mechanism, with the following sanctions:

a. Brigadier Egi Setiawan, Detectives and Criminals Unit Chief of Taraju sub-district, Tasikmalaya district Police, sentenced with the penalties of detention in a special cell for 21 days, postponement of periodic salary increase by one period, and reassignment that is demotion in nature;

b. Brigadier Riki Umar Hasan, Detectives and Criminals Unit Officer of Taraju sub-district, Tasikmalaya district Police, sentenced with detention in a special cell for 21 days;

c. Brigadier Iwan Laksono, Detectives and Criminals Unit Officer of Taraju sub-district, Tasikmalaya district Police, sentenced with detention in a special cell for 21 days;

2. Internal or Administrative Mechanism

This mechanism referred to reporting to the institution where the perpetrators worked, such as POLRI (Inspectorate of General Supervision and PROPAM (Profession and Security Division) and TNI (Military Police Detachment). In KontraS’ records, in addition to the lack of punishment in the criminal mechanism for perpetrators of torture and other cruel acts, KontraS also found that internal or administrative mechanisms were ineffective. This was due to the tendency of internal or administrative mechanisms to focus on testimonies of the reported and ignoring testimonies of the reporter, thus only a few cases were proven through the internal and administrative mechanism, as described in the table below:

<table>
<thead>
<tr>
<th>No</th>
<th>Year</th>
<th>Number of Cases</th>
<th>Administrative Sanctions</th>
<th>Criminal Sanctions</th>
<th>No Information</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>2012 – 2013</td>
<td>17</td>
<td>1 Case</td>
<td>2 Cases</td>
<td>14 Cases</td>
</tr>
<tr>
<td>2</td>
<td>2013 – 2014</td>
<td>18</td>
<td>3 Cases</td>
<td>-</td>
<td>14 Cases</td>
</tr>
</tbody>
</table>

3. Monitoring Mechanism

Aside from reporting through legal and administrative mechanisms, KontraS also tried to report alleged practices of torture and other cruel acts through monitoring mechanism such as the National Commission on Human Rights (KOMNAS HAM),

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57 KontraS Documentation on Complaints
58 Due to lack of information, KontraS attempted to request information through Public Disclosure Law. However, institutions are frequently reluctant to disclose information related to punishments of its members. Institutions are more open on disclosing information on budget and human resources/number of personnel, but more secretive on punishments (of personnel).
In relation to the monitoring mechanisms, KontraS had their own notes, among others: 1) the lack of understanding from monitoring agencies on the practice of torture and other cruel acts done by law enforcement officials. This could be seen from the responses given that tended to be administrative (correspondence) in nature; 2) The impact of the lack of understanding from the monitoring agencies on the practice of torture and other cruel acts could be seen from the lack of seriousness of the monitoring agencies in monitoring torture and other cruel acts as a part of crimes against humanity.

The following is KontraS’ notes in regards to the advocacy efforts to several state agencies, both through complaint letters and direct complaints, and the responses:

**Table: Advocacy by Complaints to State Agencies**

<table>
<thead>
<tr>
<th>No</th>
<th>Complaints to State Agency</th>
<th>Number of Cases</th>
<th>Number of Cases Responded</th>
<th>Number of Cases Not Responded</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Kompolnas</td>
<td>10</td>
<td>3</td>
<td>7</td>
</tr>
<tr>
<td>2</td>
<td>Komnas HAM</td>
<td>13</td>
<td>3</td>
<td>10</td>
</tr>
<tr>
<td>3</td>
<td>Ombudsman</td>
<td>10</td>
<td>5</td>
<td>5</td>
</tr>
<tr>
<td>4</td>
<td>LPSK</td>
<td>5</td>
<td>-</td>
<td>5</td>
</tr>
<tr>
<td>5</td>
<td>DPR RI</td>
<td>6</td>
<td>-</td>
<td>6</td>
</tr>
</tbody>
</table>

### 4.3. Advocacy on International Level

Aside from advocacy on the national level, KontraS also made advocacy efforts on international level through mechanisms provided by the UN. There were two forms of complaints conveyed by KontraS. *First*, through individual/group complaint mechanism, addressed to UN Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, as well as to a number of other Special Rapporteurs in the forms of urgent appeal or allegation letter.

*Second*, KontraS also conducted reporting in the forms of writing shadow reports for the Indonesia review session over implementation of civil and political rights, in which torture was one of the main topics.

A number of cases on torture, cruel, inhumane and degrading treatments or punishment which we advocated on international level in the form of individual complaint, among others:

<table>
<thead>
<tr>
<th>No.</th>
<th>Title</th>
<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Rights Situation in Indonesia; Allegation letter</td>
<td>17 June 2013</td>
</tr>
</tbody>
</table>

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59 KontraS Documentation on Complaints
In 2013, in a shadow report which we submitted to UN Human Rights Committee for Indonesia review session on the implementation of civil and political rights, we emphasized on issues/cases of torture in several parts, among others:

a) Torture as an impact of Police and TNI/Military Brutality;

b) Lack of effective reparations for torture done by the Police;

c) Military court frequently imposed light punishments for torture suspects;

d) Lack of National Prevention Mechanism to investigate detention facilities as promoted by the Optional Protocol to the Convention Against Torture;

e) No definition of torture in the Criminal Code/KUHP;

f) Widespread torture in Papua, particularly against individuals suspected to be a member of the Free Papua Movement, as well as;

g) Torture against Human Rights defenders within the environmental or land conflict issues were still prone to occur;

The reports or information on the practice of torture that we submitted on International level were responded quite well by the UN’s Human Rights Council or Committee. In 2012, UN Human Rights Council issued a number of recommendations on the practice of torture in Indonesia which were included in the Universal Periodic Review (UPR), while in mid-2013, UN Human Rights Committee in its recommendation to the Government of Indonesia on implementation of Civil and Political rights also highlighted the practice of torture. The recommendations were, among others:

<table>
<thead>
<tr>
<th>No.</th>
<th>Description</th>
<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>regarding the victim of Manipulation Case, Ruben Pata Sambo</td>
<td></td>
</tr>
<tr>
<td>2</td>
<td>The Contradictive of the Development Project in Indonesia ; Its Relevance on the Safe Environment of Human Rights Defender</td>
<td>24 June 2013</td>
</tr>
<tr>
<td>3</td>
<td>Parallel report to the Initial Report of Indonesia on the Implementation of the International Covenant on Civil and Political Rights (Shadow Report for the preparation of ICCPR session)</td>
<td>8 June 2013</td>
</tr>
<tr>
<td>4</td>
<td>Allegation Letter Regarding Ill- Treatment to Skillet manufactory labour slavery in Tangerang, Indonesia</td>
<td>26 September 2013</td>
</tr>
<tr>
<td>5</td>
<td>Allegation Letter of Human Rights Violations; Excessive Use of Force, Murder and Unfair Trial Committed by The Special Detachment 88 on Terrorist Raid in Ciputat, Banten Province, Indonesia</td>
<td>14 February 2014</td>
</tr>
<tr>
<td>6</td>
<td>Excessive Use of Force By Police Mobile Brigade on the Demonstration Resulted on 8 (eight) people died in Buol Village, South-East Sulawesi, Indonesia</td>
<td>8 April 2014</td>
</tr>
<tr>
<td>No</td>
<td>UN Human Rights Council / Committee</td>
<td>Date</td>
</tr>
<tr>
<td>----</td>
<td>----------------------------------</td>
<td>------------</td>
</tr>
</tbody>
</table>
| 1  | UN Human Rights Committee         | 21 August 2013 | 1. State Party must expedite the process of revision of the KUHP (Criminal Code) and ensure that the KUHP definition of torture included all elements in the Article 1 and Article 7 of the Convention against Torture.  
2. State Party should also guarantee the availability of adequate laws to conduct effective investigation as well as prosecution against perpetrators of torture;  
3. State Party must guarantee that law enforcement personnel obtain training on prevention and investigation of torture by integrating the Istanbul Protocol to all their training programs. |
| 2  | UN Human Rights Council           | 12 March 2012 | 1. Recommended Indonesia to form a National Preventive Mechanism as a commitment to ratify OPCAT which was included in the National Action Plan on Human Rights (RANHAM), periods of 2004-2009 and 2009-2014  
2. Recommended Indonesia to include the definition of torture in the Criminal Code /KUHP without delay according to Article 1 of the Convention Against Torture. Komnas HAM must conduct strengthening of capacity, independence, mandate, and procedures in its function particularly in investigating severe human rights violations, among which were Talangsari, Lampung, etc.  
3. Recommended the government of Indonesia to strengthen its cooperation with civil society organizations on the implementation of CAT.  
5. Urged the government of Indonesia to abolish death penalty and the confidential manner of its executions.  
6. Recommended the government of Indonesia to strengthen the training program for all law enforcement and military officials, members of the judiciary and prosecutors, as well as medical personnel involved in detention process to detect |
signs of torture and other mistreatments that are not in line with International standards
7. Recommended the government of Indonesia to establish comprehensive and consistent standards in monitoring mechanism in all detention facilities
8. The Government of Indonesia must ensure that all allegations of torture and other mistreatments are investigated in a proper, effective, and impartial manner and suspects must be prosecuted and punished in accordance to his crime.
9. The Government of Indonesia must widely inform its policy of zero tolerance to suspects of torture, cruel and degrading acts, treatments, or punishments as well as support prosecution of the suspects.
10. The Government of Indonesia must conduct a reform within the Attorney General body in order to ensure that they process criminal prosecution from allegations of torture and other mistreatments in an independent and impartial manner, as well as publish KOMNAS HAM’s investigation results without delay (for example: the investigation results in Wasior, Wamena 1997/1998, enforced disappearances, Trisakti, Semanggi 1 and 2)
11. The Government of Indonesia to recognize the mandates from Truth and Reconciliation Commission in the future in accordance to the obligations under this Convention.
12. Recommended The Government of Indonesia to raise the minimum age of crime suspects and abolish all corporal punishments for children.
13. Recommended The Government of Indonesia to ensure an appropriate, proper and impartial investigation in violence based on ethnic or religious/belief discrimination.
14. Recommended The Government of Indonesia to ensure effective measures in preventing violence against refugees and asylum seekers, particularly children.
Bab V
Conclusion and Recommendations

4.1. Conclusion

This report has recorded and documented various practices of torture occurring during June 2013 to June 2014. KontraS noted that the trend or tendency of torture and other cruel acts showed consistent increase over the years. This was found in the past 4 (four) years, in which the average number of torture cases have risen, with the most number of perpetrators originating from Indonesian National Police (POLRI), then TNI / Military and Wardens.

Based on a variety of data and facts collected by KontraS, victims of practice of torture and other inhumane acts came from different segments of society and had a diverse economic background, though largely dominated by members of the lower middle class society, resulting from lack of accesses to information and opportunities for proper legal assistance, as well as lack of legal knowledge, thus when involved in legal issues or “frictions” with officers (of the law), they became easy targets of torture.

On the other hand, members of upper middle class society were also prone to becoming victims of torture and case manipulations, such as the phenomenon of the Sun An and Ang Ho case, as business owners, which proved that victims of torture were not limited to poor people.

The data from the past four years presented by KontraS in this report clearly showed that the main problem of the rampant and increasing number of torture practices and other inhumane acts were a result of the lack of development in the basic issues which consequently triggered the widespread growth of torture practices. Some of the assertions made in KontraS’ notes for the past 4 (four) years were, among others:

a. Poor legal accountability against the perpetrators of torture and other inhumane acts. This situation was worsened by the slow-going revision of the Criminal Code/KUHP and government’s lack of commitment in implementing the mandate from Law No. 5 of 1995 on the ratification of the Convention Against Torture or Degrading Treatments;

b. The government also displayed no good faith in listening to and following up on the recommendations from UN bodies, among other were recommendations from the Universal Periodic Review (UPR) trial in 2012, and recommendations from UN Human Rights Committee in 2013, which clearly highlighted the rampant practice of torture and other inhumane acts and the ineffectiveness of legal accountability as preventive and punishment mechanism against the perpetrators;

c. The data and the root of the problem on the practice of torture for the past four years showed that the government had no willingness in expediting the revision of the Criminal Code/KUHP, in particular the rules on prohibiting and punishments of perpetrators of torture and other inhumane acts. Furthermore, even though Indonesia’s Directorate General of Law and Human Rights had proposed issuing a
special regulation on the crime of torture to fill in the legal vacuum, there had been no clarity on the discourse and the vacuum became an opportunity for the rampant torture practices.

d. Increasing numbers of torture and expanding range of actors/perpetrators, as it no longer limited itself to state apparatus, but also included non-state actors, in this case business owners.

e. Komnas HAM no longer facilitated legal processes against individual crimes, as their scope was limited to crimes against humanity and must contain elements of systematic or pervasiveness. Thus, of all the cases KontraS reported to Komnas HAM, if the perpetrator was a military personnel, Komnas HAM simply recommended the case be brought up to TNI Military Police and Military Court. The same applied in case of police officers as perpetrators; the recommendation was to report it to the Police internal mechanism.

4.2. Recommendations

Reflecting from the continuously occurring practices of torture and other cruel acts, which frequency increased every year, KontraS, through this report, recommended the following:

1. The government of Indonesia, both the executive and legislative bodies, must expedite the revision of the Criminal Code/KUHP and ensure the existence of clear, concrete articles on prohibition and punishment of practices of torture and other cruel acts in it. This revision must be made priority, considering the legal vacuum on the prohibition of torture and the punishment of torture had become the main trigger of the increasing and rampant practices of torture.

2. The government of Indonesia must come up with a different strategy by drafting a separate Bill Against Torture, which implemented the various provisions in the Convention Against Torture, which included not only the definition of torture and punishments for the perpetrators, but also evidences, testimonies, or confessions borne out of torture. In addition, articles on reparations of the rights of the victims or the victim’s family as stated in Article 14 of the Convention Against Torture must be included.

3. Supervisory agencies, such as Kompolnas RI (National Police Commission), LPSK (Witness and Victim Protection Agency), the Judicial Commission and Komnas HAM must play a more important, strategic role in conducting supervisions and pushing for enforcement of legal accountability as well as widespread dissemination to various agencies and institutions to reduce and prevent rampant torture.

4. The government of Indonesia must show seriousness in following the recommendations from the UN Bodies, such as Universal Periodic Review [UPR], Human Rights Committee and many reports from the UN Special Rapporteurs. This must be done as a manifestation of Indonesia’s commitment in preventing and punishing every form of torture and other inhumane acts.

5. The government of Indonesia must immediately ratify the Optional Protocol for Convention against Torture.  

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60 Operational Protocol for Convention Against Torture (OPCAT) is a supplementary document for the Convention Against Torture issued in 2002. Initially, the protocol was born out of concerns from the international community on the rampant practices of torture and other inhumane acts around the world. They
work on finding effective solutions to prevent torture by involving Countries in a dialogue. This method was inspired by the work of International Committee of the Red Cross (ICRC) which conducted working visits to detention facilities during the war. To date, 68 countries had ratified the protocol to prevent torture from occurring in their country.
Annexes
Annex 1: POLRI's Reply In Regards to Cases of Torture
a. Bahwasan Selisai Propam Polres Tasikmalaya telah menindaklanjuti adanya pemberitaan di media Online perihal adanya penganiayaan yang dilakukan oleh Anggota Polsek Taraju Polres Tasikmalaya tersebut, dengan melakukan pemeriksaan dimana hasilnya ditemukan bukti adanya pelanggaran disiplin;

b. Selanjutnya pada hari Jum'at tanggal 28 Maret 2014 telah dilakukan sidang disiplin di Ruang Sidang Polres Tasikmalaya yang dipimpin oleh Waka Polres Tasikmalaya dengan keputusan sebagai berikut:

1) Brigadir EGI GUSTIARAN Nrp 84080084 jabatan PS Kanit Reskrim Polsek Taraju Polres Tasikmalaya putusan penempatan dalam tempat khusus selama 21 (dua puluh satu) hari, penundaan kenaikan gaji bawaan selama satu periode, dan mutasi yang bersifat demosi;

2) Brigadir RIKI UMAR HASAN Nrp 83020248 jabatan Anggota Unit Reskrim Polsek Taraju Polres Tasikmalaya putusan penempatan dalam tempat khusus selama 21 (dua puluh satu) hari.

3) Brigadir IWAN LAKSONO Nrp 85100236 jabatan Anggota Unit Reskrim Polsek Taraju Polres Tasikmalaya putusan penempatan dalam tempat khusus selama 21 (dua puluh satu) hari.

3. Dengan tehad adanya putusan tersebut, maka terhadap perkara pelanggaran disiplin yang dilakukan oleh Anggota tersebut dinyatakan telah selesai.


6. Demikian untuk menjadi maklum.

Tembusan:
2. Waka Polda Jabar.
3. Irwadi Polda Jabar.

KABIO PROPAM POLDA JABAR

[Signature]

Drs. SUDRAJAT
KOMBES POL NRP 65010568
## Annex II: Complaints Received By KontraS

### Table: Complaints Received by KontraS on The Practice of Torture During the Period of June 2013 – June 2014

<table>
<thead>
<tr>
<th>Case</th>
<th>Chronology</th>
</tr>
</thead>
<tbody>
<tr>
<td>The Case of Torture in Sibolga sub-district Police</td>
<td>The victim was arrested by 3 (three) strangers in his residence, in which the strangers arrested and took the victim without showing their identity to the victim’s family or revealing their intention and the purpose of taking the victim away. After several hours, the family obtained information that the victim was detained in Sibolga Sub-district Police, which was verified by visiting the victim at Sibolga Police. The day after, the family was told that the victim has died with wounds covering his body.</td>
</tr>
<tr>
<td>The Case of Torture in Jakarta City Police</td>
<td>Andro Suprianto was arrested by an investigator from Jakarta City Police under allegations of murder. During the examination process in Jakarta City Police, the victim was tortured by the investigator to force him to confess to the allegations. During his time in the Jakarta City Police, the victim was electrocuted and beaten by the investigator.</td>
</tr>
<tr>
<td>The Case of Degrading Treatment by Fak-Fak District Police Officers</td>
<td>A group of around 150 people from Kramongmongga District was intercepted by TNI and Police Officers, after which they were taken to the Fak-Fak Sub-district Police. Once they arrived in the Police station, several female residents were separated from the group to be examined. During the examination by the female police officers of Fakfak Police, the women were asked to strip and explain their intentions and purposes of coming into the city.</td>
</tr>
<tr>
<td>The Case of Lampung Sub-district Police Force’s Arrogance</td>
<td>The victim was arrested by a police officer named Yuda Prayatna and his troops. During his detention, the victim was subjected to violence and was forced to sell his house to pay for his debts.</td>
</tr>
<tr>
<td>The Rape by Poso District Police Officers</td>
<td>The victim was arrested and detained by Poso Sub-district Police Officer on alleged drug possession. During the victim’s detention, the victim was forcibly raped at gunpoint by Mr. Dedy.</td>
</tr>
<tr>
<td>The Case of Aslin Zalim’s Torture by Baubau District Police Officers</td>
<td>The victim was arrested and detained by Baubau Sub-district Police Officer under the order of the Police Chief. During his detention, the victim was submerged in a pond. The following day, the victim’s family obtained information that the victim has died with his body full of bruises.</td>
</tr>
<tr>
<td>The Case of Torture in Medan City Police</td>
<td>The victim was arrested by around 15 (fifteen) strangers suspected to be police officers. During the arrest, an officer shot at the victim. After the detention and examination, the victim admitted to being subjected to torture.</td>
</tr>
<tr>
<td>The Case of Forced Disappearance by TNI Marine Officers</td>
<td>The victim was picked up by officers of TNI Army and Navy to point them to the location of the victim’s friend, who had allegedly beaten one of the officers. Until now, the victim’s family still had no information on the whereabouts of the victim.</td>
</tr>
<tr>
<td>The Case of Torture by</td>
<td>The victim inquired to the Deli Serdang Sub-district Police</td>
</tr>
<tr>
<td>Location</td>
<td>Description</td>
</tr>
<tr>
<td>----------------------------------</td>
<td>-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>Deli Serdang District Police</td>
<td>Deli Serdang District Police Officers regarding an arrest of one of his residents made by the Deli Serdang Police. The victim was immediately arrested and tortured by the police officers.</td>
</tr>
<tr>
<td>The Case of Torture by Lembata District Police</td>
<td>The victim was arrested by an investigator from Lembata sub-district Police on alleged premeditated murder of Laurens Wadu. During the examination, the victim was subjected to torture in order to force him to confess to the allegations by the investigator.</td>
</tr>
<tr>
<td>The Case of Torture by Alor District Police</td>
<td>The victim was arrested in regard to a fistfight. The victim was beaten during the arrest by Alor sub-district Police. The police also ordered the victim to roll around, crept on his stomach, lay flat on his back, and immediately had his wrist run over by a motorbike.</td>
</tr>
<tr>
<td>The Case of Cruel Punishment in Pondok Bambu Detention Facility</td>
<td>The victim and a number of detainees were punished by the officers of the detention facility by putting them in solitary confinement because the victim and his friends were suspected of violating the rules.</td>
</tr>
<tr>
<td>The Case of Torture by Jayapura-District Police Officers</td>
<td>The victim was arrested during a negotiation on a rally/demonstration. During his arrest, the victim was beaten, electrocuted and intimidated with invectives.</td>
</tr>
<tr>
<td>The Case of Forced Labor and Torture of the Kitchenware Factory Workers</td>
<td>The victims were forced to perform hard labor by the company.</td>
</tr>
<tr>
<td>The Case of Torture in Biau Sub-district Police</td>
<td>The victim was arrested in relation to a traffic accident resulting in the injury of a police officer. During detention, the victim was allegedly tortured, because prior to dying in custody, the victim told his family about being tortured.</td>
</tr>
</tbody>
</table>
Annex III: Torture Methods and Devices

1. Methods of Torture

KontraS also documented a number of methods of torture and other cruel acts for the past year. According to KontraS’ monitoring, methods of torture in general could be separated into several forms, namely, First, violence resulting in physical wounds, either through bare hands or certain instruments; Second, violence resulting in psychological distress, in the forms of intimidation, terror, threats or coercion, and Third, intentional neglect, such as in many cases of death in custody.

a. Beatings and Physical Violence

Beatings and physical violence were one of the most common methods used in torture and other cruel acts. The victims were usually beaten by bare hands or tools such as wood, rattan, or iron hammers in order to obtain testimony or as a form of punishment. In many cases, victims who were already powerless kept being beaten by the perpetrators, resulting in death. This method caused injuries such as bruises, blisters, and damages to bones and other internal organs. This method of torture also resulted in psychological distress to the victims.

In some cases, victims who could no longer withstand the torture experienced extreme psychological distress from the pain, such as what happened to Darpin (18) in Pangkalpinang, Bangka Belitung, on 18 November 2013. The theft suspect was currently undergoing treatment in a Sungailiat mental hospital as a result of the continuous torture in Pangkalpinang Police Headquarter during examination by the local Police officer. In addition, concussion resulting from beatings or blunt objects to the head could also damage the skull, brain and the blood vessels within, which caused intracranial injury or traumatic brain injury.

b. Shooting with Firearms

Shooting was a form of torture and inhumane act used by the perpetrators to obtain information or as a form of punishment for its victims. In one incident, the victim was forced to lie on the ground to avoid the bullet from ricocheting. Another perpetrator stepped on the victim’s body and ordered the victim to hold his breath, and then shot his left knee.


Shooting was also used as a tool to scare the victim into confessing his crime. Aside from serious injury, shooting also caused psychological trauma to the victims, as well as death. This method of torture was usually done in private locations, such as abandoned fields, empty buildings, or other places that were not recognizable to the victims.

c. Stabbing With Sharp Weapons

Another method of torture was to stab the victim with sharp weapons, such as knives, screwdrivers, or other sharp tools. In some cases, victims were stabbed as a form of punishment, but stabbing also occurred in the investigation process in order to gain information, particularly to force a confession of crime. An example of this type of torture occurred in Cianjur sub-district Police Headquarter on 22 December 2013. At the time, a detainee alleged of kidnapping, R (30) was found dead due to blood loss from an open wound on the neck. It was suspected that the wound was from a stab wound nicking the vein.  

d. Electrocuot

Electrocution was the second most common methods in cases of torture and other inhumane acts. Usually the perpetrators electrocuted their victims using high-voltage electrical tools such as electric paddles or cables with exposed wirings, which were then stuck to the victim’s body parts. This type of torture commonly occurred in Police station during examination of the victim, such as what happened to Joni. The theft suspect admitted to being electrocuted by a police officer on his genitalia during examination process in Toboali sub-district Police Headquarter on 12 August 2013. While Juanda (30), also a suspect in a theft case, was found dead with burn marks suspected to be from electric shock which also caused a broken right leg.

Aside from burn wounds, this type of torture also resulted in, among others: loss of muscle control, difficulty in breathing, tetanic contraction, neurological damage, damaged myocardial veins, thrombosis, and occlusion resulting in ischemia and necrosis, ventricular fibrillation, and long term effects such as epilepsy, encephalopathy, and Parkinson’s Disease.

e. Burning a Body Part

Torture by burning body part commonly used a number of tools, such as cigarette butts, hot iron, and lit matches combined with balm/ointment, which gave a sensation of heat and burning. This form of torture included using a lit match to burn the victim’s face (including the hair), chin, hands, thighs, or even private parts of the body. In a number of cases, victims who were so helpless they had to be held up by the perpetrators were burned by a heated instrument that they obtained serious injuries. Like what happened to A Siong in Medan, North Sumatera. The victim admitted that he was burned by cigarette butt to make him confess to his crime. 68

f. Whipping
Whipping was usually used as another form of punishment. In countries or places that implement Islamic Sharia as their law, such as Aceh, whipping was a very popular punishment. As it was made into a spectacle, witnessed by hundreds of residents, whipping did not only cause physical injuries but also damage the victim’s mental and psychological state.

This method was also used to dig up information or force the victim to confess to a crime. The common devices used in this method included belt/buckle, power cables/cords, even water hose. Like what happened to Blasius Sumaghai at TNI Marine Base in Bade Village, Papua, on 26 January 2014. The victim stated that he was taken by the perpetrators to the TNI Marine Base and was immediately beaten using rifle butts and water hose, suspected to have been used to whip the victim. 69

g. Mutilating or Denailing
This type of torture commonly used tools such as pliers or other clamping devices to pull out the victim’s body parts, starting from nails (commonly known was denailing) to the victim’s hair. In a number of cases, victims who were powerless after being beaten by the perpetrators then had their body parts pulled out and forced to confess to a crime or provide testimony. Such as what happened to Jaim and Susilo, suspects of a vandalism case in Surakarta, Central Java. The victims’ lawyer stated that his client’s beard was forcibly pulled out by a police officer when he was detained in Surakarta Police Headquarter on 10 May 2014. 70

h. Sexual Abuse / Rape
Sexual crime meant sexual intercourse, oral or anal sex without consent from one of the parties. Rape and sodomy were two different methods, but both used as forms of torture. Torture through rape was commonly motivated by forcing the victims to

provide testimony, or as a punishment. Such as what happened to SR, who was gang-raped because she was found alone with her boyfriend near a lake in a college campus area in Surabaya. The victim said that initially she was subjected to a raid by the TNI Officers, but then she was taken to an abandoned place and gang-raped by the perpetrators.”

This torture method was also used to affect a third party/the perpetrators’ main target psychologically. This method of torture did not only cause physical injuries to the victim, but also mental and psychological scars that would remain in the victims’ memories for a long time.

**i. Drowning/Submerging One’s Head or Body in Water**

Submerging the victim’s head in water was one of the torture methods that caused physical and psychological wounds, moreover if done over a long period of time. It could also cause death from lack of oxygen in the body and head. This method of torture was commonly used to gain information from the victim, or as a form of cruel punishment. One incident of torture using this method was on 15 February 2014 in Tanjung Morawa, North Sumatera. At the time, the perpetrators submerged Amir Deluminte (the victim)’s head into water repeatedly as punishment because the victim tried to escape.

This method of torture could cause hypoxia (lack of oxygen in the body) and at the same time also caused extreme psychological distress, tachycardia (rapid heart rate), hyperventilation (fast breathing) and shortness of breath (obstructed airways). The psychological distress caused by this technique could cause blockage of blood flow to the heart (cardiac ischemia) or irregular heartbeats (arrhythmia) to vulnerable individuals. Lack of oxygen also caused nerve damage.

**j. Blinding with Light**

This method of torture was a type of sensory deprivation torture. Generally, the perpetrator blinded the victim using flashlight, spotlight, or other instruments emitting bright light as to disrupt the victim’s sight. Such as what happened to Joni in Toboali, South Bangka, on 12 August 2013. The victim stated that during examination, his sight was blinded by flashlight so that he could not see clearly.

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The use of lamp/light was intended to induce psychological distress and detachment from reality as a defense mechanism. Spotlights also triggered stress by increasing heart rate, in addition to increasing blood pressure, increase in diastolic blood pressure and ventricular arrhythmia, and even had the potential to disrupt heart rhythm.\textsuperscript{75}

\textbf{k. Tight Binding or Cuffing}
This method of torture utilized a number of devices to tightly bind the victim, such as rope, handcuffs, duct tape, to power cables/cords. In some cases, the perpetrator bound the victim tightly as a form of cruel punishment or to prevent the victim from escaping. Often a tightly-bound victim also got beaten or kicked by the perpetrators. A victim of this type of torture, Nahor Stefanus Yalak, stated that his hands were tightly bound by plastic cords and he was forced to lie down, while continuously beaten and whipped by the perpetrators.\textsuperscript{76}

Wounds caused by this type of torture were, among others: chafing/laceration on skin/flesh, dislocated joints, blood clots and psychological distress. This torture method could also cause necrosis or tissue death and septicemia from irreversible damage due to insufficient blood flow to the tissue.\textsuperscript{77}

\textbf{l. Hooding}
This torture method was also a form of sensory deprivation. In general, the perpetrator covered/smothered the victim’s head with plastic or cloth bag in order to reduce the victim’s cognitive abilities. In some cases, the perpetrators hooded the victim right after arrest, and continued to do so during examination, such as what happened to Sulaiman in Teraju, West Java, on 19 March 2014. According to the victim’s testimony, at the time his eyes were covered by duct tape and he was beaten severely during examination by an officer from the local police station.\textsuperscript{78}

This method was proven instantly effective because the victim could not withstand losing their senses. In addition, this type of torture also caused loss of concentration, cognitive loss, and sleep deprivation if done over a long period of time.

\textbf{m. Psychological Distress through Threats of Harm}
Threatening was the third type of torture most commonly found and generally occurring during examination process in the Police Station. Threats were usually

\textsuperscript{75}B. Nephew et al., supra note 211; R. Emdad et al., supra note 211.
\textsuperscript{77}Necrosis was a pathological death of one or more cells, or part of tissue or organs, cause by irreversible damage. This happened when there was insufficient blood flowing into the tissue, due to injury, radiation, or chemicals. For more information, see: http://kamuskesehatan.com/arti/nekrosis/
aimed directly to the victim, the victim’s families and friends, with the objective of forcing a testimony or forcing the victim to confess to a crime.

Studies have found that threats to the life or physical welfare of an individual or their family members or friends could cause a long-term psychological impact. Research showed that these threats were aimed to induce extreme fear and loss of control, which was strongly associated to PTSD and heavy depression. This experience could also provoke intense anxiety, resulting in inability to function in the workplace, family settings, and in more extreme cases, becoming a danger to themselves.79

n. Degrading Treatment
This method of torture came in all manners and forms, starting from treating the detainees like an animal (feral treatment), humiliation, force feeding, to dehumanizing punishments.80 In some cases, the victims were forced to perform acts that degraded their own dignity, such as bootlicking, acting like an animal, eating improper food, etc. with the intention to bring down the mental and psychological condition of the victim, such as what happened to AAP (17) in Madiun, East Java, on 30 January 2014. The victim stated that he was forced to knock on all his neighbors’ doors and call himself a dog by the perpetrators.81

o. Forced Stripping
This type of torture was generally used to degrade the mental and psychological condition of the victim in order to make them feel helpless. This torture method was also a form of sexual crime (sexual humiliation). In some cases, victims were forced to take off all their clothes before putting them in a certain holding cell; some others kept on being beaten and electrocuted in such inhumane conditions. Such as what happened to AAP (initials) in Madiun, East Java, on 30 January 2014. The perpetrator stripped the victim by force to punish the victim.82

Forced stripping caused the victims to feel humiliated and insulted, and could also cause permanent psychological damage. Doctors handling victims of this type of torture reported that most victims experienced post-traumatic stress disorder (PTSD) and major depression, not infrequently, the victims would be reminded of the event long after their release, and would also experience nightmares.83

p. Pharmacological Manipulation

79PHR Break Them Down, supra note 20, at 45-55.
83PHR Break Them Down, supra note 20 at 56.
The use of drugs through forced consumption or injection in torture usually occurred in Police Station in order to force the victim to provide information or confess to a crime. Another aim was to make the victim forget the event and the pain from the torture. This torture method was categorized as Pharmacological Manipulation, which commonly used drugs such as Sodium Amytal, Meskalin, Skopolamin, Lysergic Acid/LSD, Amfetamin, Pipradol, Ritalin, Klorpromazin/Thorazine, Sodium pentothal, Versed, dan lain sebagainya. This method was used in a torture which happened in Kolaka sub-district Police Headquarter on 6 September 2013. At the time, the two victims of torture, Tiwu and Adi, were forced to consume painkillers to numb the pain from the torture they were subjected to during examination.

q. Isolation or Solitary confinement
Isolating or putting detainee in a special cell was one of the ways usually used by torture actors as punishment or to gain information from its victims. When isolated, the victim had limited contact with other people and in turn experienced psychological distress from loneliness. Someone who was isolated for the first time typically exhibited symptoms of confusion, anxiety, frustration, anger, boredom, obsessiveness, contemplation, depression, and in some cases, hallucination.

r. Confining or Kidnapping
This torture method was usually used as a punishment or for particular purposes of the perpetrator’s. The victim would be taken by force to private places such as abandoned buildings, houses, factories, or locations unknown by the victim. In some cases, confining/kidnapping occurred over a period of days or even months. In the long term, this type of torture could affect the victim’s mental and psychological condition. Not infrequently, the confining/kidnapping was also accompanied by torture, both physically and psychologically. Such as what happened to Ahmad Zamani and Sunan Ali Arifin, victims of torture and kidnapping in Tamansari, West Jakarta. The victims, who were confined for more than 1.5 months, admitted to being frequently tortured by the perpetrators, and even treated inhumanely.

s. Deprivation of Access to Health and Food
This type of torture was common in detention facilities, both in police stations or correctional facilities. However, in one case, this method of torture also occurred in a private place, such as what happened to Ahmad Zamani and Sunan Ali Arifin, victims of torture and kidnapping in Tamansari, West Jakarta. According to the victims’
testimony, they were fed once every four days by the perpetrators, of which one was a TNI Military Officer.\textsuperscript{88}

In this method of torture, the perpetrator refused access to healthcare or food as a form of punishment or neglect. In many cases, victims died from severe diseases they contracted during detention period.

\textbf{t. Lack of Access to Security}

Access to security in detention facilities was one of the most essential requirement for detainees. This was due to the fact that a detainee’s safety or life was solely under the authority of the officers where the detainee was arrested. In contrary, there were actually many detainees who were attacked physically or psychologically by fellow detainees, police officers, wardens, external parties, or other unknown parties. Oftentimes a detainee was found dead from hanging himself in their holding cell, without the knowledge of the officer assigned to him. Even worse, sometimes bruises from beatings were found on the victim’s body. Such as what happened to Eric Christian Soemantri, a detainee in Tanggerang sub-district Police Headquarter. He was found dead by hanging in his cell on 6 March 2014, with bruises all over his body which origins were still unknown.\textsuperscript{89}


\textsuperscript{89}Online Media, “Polisi Tutup-tutupi Penyebab Kematian Eric di Sel Tangerang”, RMOL.co, 24 March 2014. Accessible at: [http://hukum.rmol.co/read/2014/03/24/148457/Polisi-Tutup-tutupi-Penyebab-Kematian-Eric-di-Sel-Tangerang](http://hukum.rmol.co/read/2014/03/24/148457/Polisi-Tutup-tutupi-Penyebab-Kematian-Eric-di-Sel-Tangerang)