

Victims Still Tortured

Report on Situation of Torture in Indonesia July 2012 - June 2013

1. Introduction

Every year, in the momentum of June 26 "*International Day Against Torture*" KontraS provide practical notes of Torture and cruel actions in Indonesia. This report was prepared based on the results of monitoring and advocacy work by KontraS. Resources obtained from various parties, such as; victims, families, witnesses, the media, and also state institutions. Period of this report are counted from July 2012 to June 2013. This is the third report in the context of the exposure situation of torture and cruel actions. Previously, KontraS has made similar report in 2011 and 2012.

This year, we have recorded 100 events of torture that resulted in 15 people dead, 204 people injured, and as many as six people have other cruel actions (sexual abuse and ill in custody without being offered medical assistance). Of these events, KontraS received about 17 cases of torture reported by the victim or his family directly. KontraS suspect that the numbers could be even greater from above mentioned. The obstruction of information access to explore alleged cases of torture and many other cases (with courage of the victims) were reported or revealed to KontraS over two or three years later.

Above number does not differ much with KontraS monitoring results in 2012, while KontraS record the number of torture victims to reach 243 people from 86 events. Meanwhile, in 2011, KontraS record the number of torture victims reached 49 people.¹

Thus, indicates that the fundamental problems of the current practice of torture is not much different from previous years, including; *first*, it is still dominated by the absence of law enforcement and justice against perpetrators of torture and practice of torture itself; *second* in the criminalization cases, does not mean there will be the guarantee of significant recovery for the victim and civilians ; *three*, there has been no revision of regulations and legislation, particularly the Criminal Code (KUHP) and the the Criminal Code Procedures, relating to the article of torture.²

This condition is exacerbated by the reliance on internal mechanisms to punish torture practices. As KontraS been stressed by the report in 2012, the internal mechanism of the military and police tend to perpetuate impunity.³ In addition, the government also still impose the death penalty, especially in the Criminal Code and the practice of flogging in Aceh.⁴

Therefore, this brief report will do the assessment and description about ongoing practice of torture in Indonesia. The description of the facts of torture has been mentioned above emphasize

¹See the previous two reports published by KontraS: first, "Penyiksaan: Tindakan Keji yang Tidak Dianggap Serius 2011", http://www.kontras.org/index.php?hal=siaran_pers&id=1317, second, "Penyiksaan Meningkatkan Drastis Laporan Penyiksaan 2012," http://www.kontras.org/index.php?hal=siaran_pers&id=1537

²Hukum Online, *Doktor Hukum Usulkan Kriminalisasi Pelaku Penyiksaan*, 29 Agustus 2012. It can be accessed at <http://www.hukumonline.com/berita/baca/lt503db40a8761a/doktor-hukum-usulkan-kriminalisasi-pelaku-penyiksaan>.

³Annual report KontraS 2012, *Supra Note 2*, hal 6

⁴Id, Hal 4-5

that Indonesian National Army (TNI) and the Indonesian National Police (Polri) has not changed much.⁵ Security and defense institutions are still the dominant actors who committed torture. On the other hand, the policy and the government's commitment has not changed much, even tends to stalled.⁶

Some "homework" for the prevention and prosecution of torture is not running optimally, particularly on the recommendations for the government, and the government's commitment to implement it. One obvious example through the mechanism of Universal Periodic Review [UPR], in particular on the second round which took place on May 23, 2012⁷, the government accepted and promised to follow up on at least seven recommendations related to the efforts to stop the practice of torture and the revision of torture article in the Criminal Code, but so far we have not seen realization of that commitment.⁸

2. Facts of Torture Practices in Indonesia

From many cases of torture (100 cases), some of them were included in the KontraS monitoring. There are a number of cases conducted through the initiation from KontraS. Description of the facts described below in the first part, while the next section presented the findings of the legal advocacy on these cases.

No	Cases	Chronological	Form of Tortures	Follow up	Responses
I	TAHUN 2012				
1	Torture Case in Jaya Wijaya Police, August 14, 2012 5 people became victims, one of them got psychiatric disorders	5 residents were arrested by Police Jayawijaya who alleged related to the murder-offenses of Marten Kurisi The five victims were arrested without a warrant arrests, and during interrogations they were interrogated and tortured in order to admitted criminal homicide by Jayawijaya police investigators	- Intimidated by rant and bad words - beaten and kicked	Appeal letter intended to investigate to Papua Regional Police	No follow-up
2	Torture Case in West Sabu Police Sector	17 Mapipa residents were arrested by members of the West Sabu Police on a charge of murder against Bernardus	- Stripped - Placed in a room sized 3x2,5 - Beating either with bare hands or using	Appeal letter intended to investigate to East	No follow-up

⁵ Annual Report KontraS 2012, Penyiksaan Meningkatkan Drastis, hal 6

⁶ See the annual report of KontraS 2012, *Keadilan Macet Kekerasan Terus*, bisa diakses di <http://www.kontras.org/>

⁷ For detail information on UPR process of Indonesia can be accessed at *Universal Periodic Review Second Cycle – Indonesia*, <http://www.ohchr.org/EN/HRBodies/UPR/Pages/IDSession13.aspx>

⁸ U.N. General Assembly, *National Report Submitted in Accordance with Paragraph 5 of the Annex to Human Rights Council Resolution 16/21*, P 3-9, U.N. Doc. A/HRC/WG.6/13/IDN/1, bisa diakses di <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G12/116/38/PDF/G1211638.pdf?OpenElement>

	<p>Detention 14 Agu 2012</p> <p>17 people became victims</p>	<p>Java.</p> <p>During the process of detained the victims often get violent acts and torture for 120 days, until the victim is released because they were not proven committed the crime</p>	<p>tools</p> <ul style="list-style-type: none"> - Cutting hair and pubic hair - Not given food to eat and drink - Watered by using sea water on the injured body 	<p>Nusa Tenggara Regional Police</p>	
3	<p>Torture Case in Nabire Prison Okt 1, 2012</p> <p>Two people became victims</p>	<p>Nabire prison's Chief were ordered to carry out beatings, torture and threatened to cut body parts.</p> <p>As a result of these actions both victims fell unconscious, but prison officials still perform acts of torture by sticking a hot iron on the back of both victims</p> <p>Similar persecution persists within the cell and take place almost every day.</p>	<ul style="list-style-type: none"> - Beaten by using water faucet - kicked - electrocuted - Threatened to be cut by using a lawn mower - Stick a hot iron on the victims' back 	<p>Appeal Letter intended to investigate to Ministry of Justice and Human Rights</p>	<p>No Follow-up</p>
4	<p>Sun An and Ang Ho Torture Case in Medan Municipality Police Okt 10, 2012</p> <p>Two people became victim</p>	<p>Both victims have been charged over the alleged murder of a married couple on March 29, 2011 in Medan.</p> <p>During the two victims undergo the inspection process at the Police Medan, they were extorted, intimidated with act of torture in order to make them acknowledge as murder</p>	<ul style="list-style-type: none"> - Extortion - Beaten and kicked 	<p>Appeal letter to the National Police's Internal Affairs Division</p> <p>Appeal Letter to the general oversight of Indonesia Police Headquarters</p> <p>Appeal letter to the Chief of Republic of</p>	<p>No Follow-up</p>

				Indonesia Police	
5	<p>Torture Case of Batang Toru Residents Nov 4, 2012</p> <p>32 people became victims</p>	<p>The case started when Batang Toru residents committed public protests that denies the existence of PT.Agincourt pipe fitting, which then responded by repressive act by police and arrests the 32 residents.</p> <p>Of the 32 people arrested, 12 people at that time had been identified as suspects, while 20 people were released under the condition of full body got physical injuries caused by torture and inhumane acts.</p>	<ul style="list-style-type: none"> - Intimidated - Beaten and kicked 	Appeal letter to the National Police Commission	No follow-up
6	<p>Torture Case of 14 People in Mimika Police District</p> <p>14 people became victims</p>	<p>November 23, 2012 14 Mimika residents were arrested and detained in Mimika district police, during the arrest of the alleged victim suffered torture and intimidation</p> <p>Associated with the incident, many people fled into the forest</p>	<ul style="list-style-type: none"> - Intimidated and threatened - Beaten and kicked 	Appeal letter to the National Commission for Human Rights	No follow-up
7	<p>Torture Case of Frengky Umang Nov 27, 2012</p> <p>One person became victim</p>	<p>The victim was arrested and detained by police officers from Kwamki Baru police sector when the victim was heading to church. The victim was arrested on charges of arms purchases.</p> <p>During the victim inspected in the Police Sector, he was interrogated and tortured in order to admit the charges alleged to him</p>	<ul style="list-style-type: none"> - Intimidated - Beaten and kicked 	Appeal letter to investigate to Papua Regional Police	No follow-up
8	<p>Torture Case of Edi Kusnadi in Greater</p>	<p>The victim was arrested by the Police Investigator related to the charges of possession of narcotics.</p>	<ul style="list-style-type: none"> - Beaten and attacked - electrocuted 	Appeal letter to investigate to the Greater	No Follow-up

	<p>Jakarta Metropolitan Area Police Des 17, 2012</p> <p>Three people became victims</p>	<p>During the inspection process at the Jakarta Metropolitan Area Police, victims experienced violent acts until he got broken wrist. Torture is committed in order to make the victims admitted the alleged crime</p>		<p>Jakarta Metropolitan Area Police.</p> <p>Appeal letter to the Division of Profession and Security (internal police security unit) Republic of Indonesia Police Headquarters.</p> <p>Appeal letter to investigate to the General Oversight of Indonesia Police Headquarters</p>	
9	<p>Torture Case of Poso Residents in Poso Police District Des 20, 2012</p> <p>14 people became victims</p>	<p>A joint team of Central Sulawesi Police Area and Anti-Terror Detachment 88, arrested 14 civilians, who works as a school teacher and farmer. Since the arrest and interrogation process they got intimidation, and also physical abuse.</p> <p>On December 26 and 27, 2012, a joint team of police investigators release them, because there's no evidence of</p>	<p>- Intimidated - Beaten and kicked</p>	<p>KontraS' Press Release</p>	

		them to be involved in the attack, which led to the death of mobile brigade member in Kalora village.			
10	Wildan Saputra Torture Case by Tanah Abang Police Sector Dec 24, 2012 One person became victim	The victim was arrested and detained by Metro Tanah Abang Police Investigator and was not known by the family during + 9 (nine) days. During victim whereabouts is unknown, allegedly the victim got pressure and intimidation from investigators to acknowledge possession of narcotics.	- Intimidated by pointed gun and also rant words	Appeal letter to investigate to the Chief of Republic of Indonesia Police	
II		Year of 2013			
11	Ibnu Torture Case in Bangkalis Police District January 22, 2013 Four people became victims	Victim was detained by Bengkalis police district investigators related alleged murder offense information received by KontraS, the victim got torture during detained process	- Intimidated - Given a meal with a mixture of glass - Beaten and kicked with bare hands and/or using tools	Appeal letter to investigate to the Chief of Republic of Indonesia Police	No follow up
12	Yusli Torture Case by Cisauk Police Sector Members February 2013 One person became victim	December 26, 2011 at approximately 3:00 am in the morning came a group of strangers (who later became known as member of the Police Cisauk), carried firearms, which forces took the victim without the explanation On December 27, 2011 families got the victim's certainty that Yusli has been passed away, and his body was in the Keramat Jati Police	- Interrogated outside the jurisdiction of the Police - Beaten and kicked either using tools or bare hands - Eye covered by duct tape - Shot	KontraS' Press Release regarding to the light sentence of verdict towards perpetrators	

		Hospital with his body condition full with wounds.			
13	<p>Syamsul Arifin Torture Case in East Java Regional Police March 1, 2013</p> <p>One person became victim</p>	<p>The victim was arrested by the East Java Police on charges related to theft case.</p> <p>By the time when the victim was interrogated, the victim was intimidated and tortured in order to confessing crimes alleged by the East Java Police investigator</p>	<ul style="list-style-type: none"> - Beaten and Kicked - Intimidated 	Appeal letter to investigate to the National Commission on Human Rights	No Follow up
14	<p>Wibowo and Frans Torture Case in Magelang Apr 12, 2013</p> <p>Two people became victims</p>	<p>Both victims were attained by About 14 people of Military District Command members 0705 Magelang.</p> <p>Both victims were taken to the Dormitory of Army Hospital Dr. Sudjono and conducted interrogations and received a lot of punches and accused and forced to confess peek the student nurse in Military Area Command Medical Service IV / Diponegoro.</p>	<ul style="list-style-type: none"> - Intimidated - Beaten and Attacked 	Appeal letter to investigate to the National Commission on Human Rights	No Follow-up
15	<p>Ayu Basalamah Torture Case April 21, 2013</p> <p>One person became victim</p>	<p>The victim was tortured by the Adjutant Regent of East Mogondow, where one of them is a member of the police. Regarding to that violent act, the victim reported the incident to police, but the victim's statements were not followed up</p> <p>On June 2013 the victim was found dead at his home with body condition full of wound</p>	<ul style="list-style-type: none"> - Beaten and Kicked - Intimidated 		

		and hand-tied with duct tape.			
16	Danes Torture Case June, 2013 two people became victims	Both victims were arrested and charged with the murder of domestic worker in Pondok Aren. Criminal investigation report was done after the victims got tortured. They got 12 years in prison as the verdict by Tangerang District Court	- After arrests the victims were interrogated and afterwards the criminal investigation report was made - Eye covered by duct tape - Beaten and kicked - electrocuted		
17	Ruben Torture Case June 13, 2013 Seven people became victims	Victims were arrested with the allegation of committed murder. The victim was arrested by police Makale Tanah Toraja, where the victim allegedly suffered torture and intimidation from the investigators in order to admitted criminal offense In 2013, later revealed that the actual perpetrator has been arrested.	- After the arrests almost all the victims were interrogated and made new BAP -stripped -Toes stepped on with a table leg - Watered by using dirty water - Beaten and kicked - Chained	KontraS' Press Release	

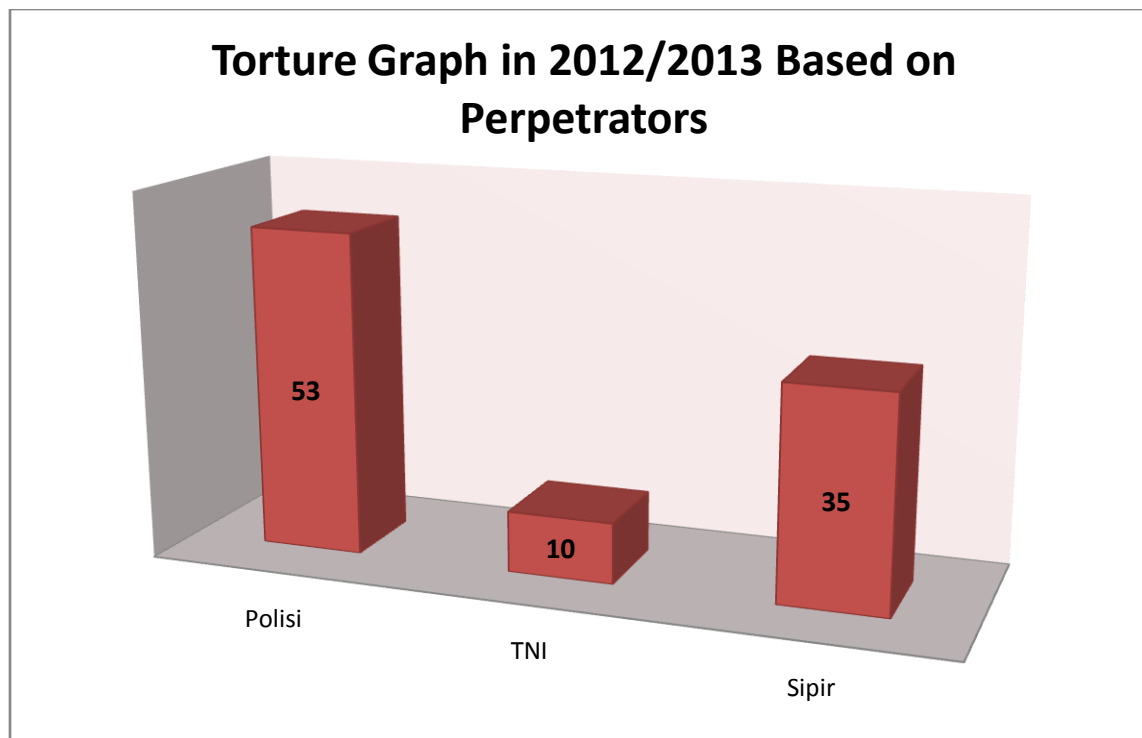
b. The following table is based on the KontraS' monitoring of torture Cases on July 2012-June 2013.

Table based on Perpetrators Institution

Perpetrator	Number of Violent Act	Victim		
		Injured	Killed	Others
Police	55	149	5	3
TNI	10	10	2	-
Civilian	35	45	8	3
	100	204	15	6

Tabel Based on Province

Location	Number of Act	Victim	
		Male	Female
Aceh	7	10	3
North Sumatra	11	15	1
West Sumatra	3	3	-
Riau	2	2	-
Riau Island	1	1	-
Jambi	1	1	-
South Sumatra	3	16	-
Lampung	4	4	-
Banten	6	7	-
DKI Jakarta	8	7	1
West Java	3	17	-
Central Java	12	14	-
East Java	5	5	-
West Nusa Tenggara	1	1	-
East Nusa Tenggara	6	24	-
Maluku	3	29	-
North Maluku	2	2	-
West Kalimantan	1	1	-
East Kalimantan	2	2	-
South Sulawesi	6	7	-
Central Sulawesi	3	20	-
North Sulawesi	1	1	-
Southeast Sulawesi	3	2	1
Papua	6	28	-
	100	219	6



The various cases as figures above, motifs of torture practice were detected, such as:

1. Torture or cruel actions to dig up information as an intermediary (not the target); 2 (two) cases
2. Torture in order to confess the crime; 44 cases
3. Torture as the punishment; 30 cases

3.1 The Obligations of the Government of Indonesia Against Torture Practices

Indonesia has become a party to the rule banning the torture practices, since 1998. In other words, Indonesia is obliged to oppose all forms of torture. This is in line with the constitutional rules and norms prevailing in Indonesia. Here below is presented a number of rules that requires the government of Indonesia as the legal authority to carry out the punishment and restoration of the perpetrators and victims of torture. At the end of this report will be delivered achievement, response and results from a number of advocacy activities or cases of torture.

3.1 Provision Under International and National Law

Prohibition and obligation not to undertake punishment with the practice of torture is clearly contained in the various international human rights law instruments, including:

First, the Universal Declaration of Human Rights [UDHR], chapter 5, stated that;

“No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment”⁹

Second, Indonesia has ratified the CAT (Convention Against Torture) on October 28, 1998.¹⁰ Subsequently enacted in the Act No. 5 of 1998¹¹. Under the provisions of Article 4, paragraph 1, stated "Each State Party shall ensure that all acts of torture are offenses under its criminal law. [...]"

Third, through Act No. 12 of 2005, Indonesia has ratified the International Covenant on Civil and Political Rights¹², the provisions of Article 7 stated:

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.

Meanwhile, at the national level, Indonesia should optimize the spirit of 1945 Constitution, in particular article 28 g, paragraph 2, which clearly and unequivocally prohibited the use of torture:

"Everyone has the right to be free from torture or degrading treatment of human dignity and are entitled to obtain political asylum from another country”¹³

3.2. Act of Torture is Violating *Jus Cogens* Norm

In addition, besides those human rights instruments and legislation mentioned above, it is important to stress that the use of torture also violates customary international law, especially the *jus cogens* norm.¹⁴ In the Statute of the International Court of Justice, Article 38 paragraph 1 [b] clearly stated that customary international law consists of two elements, including; state practice and law enforcement [*opinio juris*].¹⁵

⁹The United Nations Declaration of Human Rights, <http://www.un.org/en/documents/udhr/>

¹⁰The Convention against Torture and Other Cruel Inhuman or Degrading Treatment of Punishment (CAT), UN General Assembly Resolution 39/46, 10 December 1984, entered into force, 26 June 1987, UN, Treaty Series, vol. 1465, p. 85.

¹¹Law No 5 year 1998, [http://www.hukumonline.com/pusatdata/detail/17458/node/15/uu-no-5-tahun-1998-pengesahan-convention-against-torture-and-other-cruel.-inhuman-or-degrading-treatment-or-punishment-\(konvensi-menentang-penyiksaan-dan-perlakuan-atau-penghukuman-lain-yang-kejam\)](http://www.hukumonline.com/pusatdata/detail/17458/node/15/uu-no-5-tahun-1998-pengesahan-convention-against-torture-and-other-cruel.-inhuman-or-degrading-treatment-or-punishment-(konvensi-menentang-penyiksaan-dan-perlakuan-atau-penghukuman-lain-yang-kejam)

¹²UN, *International Covenant on Civil and Political Rights* (ICCPR), UN General Assembly Resolution 2200A (XXI), 16 December 1966, entered into force, 23 March 1976, U.N.T.S., vol. 999, p. 171 and vol. 1057, p. 407

¹³UUD 1945 : <http://www.dpr.go.id/id/uu-dan-ruu/uud45>

¹⁴For information related to *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).

¹⁵ 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;

UDHR, CAT and several instruments of international human rights law must be understood as part of international customary law practices widely recognized by states in the world. From the point of view of the two elements; state practice and *opinio Juris*, the practice of torture has become inherent responsibility of all countries without exception, to carry out the punishment of the perpetrators.¹⁶

According to these explanations, CAT is one of the United Nations human rights instrument that not only bind countries that have ratified the convention, but all countries without exception under any circumstances, is obliged to prosecute torture in their territory. This is as defined in the provisions of Article 2 of CAT, stated that;¹⁷

"Each State Party shall take legislative, administrative, legal, or other effective measures to prevent acts of torture in any territory under its jurisdiction."

Related *jus cogens* norm, The Vienna Convention on the Law of Treaties (VCLT), Article 53 clearly states that the *Jus Cogen* is a binding norm of international human rights law [peremptory norm].¹⁸ It can be interpreted that the prevention and prosecution of torture is absolute and no exceptions under any form or condition.

An example of the application of *Jus Cogens* norm can be seen in the case of Furundzija¹⁹, where international courts and national courts have recognized that torture is a violation of a *jus cogens* norm.²⁰ Meanwhile, a more tangible example of the application and recognition of customary international law and *jus cogens* norm violations can be seen in the practice of the Court of Inter-American, where the court expressly prohibited the use of torture in the American region for violating *jus cogens*.²¹

¹⁶ See Dolly M.E Filartiga and Joel Filartiga, Plaintiffs – Appellants, v. Americo Norberto Pena – Irala, Defendant – Apellee, 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 from Christopher L. Blakesley; Torture, Customary International Law, Promulgative Articulation, and Jus Cogens: Why and How Some United States Government Conduct Violates International and United States Law.

¹⁷ 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.

¹⁸Article 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."

¹⁹ANTO 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. For detail information on this case can be accessed at <http://www.icty.org/x/cases/furundzija/ind/en/fur-1ai980602e.pdf>

²⁰ International Criminal Tribunal for the Former Yugoslavia, Trial Chamber, *Prosecutor v Furundzija*, Judgment, IT – 95 – 17, - T; 10 December 1998 Paragraph 153

²¹BuenoAlves v. Argentina.Merits, Reparations and Costs. Judgment of May 11, 2007. Series C No. 164, para. 76.

To that end, the government of Indonesia, which is also a member of the UN Human Rights Council²², as well as the state of the CAT, is obliged to carry out the punishment of perpetrators of torture including those who help and facilitate the practice of torture.

3. 3 Results and Response of Advocacy against Torture

KontraS undertake a number of advocacy actions to respond torture practices. There are various models of advocacy conducted, such as reported to the available mechanisms;

1. Legal mechanisms, reported to the Criminal legal mechanisms. Usually reported to Police.
2. Internal and administrative control mechanism, reporting to the institution where the offender charge, such as the Police (internal police security unit/ *Propam*), military, Ministry of Justice and Human Rights and also government such as Presidential Work Unit for Development Monitoring and Control of Development (*UKP-PPP*)
3. The quasi mechanism of supervise and law enforcement, such as the National Human Rights Commission, Commission for Child Protection, the National Commission on Violence Against Women, Ombudsman of the Republic of Indonesia and the National Police Commission.
4. Parleментарian mechanism, reported to the Committee II, on Legal Affairs, Human Rights and Legislation.

Of the various measures above mentioned, we provide some important notes, including;

1. State commissions such as the National Police Commission and the National Human Rights Commission are ineffective in using their tasks and authority to address the cases of torture and cruel actions. Commissions are only able to conduct investigations or interviews to the parties considered as the perpetrator or victim. But from both institutions, we have never known their clarity follow-up or the contributive for law enforcement. In KontraS experience, from 6 times complaint to the National Commission on Human Rights, there was no response made by its Institution. Meanwhile, in the National Police Commission (*Kompolnas*), from two complaints, we noted that no response is made by the National Police Commission, KontraS also deplored when there was one member who issued a statement in the case of Sun An who, said that there is no wrong procedure in the examination process of Sun AN.
2. Stand in stark contrast to the Ombudsman, KontraS gives the appreciation, which of 5 (five) times of complaints reported to the Ombudsman, almost all complaints responded either by going to the field or seeking clarifications from parties reported, and continued to make recommendations relating to every aspect of the action to be taken.

²²See the list of member of United Nation of Human rights Council 1 Januari – 31 Desember 2013, can be accessed at: <http://www.ohchr.org/EN/HRBodies/HRC/Pages/CurrentMembers.aspx>

3. Police institutions; from 24 times complaints are either direct complaints, hearing or letter of complaint, there was no response from the police. In some cases direct complaints through internal mechanisms in the case of Wildan Saputra and Edhi Kusnadi, internal mechanisms assume that "Not found violations of discipline and code of conduct". It was only based from those who reported, while the information and evidence from the reporting parties be ruled out.
4. KontraS also noted that the practice of torture also occurred in Penitentiary under the Ministry of Justice and Human Rights, in the case of torture in Nabire prison, KontraS had sent a letter of complaint that are addressed to the Ministry of Justice and Human Rights, but the complaint does not get a response from the ministry.
5. While in the Military Institution no immediate response to be had, but in the case of Killings in Cebongan Penitentiary, the military provide immediate response, but only to be forwarded to the internal mechanism of the military itself.
6. Parliament is almost always a part of the notification target from the various cases of torture, but the response can be known only in the form of visits to the field (the location of the incident, met the victim or witness). KontraS never know the follow-up of the various copies of the letter given to the House of Representatives.
7. In general law enforcement, the conclusion can be drawn; there is only through internal and administrative mechanism. Punishment mechanism is not running well. There is resistance from their respective institutions to continue or to crack down on common civil mechanism. The reason often used, such as; internal mechanisms and administrative are heavier; the "rejection" of the institution, afraid if the case put to shame on the institution; The integrity of common criminal mechanisms can not be trusted.
8. In our records, Internal mechanisms have weakness, such as only stop on the stage of the examination of those who reported, and they have the right not to acknowledge actions that are reported. So in many times, the report from those who reported become the result of the examination. (It happened on the statement letter of Wildan Saputra and Edi Saputra Kusnadi)
9. Enforcement Through Public Mechanism/Civil Court in KontraS' records, only done by police, in a few numbers, and undertake if the victim died.

As a result of the situation above;

Justice for the victims is increasingly difficult to perceived. In other words, the victim's rights are violated for many times. Not only the physical loss as the impact of torture practices, but it also affects the condition of the victim's psychology, KontraS noted there are 2 victims of torture who suffered a mental disorders due to acts of torture, stigmatization by the people on the victims of torture of the criminalization case, such as experienced by Syamsul Arifin, in addition the law enforcement against perpetrators of torture is not in optimal conditions, it also affect the

victims and their families perspective towards state apparatus and law enforcement process, impacted them to be apathetic.

Conclusions and Recommendations

Considering from all of the facts and analysis that has been presented above, the fundamental problem of the continuing practice of torture in Indonesia is not much different from the year to year, such as; *first*, the absence of an effective punishment; *second*, there is no instrument of national legislation that specifically affirm the prosecution of torture and no effective remedy is adequate for the victims of torture.

Thus, KontraS recommend the following points below;

- a. Urges the Parliament to immediately complete the revision of the Criminal Code, specifically, to include the article of prosecutions against the practice of torture in Indonesia and ratify the optional protocol on the Convention Against Torture. It is as stated, recommended and has been accepted by the Indonesian government in the Universal Periodic Review [UPR] second round in 2012 and the recommendation from UN special rapporteur on torture and other cruel, as the results of his visit to Indonesia in 2008.
- b. The Government of Indonesia as a state party to the Convention against Torture and Other Cruel, Inhuman, and Degrading Human (CAT), must be able to ensure that any use of torture under any circumstances should be prosecuted through the mechanism of fair and independent judiciary.
- c. State commissions such as the National Commission on Human Rights, the Ombudsman and the Indonesian National Police Commission have to do monitoring to ensure the prosecution of torture in Indonesia. National Commission on Human Rights and the National Police Commission primarily have to increase the capacity of its members, improve their workings to ensure the oversight is running well.
- d. Institutions where the state apparatus is common or potentially commit torture should continue to disseminate information to its members not to perform torture on their work and task.