

KontraS



TORTURE: A HEINOUS ACT WHICH IS NOT SERIOUSLY ADDRESSED

**Report on Torture Practice in Indonesia
for the
International Day of Support for Victims of Torture**

I. Introduction

One of the serious issue of human rights violations—which is one of the non-derogable rights¹ —that recently arised public attention is torture. First, in early October 2010 shortly before his plane left for the Netherlands, President Susilo Bambang Yudhoyono decided to cancel his state visit in the country. The cancellation was due to the filing of the lawsuit to the local court in the Netherlands by the activists of South Moluccas Republic (RMS/Republik Maluku Selatan) who live there². The lawsuit for one reason was based on charges of torture committed by police officers against those accused of being RMS activists. They were charged with treason when they displayed RMS flag as they performed cakalele dance in front of the president and some foreign guests during his visit to the Moluccas in June 2007. Following the cakalele incident the security forces, including special anti-terrorism unit Detachment 88 immediately arrested and detained hundreds of suspected RMS activists and some of them were allegedly become victims of torture³.

Second, only a few weeks later in October 2010 a 10-minute visual documentation—circulating through ‘Youtube’—on torture of two Papuans recorded with mobile phone video tool. In the video, the extremely brutal and inhuman action was obviously conducted by people in military uniforms in order to conduct interrogations. With the rapid spread of that torture video, various Indonesian authorities—including President Susilo Bambang Yudhoyono—promptly responded to it and affirmed the practice of torture by military personnel in Tinggimambut, Puncak Jaya, Papua⁴. Many actually considered this video as an explicit example of the allegedly patterned practice of torture in Papua⁵. The appeals of concern about the practice of torture also expressed by both foreign governments and international organizations.

This paper tries to examine the extent to which states implement human rights standards in the relevant international instruments of torture as an obligation of Indonesia post ICCPR and CAT ratification within the past year (July 2010 to June 2011). The implementative obligation is to do prevention efforts (through improvement of legislation, judicial system, and administration of state), ensuring the perpetrators brought to justice and provide redress to victims or their families. The contextual torture issues and problems in Indonesia can be seen from various post-priority agenda of meetings and

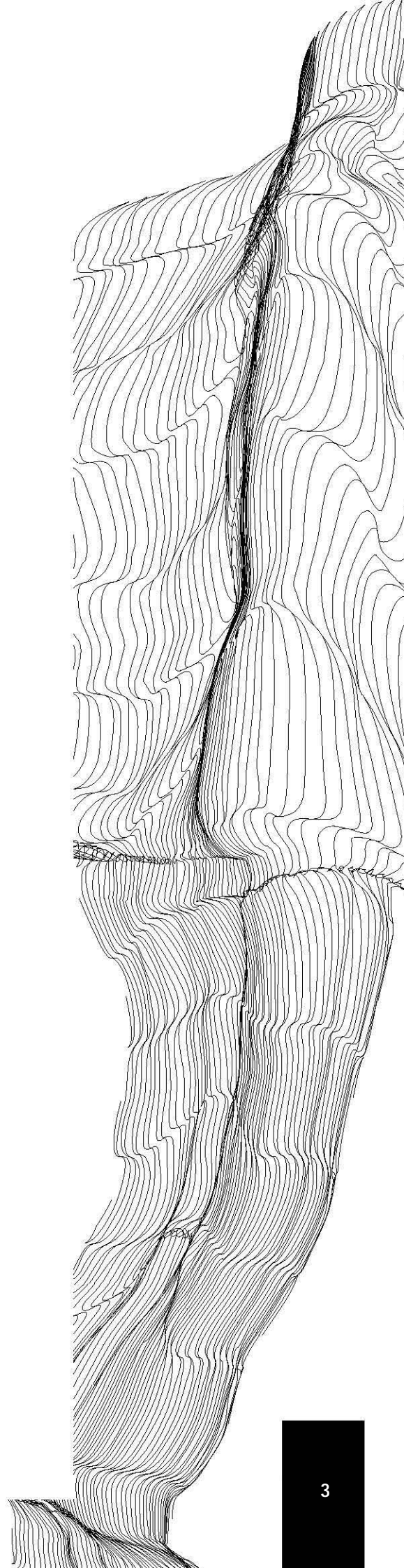
¹International Covenant on Civil and Political Rights (ICCPR) -ratified by Law No. 12/2005- Article 4 (2) and the Convention against Torture (CAT) -ratified by Law No. 5 / 1998- Article 2 (2). Torture is one of the few crime with the status of an international crime, as a jus cogens, is regulated by both human rights law, international humanitarian and criminal, and the prohibition of torture has also been regarded as one of customary international law. Meanwhile, systematic torture practiced or expanded into one of the elements of crimes against humanity, which is the most serious crimes in the face of international law.

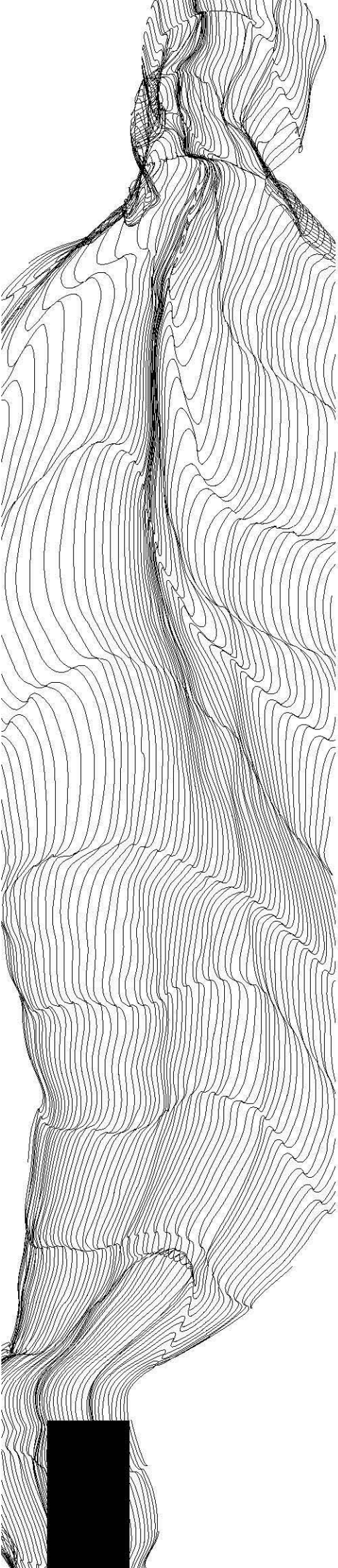
²“Tersengat RMS di Belanda”, Tempo Interaktif, 6 October 2010, <http://www.tempointeraktif.com/hg/politik/2010/10/06/brk,20101006-282791,id.html>.

³Human Rights Watch, Prosecuting Political Aspiration; Indonesia’s Political Prisoners, June 2010, p. 19-26, <http://www.hrw.org/en/node/90960/section/4>.

⁴“Indonesian Military Admits Torture in Papua”, the Jakarta Globe, 23 October 2010. <http://www.thejakartaglobe.com/home/indonesian-military-admits-torture-in-papua/402701>. “Pemerintah Akui Anggota TNI Siksa Warga”, BBC Indonesia, 22 October 2010. http://www.bbc.co.uk/indonesia/berita_indonesia/2010/10/101022_polkamopm.shtml. “Ini Tanggapan SBY Soal Video Kekerasan Papua”, Vivanews, 22 October 2010, <http://nasional.vivanews.com/news/read/184366-ini-tanggapan-sby-soal-video-kekerasan-papua>.

⁵ A few months earlier, a torture video circulated in ‘Youtube’ website, allegedly committed by members of the police against activists in Papua, Yawan Wayeni, which is estimated to occur a year earlier. “Polisi Diminta Usut Video Pembunuhan Aktivis”, Tempo Interaktif, 6 August 2010, <http://www.tempointeraktif.com/hg/hukum/2010/08/06/brk,20100806-269219,id.html>, <http://www.antaranews.com/berita/1272009396/kontras-pembunuh-yawan-wayeni-harus-diusut>





discussions conducted by Indonesia government with relevant international human rights agencies.

So far Indonesia has made two reports to the Committee Against Torture under the Convention Against Torture, the first (initial report) was in July 2001⁶ and the second (periodic report) in 2005⁷. Unfortunately, Indonesia has not made the first report to the Human Rights Committee, the regulatory body for the ICCPR. In addition to reporting under the treaty body mechanism, there are also the follow-up results on torture based on the report under the charter body mechanism. Under the mechanism of the UN Human Rights Council there are two follow-up agendas: first, the official country visit follow-up of Special Rapporteur on Torture, Manfred Nowak, conducted on 10-23 November 2007⁸; second, the special meeting to discuss the results of Indonesia Universal Periodic Review/UPR in 9 April 2008 during the Fourth Session of the UN Human Rights Council⁹. As follow-up results from various human rights mechanisms mentioned before, there are several similar recommendation agendas expected to be implemented by Indonesia related to the issue of torture, such as:¹⁰

- Torture should be made crime and its definition should be in accordance with Article 1 of the Convention against Torture;
- The lack of this legal rule would lead to the practice of impunity;
- There should be an effort to revise the detention system, whether the duration of detention and the effort to test the validity of such detention;
- In the context of law enforcement, any evidence or testimony that was made due to a practice of torture;
- Ensure that victims of torture receive redress (reparation).

In conducting an audit over the issue of torture in Indonesia during the past year (July 2010-June 2011), KontraS took up cases of alleged torture which were directly dealt with. Information on alleged cases of torture would be considered a secondary source that could help clarify the picture of torture practices more broadly. In addition the audit report also discusses several policies, including plans for the creation or legislation revisions, which emerged within the past year.

6 Initial Report of Indonesia to the Committee Against Torture, 16 July 2001, UN Doc. CAT/C/47/Add.3. The follow up recommendation result of the report can be seen at UN Doc. A/57/44, Para. 36-46.

7 Second periodic reports of Indonesia to the Committee Against Torture, 23 September 2005, UN Doc. CAT/C/72/Add.1. This report was discussed in the Committee against Torture in May 2008 with the results of follow-up recommendations: Concluding observations of the Committee against Torture; Indonesia, 2 July 2008, UN Doc. CAT/C/IDN/CO/2.

8 The results of follow-up can be seen at UN Doc. A/HRC/7/3/Add.7, 10 March 2008.

9 The results of follow-up can be seen at UN Doc. A/HRC/8/23, 14 May 2008.

10 See UN Doc. A/HRC/7/3/Add.7, 10 March 2008, UN Doc. A/HRC/8/23, 14 May 2008, and UN Doc. CAT/C/IDN/CO/2.

II. The Lack of Normative Provisions Against Torture

The main problem that always concerns human rights agencies related to practice of torture in Indonesia is a criminal prosecution in accordance with the standard definition of torture has yet to be regulated. It is also recognized by the delegation from Indonesia government as they argue that they are still waiting for the amendment of the Criminal Code¹¹. The implication is clear, it makes torture not considered as serious crime. The lack of strict regulation which would criminalize the practice of torture makes it happen continuously, including cases that attract widespread public attention as incidents of torture in the Papua 'Youtube' video.

There are some internal regulations made by the Police and TNI in relation to restrictions on the use of torture for suspects or detainees. Those internal rules are Chief of Police Regulation Number 8/2009 on Principles and Standards Implementation for Human Rights on Performing the Police Task in the Republic of Indonesia¹² and Chief of TNI Regulation (Perpang TNI) No: PER-PANG/73/IX/2010, issued on 27 September 2010 after the 'Youtube' torture video case became public spotlight¹³. Unfortunately these provisions are also not accompanied by the elaboration torture definition as provided by Article 1 of the Convention Against Torture.

III. The Pattern of Torture Cases

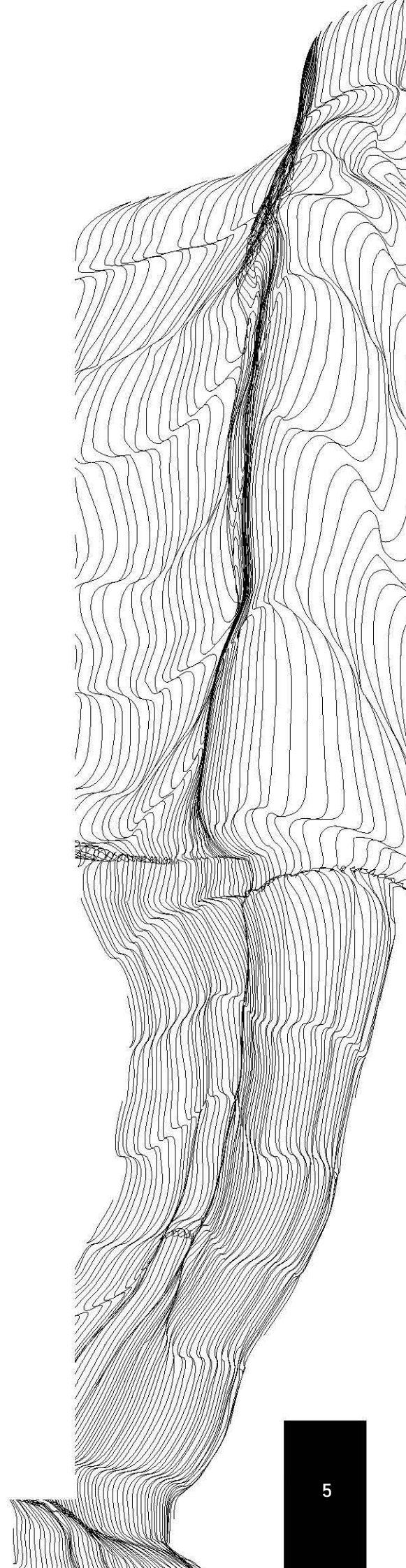
During July 2010-June 2011, KontraS noted there has been 28 incidents of torture committed by the TNI and police in Indonesia¹⁴. Quantitatively, we believe the number of acts of torture are still far more common. This is due to the difficulty of monitoring the acts of torture—because it generally occurs in the office of the military and police institutions—as well as lack the courage of victims to report acts of torture because the perpetrators are those who should enforce the law.

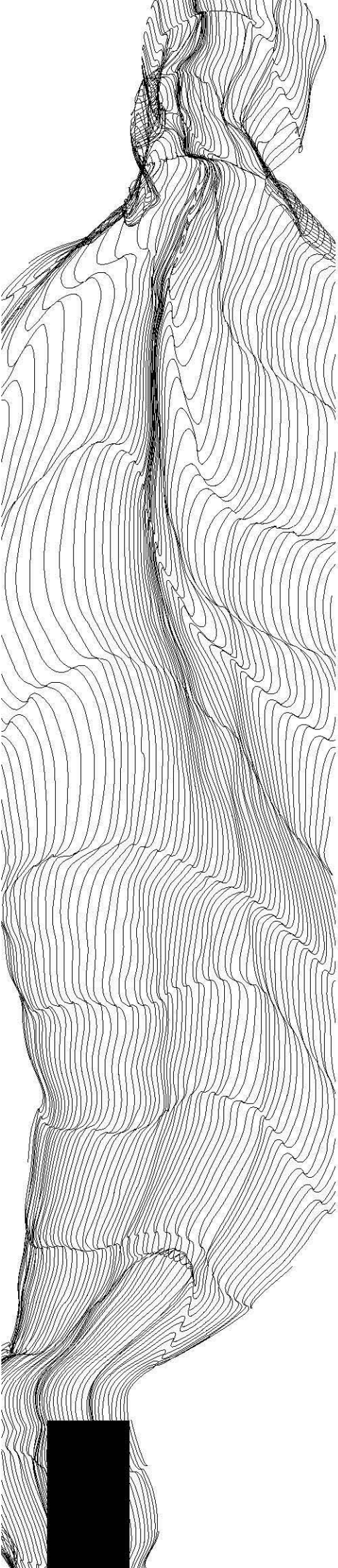
¹¹Report of the Human Rights Council on Its Eighth Session, 1 September 2008, A/HRC/8/52, para. 355. Criminal provisions that are often raised in Indonesia as the pretext to criminalize acts of torture are criminal persecution (Article 351-358 of the Criminal Code). According to the CAT Committee, it is not adequate punishment as an attempt to criminalize torture. The only thing that fits the definition of torture contained in Law no. 26/2000 Article 9 (f) of the Human Rights Court. Unfortunately, this provision only applies to the practice of torture that occurred in a "systematic or widespread" that is part of crimes against humanity. See Concluding observations of the Committee against Torture; Indonesia, 2 July 2008, UN Doc. CAT/C/IDN/CO/2, para. 13.

¹²In Article 10 (e) of Chief of Police Decree No. 8/2009 explained that: "In carrying out law enforcement duties, each officer / member of the Police shall comply with the Code of Conduct to not instigate, tolerate acts of torture, degrading treatment or other cruel punishment, inhuman or degrading human dignity, as well as making the superior orders or exceptional circumstances such as when in a state of war as a justification for torture ". In Article 11 (1) of Chief of Police Decree No. 8/2009 stated that: "Every officer/member of police is prohibited to torture detainees, or against people suspected of involvement in crime". Meanwhile, in Article 37 (2) of Chief of Police Decree No. 8/2009 re-affirmed that: "..... so that a person can be tried fairly, all investigations into alleged crimes Should be done ethically (without torture or other cruel inhuman action) and in accordance with the law that regulate the investigation ".

¹³Previously there is also Ministerial Decree of Defense Number: KEP/02/M/II/2002 on the Application of Humanitarian Law and Human Rights Law in the Implementation of National Defence which recognizes the implementation of all provisions of international humanitarian law and human rights that have been ratified by Indonesia in the TNI.

¹⁴ The number is based on the reports from the past one year that were received by KontraS from the victims or other NGOs that are assisting the victims.





Based on the received case complaints, KontraS found a pattern of torture practice by the police and military officers during the last year, which can be seen in the table below:

Table 1
Torture Tabulation

Perpe- trator	2010		January - June 2011		TOTAL	
	Victim	Number of Inci- dent	Victim	Number of Inci- dent	Victim	Number of Inci- dent
POLRI	27	18	4	3	31	21
TNI	7	5	11	2	18	7

Source: KontraS Monitoring and Documentation (2010-2011)

Table 2
Pattern of Torture Conducted by Police Apparatus

Pattern of Torture	Numbers
Repeated beating during examination.	4
Soaked (the victims were police officers). This action was done to six victims.	7
Various forms of torture since the arrest, on the way to examination, and during examination: repeated beatings, mouth hit with a wrench, ears burned with cigarette fire, blindfolded and beaten, clamped waist, dragged with a rope tied to victim's neck.	2
In examination related to the robbery at Bank CIMB Niaga, the victim's feet were shot, the victim was thrown in the car, and trampled by a number of police officers.	1
Related to RMS case (1-10 August 2010), the victim suffered various forms of torture starting from arrest, on the way up to the examination. The victim was beaten repeatedly, kicked with boots, toe clamped with table legs, slapped, forced to kiss other victims.	15
Electrocuted during detention.	1

Source: KontraS Monitoring and Documentation (2010-2011)

Table 3
Pattern of Torture Conducted by TNI Apparatus¹⁵

Pattern of Torture	Number
Torture resulting the death of victims.	2
Examination in various forms of related actions in order to coerce confession for actions the victim was charged with.	16

Source: KontraS Monitoring and Documentation (2010-2011)

III.1. Torture cases the Republic of South Maluku (RMS) activists in Ambon

On December 1 to 10 August 2010, some individuals allegedly actively involved in RMS political movement were arrested by the Police. The arrest of 23 people and detention of 21 people that occurred prior to the arrival of President Susilo Bambang Yudhoyono in Ambon City in order to celebrate the peak of Banda Sail on 3 August 2010.

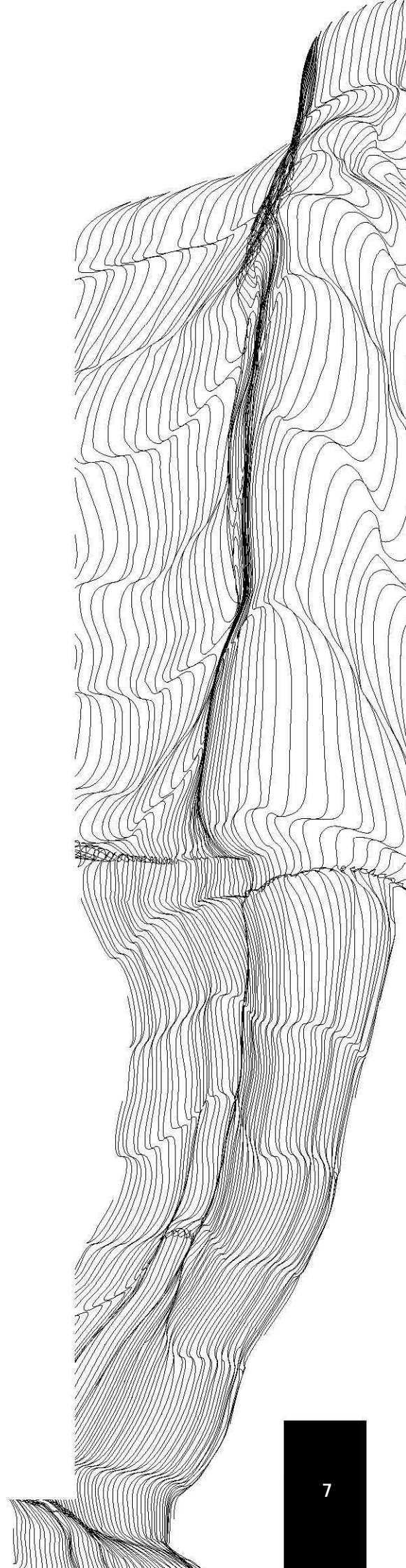
¹⁵The dominant cases were in Papua, sweeping of TPN OPM members, torture cases occurred in Atambua (caused victim's death), assault to Atambua residents and others was the torture incident that occurred in Papua.

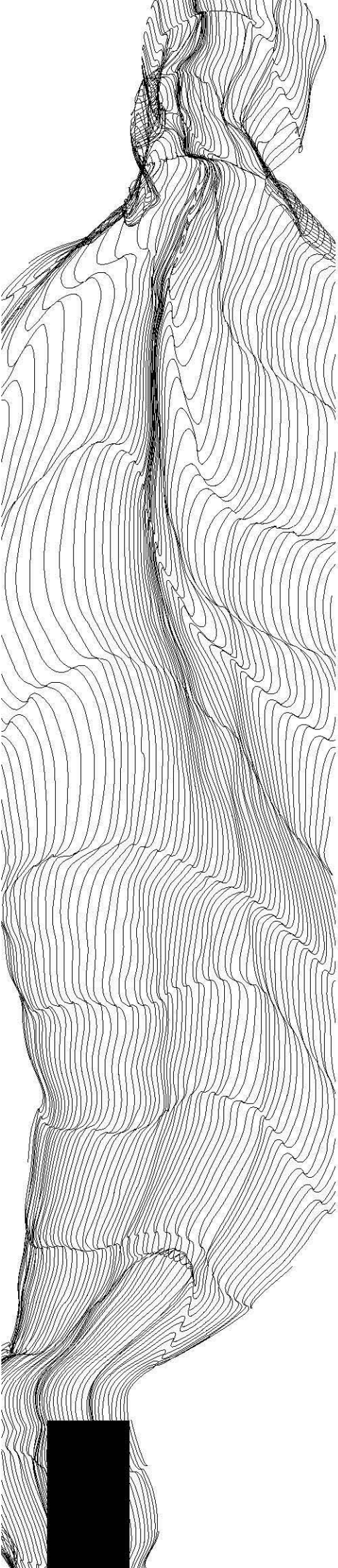
There was an impression that the security forces took excessive action not prevent the embarrassment of prior incident when RMS flag was displayed by the cakalele dancers (June 2007) directly in the presence of the President.

The Special Detachment 88 Anti Terror of Police Headquarters was deployed to take action. In order to obtain confession from suspects, investigators at Detachment 88 AT in Tantui and in Saparua sub-district police conducted physical pressure on suspects (at least 13 people) in the form of physical and psychological violence, restrictions on access to meet with family and legal counsel, and lack of access to health or treatment. They are suspected of committing a criminal offense or wrongful conspiracy and or committed unlawful actions as Article 106 or Article 110 Criminal Code and the Penal Code or Article 55 or Article 56 of the Criminal Code.

Table 4
Victims and Torture in Moluccas related to Sail Banda Celebration

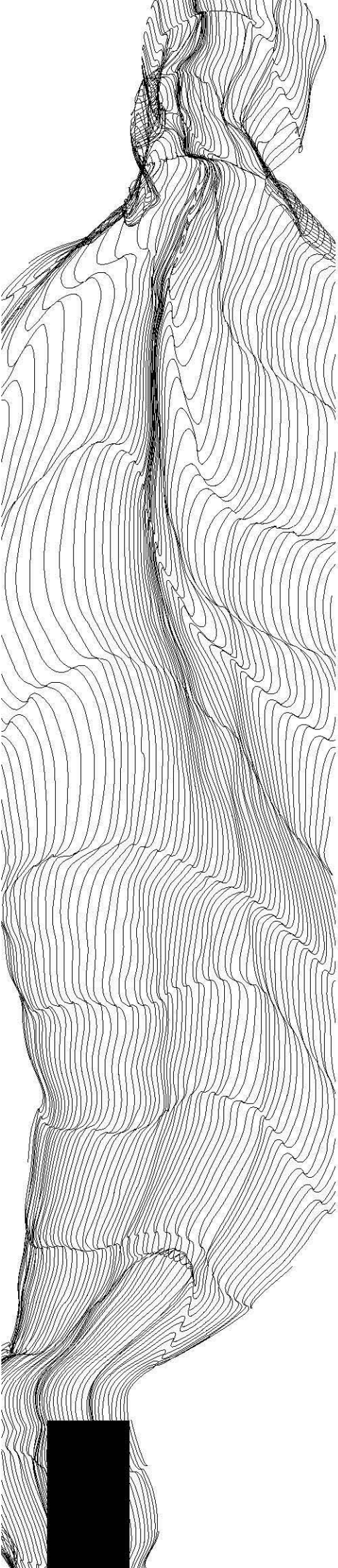
No	Identity	Location of Detention	Annotation
1	Yacob Sinay a.k.a. Benny (43 years old) Occupation: Self-employed, a former member of the TNI Battalion 733 (In 2002, it was decided by the Court of Military - Maluku as military desertion because it allegedly involved in RMS movement)	Moluccas S a m a p t a Police prison in Tantui, Ambon - Moluccas	Arrested on 2 August 2010 At 03:00 Eastern Indonesian Time (WIT) at Lahuneta family home. Police seized 134 pieces of "free Arifuru Papua political prisoners and detainees" posters published by KontraS and HRW, along with two copies of HRW report on RMS and Papua political prisoners and detainees. Arrested by a joint team from Detachment 88 AT and Buser Ambon Police without a warrant. When examined at the Detachment 88 AT Headquarters in Tantui subjected to torture in the form of repeated blows to the face, head, abdomen, hands bound and blindfolded with duct tape. In the morning (2/8) the torture continued, four Detachment 88 AT investigators clamped Yacob body under the table, while two other beaten his body and head. At 21:00 to 1:00 Eastern Indonesian Time, torture continued at the 2nd floor of the Detachment 88 AT Headquarter. Detachment 88 AT investigators told Yacob to lie on his back and then his body, head and feet were beaten with wooden beams, resulted with injury and bleeding of his right leg. Because the pain from this torture, Yacob Sinay was treated in Tantui hospital. The arrest was without warrant and he was searched without any witness from the local government. He was denied the presence of lawyer appointed by the family and himself. The lack of access to meet the family while detained.





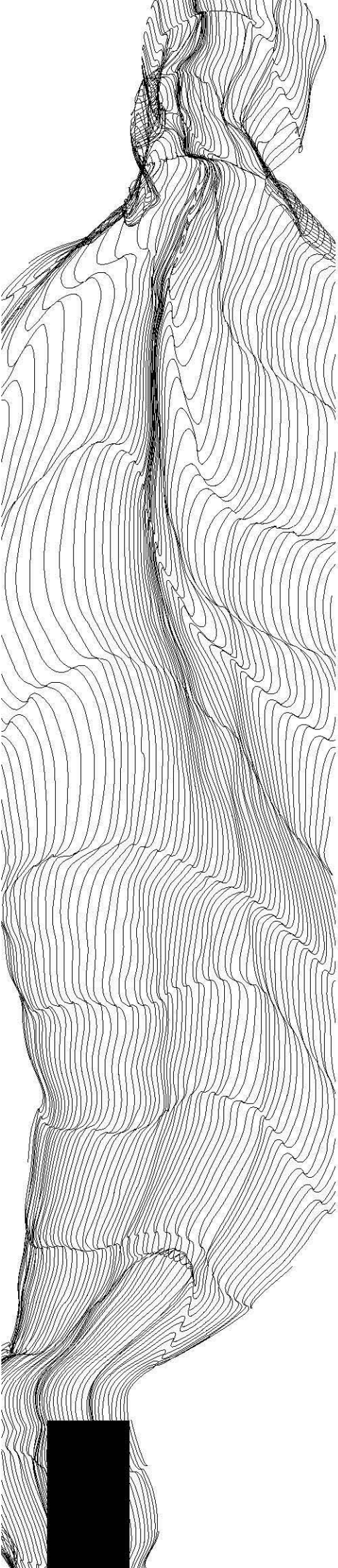
2	<p>Paul Lodiwyk Krikhoof a.k.a. Ongker (31) Occupation: Motorcycle Taxi Driver</p>	<p>Moluccas Samapta Police prison in Tantai, Ambon - Moluccas.</p>	<p>Arrested on 1 August, 2010 at 21:30 Eastern Indonesian Time in front of Hotel Aston.</p> <p>At the time of the arrest, beaten on the head, left ribs and on the way to the Detachment 88 AT headquarters was beaten, stripped naked, blindfolded with duct tape and his hands bound with duct tape.</p> <p>At the time of examination that took place at the 2nd floor of Detachment 88 AT Headquarters in Tantai, forced kissing with other suspects. When he refused, he was ordered to stand with his head at the bottom (floor) for 15 minutes and beaten at his left and right ribs, hit at neck and head with a pistol. In addition, investigators at Detachment 88 AT also burnt his right hand with a cigarette and ordered him to eat dozens of chili without given any drinking water. The arrest was without warrant and he was searched without any witness from the local government.</p> <p>He was denied the presence of lawyer appointed by the family and himself. The lack of access to meet the family while detained.</p>
	<p>Mervin Bremer a.k.a. Epin (21 years old) Occupation: Motorcycle Taxi Driver</p>	<p>Moluccas Samapta Police prison in Tantai, Ambon - Moluccas.</p>	<p>Arrested on 5 August 2010. On the way to the Detachment 88 AT headquarters, he was stripped and told to take off his shirt to cover his face.</p> <p>During interrogation at the Detachment 88 AT headquarters, blindfolded with duct tape and punched in the face and the chest repeatedly. Slapped on his face repeatedly, feet trampled with boots and body burned with cigarette.</p>

4	Andarias Maruanaya a.k.a. Andi (29 years old) Occupation: Motorcycle Taxi Driver	Moluccas Samapta Police prison in Tantai, Ambon - Moluccas	<p>Arrested on 1 August 2010 at around 03:00 Eastern Indonesian Time at his home.</p> <p>When arrived at Detachment 88 AT headquarters in Tantai both eyes covered with duct tape and dropped on the floor. Pulled by the neck to one room and then the interrogation took place.</p> <p>When questioned, eyes closed with duct tape and repeatedly slapped in the face.</p> <p>In the next interrogation at the Detachment 88 AT headquarters, forced kissing with other suspect (Paul Lodiwyk Krikhoof). Because they both refused, they were beaten and made to stand with their heads on the bottom (floor) for 15 minutes.</p> <p>The arrest was without warrant and he was searched without any witness from the local government.</p> <p>He was denied the presence of lawyer appointed by the family and himself. The lack of access to meet the family while detained.</p>
5	Yusuf Sahtapy (23 years old)	Moluccas Samapta Police prison in Tantai, Ambon - Moluccas.	<p>Arrested on 4 August 2010 while he was ill at his home.</p> <p>During examination at Detachment 88 AT headquarters in Tantai suffered repeated torture such as beating at the mouth and the right cheek. Was also hit at the chest, jaw, and left rib.</p> <p>The arrest was without warrant and he was searched without any witness from the local government.</p> <p>He was denied the presence of lawyer appointed by the family and himself. The lack of access to meet the family while detained.</p>
	Steven Ronaldo Siahaya a.k.a. Ali (40 years old) Occupation: Motorcycle Taxi Driver	Moluccas Samapta Police prison in Tantai, Ambon - Moluccas	<p>Arrested on 1 August 2010 at 21:30 Eastern Indonesian Time in front of Aston, Hotel Ambon. At the time of arrest, the plainclothes policeman hit him in the face, head and trampled on his abdomen.</p> <p>During interrogation at the Detachment 88 AT headquarters in Tantai his head was covered with a plastic bag, he was trampled and beaten on his abdomen and head. Forced to admit as a perpetrator who owned and carried the RMS flag.</p> <p>The arrest was without warrant and he was searched without any witness from the local government.</p>



7	Ronald Viktor Andreas	Moluccas Samapta Police prison in Tantai, Ambon - Moluccas.	<p>Arrested on 1 August 2010 at 21:30 Eastern Indonesian Time in front of Hotel Aston, Ambon. At the time of arrest, plainclothes police beat his face, head and right waist.</p> <p>During interrogation at the Detachment 88 AT headquarters in Tantai he was tortured, beaten in the face. Forced to admit as a perpetrator who own and carry the RMS flag.</p>
8	Yaconias Siahaya	Moluccas Samapta Police prison in Tantai, Ambon - Moluccas.	<p>Arrested on 2 August 2010 at 03:00 Eastern Indonesian Time. He was arrested by police joint team led by AKP George P. Siahaija. During the arrest suffered a blow on the chest, kicked on the chest and abdomen.</p> <p>During examination at the Detachment 88 AT Headquarters in Tantai, Yaconias was tortured; blindfolded with duct tape, kicked and stomped on the chest and abdomen. Beaten with rifle butts in the right waist.</p> <p>As a result of torture during arrest and examination, Yaconias had to be admitted to the Dr. Hauleissy District General Hospital, Ambon, and went through intensive treatment due to nervous breakdown.</p>
9	Demianus Lesil Occupation: Public Health Attendant in Yamahu Public Health Center, Saparua.	Moluccas Samapta Police prison in Tantai, Ambon - Moluccas.	<p>Arrested on 10 August 2010 at around 02:30 Eastern Indonesian Time at his home in Negeri Itawaka, Saparua. Arrested by Saparua Sub-District police officers.</p> <p>After being arrested at his home, Demianus Lesil was beaten on his head and kicked on the chest and abdomen at the street in front of Yunus Markus' house at Negeri Nolo. Beatings was done by police (identity unknown to the victim)</p> <p>The police team was led by First Police Inspector Frans Siahaya. After the arrest, the suspects were tortured at Saparua Sub-District Chief Fredy Siahaya's house, at Tuhaa Village, Saparua District. Saparua Sub-District Chief, Fredy Siahaya, and Sub-District Police Chief Deputy Frans Siahaya came and beaten the victim.</p> <p>The arrest was without warrant and he was searched without any witness from the local government.</p> <p>The family was not given access to meet the victim and in the examination process was conducted without the presence of a lawyer.</p>

10	Samuel Pat-tipeiluhu (47 years old)	Saparua Sub-District Police Prison, Central Molucca.	<p>Arrested on 10 August 2010 at around 03:15 Eastern Indonesian Time by a joint team of police and military. The team was led by First Police Inspector Frans Siahaya (Saparua Sub-District Police Chief Deputy).</p> <p>Tortured during the arrest by a punch in the nose to bleed, kicked in the chest, abdomen and left ribs.</p> <p>Beatings by First Police Inspector Frans Siahaya. Police also seized the fabrics in the box, cellular phone and blanket at Samuel's home.</p> <p>After the arrest, Samuel was taken to Saparua Sub-District Chief's house, Fredy Siahaya. At that house he was hit in the head with wooden beam, was hit in the face, right cheek, was kicked on the chest and abdomen. Perpetrators of the beating was Saparua Sub-District Chief, Fredy Siahaya and First Police Inspector Frans Siahaya.</p> <p>As the result of torture, Samuel had to be treated at Saparua Public Health Center because of injuries at his waist, chest (bruises) and pained head.</p> <p>The arrest was without warrant and he was searched without any witness from the local government.</p> <p>The family was not given access to meet the victim and in the examination process was conducted without the presence of a lawyer.</p>
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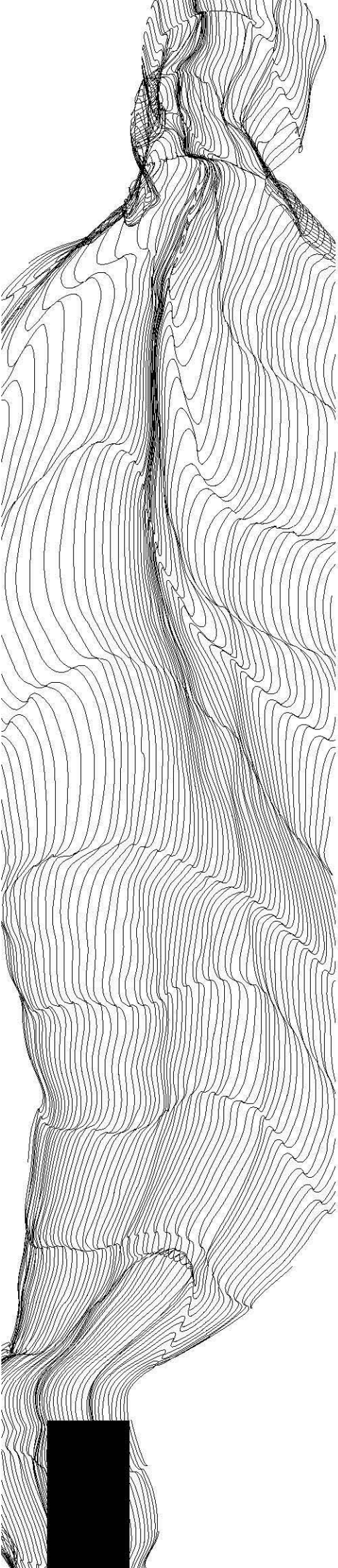


11	Yunus Markus (58 years old) Occupation: Farmer	Saparua Sub-District Police Prison, Central Molucca.	<p>Arrested on 10 August 2010 at 03.00 Eastern Indonesian Time at his home in the Negeri Noloth by 15 members of the police and a member of TNI. The police team was led by First Police Inspector Frans Siahaya.</p> <p>During the arrest, there was beating on the right and left cheek repeatedly. Beatings by First Police Inspector Frans Siahaya and Suri Riupasa (TNI member in Saparua) Mark Jonah's fourth child, Gregy Mark (14 years old) was kicked by a police officer (name unknown) at his waist while asleep in the living room.</p> <p>After being arrested, was gathered at Saparua Sub-District Chief, Fredy Siahaya's house. At this house, Jonah Markus was repeatedly beaten on his nose to bleed, also his head and abdomen. Perpetrators of this beating were Saparua Sub-District Chief, Fredy Siahaya, and First Police Inspector Frans Siahaya.</p> <p>Torture occurred during the examination at Saparua Sub-District Police office (12/8); beaten at his right foot with iron (+ 40cm), was hit on the knee, his left shoulder, left waist, right arm and mouth. Perpetrators of the beating was Saparua Sub-District Police Chief Deputy, First Police Inspector Frans Siahaya.</p> <p>The arrest was without warrant and he was searched without any witness from the local government. The family was not given access to meet the victim and in the examination process was conducted without the presence of a Lawyer.</p>
12	Yosep Louhenapessy (44 years old)	Saparua Sub-District Police Prison, Central Molucca.	<p>Arrested on 10 August 2010 at around 03:30 Eastern Indonesian Time at his house in the Tuhaa village.</p> <p>During the arresting process he suffered a blow in the face (left cheek), kicked in the right ribs.</p> <p>After being arrested was gathered at Saparua Sub-District Chief, Fredy Siahaya's house. In the house, Joseph was beaten repeatedly with other victims on his face, and right waist. Perpetrators of this beating were Saparua Sub-District Chief, Fredy Siahaya, and First Police Inspector Frans Siahaya. The arrest was without warrant.</p> <p>The family was not given access to meet the victim and in the examination process was conducted without the presence of a lawyer.</p>

13	Ishak Supusepa (50 years old)	Saparua Sub-District Police Prison, Central Molucca.	<p>Arrested on 10 August 2010 at around 03:30 Eastern Indonesian Time at his house in the Tuhaa village.</p> <p>During the arresting process he suffered a blow in the face and kicked at the chest.</p> <p>After being arrested was gathered at Saparua Sub-District Chief, Fredy Siahaya's house. In the house, Ishak was beaten repeatedly with other victims on his face, and feet. Perpetrators of this beating were Saparua Sub-District Chief, Fredy Siahaya, and First Police Inspector Frans Siahaya.</p> <p>The arrest was without warrant.</p> <p>The family was not given access to meet the victim and in the examination process was conducted without the presence of a lawyer.</p>
14	FredyTuturse-naya(30 years old)	Saparua Sub-District Police Prison, Central Molucca.	<p>Arrested on 10 August 2010 at around 03:30 Eastern Indonesian Time at his house in the Tuhaa village.</p> <p>During the arrest process suffered a punch in the face, kicked at the right waist.</p> <p>After being arrested was gathered at Saparua Sub-District Chief, Fredy Siahaya's house. In the house, Yosep was beaten repeatedly with other victims on his face, head, feet and back. Perpetrators of this beating were Saparua Sub-District Chief, Fredy Siahaya, and First Police Inspector Frans Siahaya.</p> <p>The arrest was without warrant.</p> <p>The family was not given access to meet the victim and in the examination process was conducted without the presence of a Lawyer.</p>

Source: KontraS' Investigation

There are 21 people who brought to trial is now charged with punishments ranging from 10 months to 3 years with no considerations related to acts of torture suffered by the victims. Throughout the proceedings, the defendants have testified on the fact that they have experienced torture during arrest and detention by the police, especially in the examination to obtain confession that the defendants were part of RMS movement. Although the judges at that time responded by elaborating information on the acts of torture by the police, but the fact was not taken into consideration in the judge's decision. Which should reduce the degree of the quality of their involvement in a crime or poor quality of the dossier and the indictment. The same reality also occur in pre-trial filed by the defendants. Although the wife of Samuel Pattipeiluhu in her testimony showed the towel with traces of blood from the beatings by Saparua Sub-District Police Chief Deputy at the time of arrest, it was not included as a judge's consideration in the pretrial verdict, and even acts of torture were absolutely not discussed in its decision.



III.2. Torture Against Hermanus in the Molucca

Torture in Maluku also happened although it was not related to any political issue. KontraS also received complaints from Hermanus Riupassa who suffered acts of torture during the investigation at Perigi Lima District Police Headquarters and Tulehu Sub-District Police, Maluku. The event started with the arrest of Hermanus Riupassa on 23 March 2005 without a warrant. Hermanus Riupassa arrest happened in Batu Gajah, without warning, Hermanus was immediately trampled and tied with plastic rope by police officers named "Derek Tahapary" and "Ledrick Maitimu". At that time Hermanus tried to resist. He denied the charges shown in the cellular phone by "Yosi Tahapary" that he was Herry Sapulete, a murder perpetrator. Nevertheless, at that time Hermanus was brought to Perigi Lima District Police Headquarters. In Perigi Lima District Police Headquarters, precisely in Buser office, Hermanus Riupass was tortured. During interrogation, Hermanus was beaten. Beatings use an ax (mancadu) at the shoulder, thigh and upper leg by an intelligence officer. The beating was done because Hermanus did not admit that he was Herry Sapulete. He explained that he was Hermanus a.k.a. Manus.

Hermanus was not only experienced acts of torture at Perigi Lima District Police Headquarters, the acts of torture continued in Tulehu Sub-District Police Office. In Tulehu, Hermanus experienced acts of torture such as removal of his fingernails, his big toe was put under the legs of the table, while police officers named "Abu Teupelasurry" sat at that table. When Hermanus deny that he was not involved in the murder, Hermanus was put into the barn, handcuffed to a table leg, then was beaten in the morning, afternoon, evening and night; a pistol was put into his mouth, he was stabbed with a bayonet, his thumb was sliced with bayonet, made to hang on the cell door, hit at the ribs, and his genital was electrocuted while he was naked. Tulehu Sub-District Police Chief also came and asked his men to bring Hermanus under the flagpole as an effort to coerce Hermanus to confess the murder, but Hermanus still refused to confess. Until now Hermanus Ambon was still in prison with 16 years sentence. Efforts to review the case was denied. While cases of torture were never followed up by local police.

III.3. Torture Resulting to the Death of Charles Mali in East Nusa Tenggara (NTT)

KontraS also received complaints of torture committed by the military (TNI). KontraS received information from reliable sources regarding torture that resulted in the death of a young man named Charles Mali (24 years), occurred in the Futubenao-Atambua, Belu District, East Nusa Tenggara (NTT). The victim was allegedly died after being tortured with five (six) other youth in the Battalion 744/Satya Yudha Bhakti (SYB) Tobir Headquarters, East Taisifeto District on Sunday, March 13, 2011¹⁶. With the assurance from the Provost at the Tobir Post, parents of Charles and Heri Mali handed their children to the officer Provost for coaching reasons. However, KontraS received information that on the day of the handover, Charles and Heri Mali with

¹⁶The incident began on 5 March 2011, there was a misunderstanding between 6 (six) Futubenao young man who were drunk with a member of TNI Infantry Battalion 744/SYB. In the afternoon, several members of the TNI came to Raimundus Mali's home (father of Charles and Heri Mali), members of the TNI asked for the whereabouts of Charles and his friends. Failed to find Charles, the next day 4 (four) members of the military returned to Raimundus Mali's home, once again they failed to meet Charles Mali and his friends who were allegedly hiding because they were wanted by members of the TNI. On 7 March at around 23:30 Central Indonesian Time 8 (eight) members of the TNI Battalion 744 Raymundus Mali search the house. But Charles and his friends were still in hiding. The next day, 8 March at around 9:00 Central Indonesian Time, 2 (two) members of the military forced to take Charles Mali's parents, Raymundus Mali and Modesta Dau. Both are required to undergo mandatory report on the Tobir Post. On Sunday, 13 March 2011, around 06.00 Central Indonesian Time Delvin Mali (brother of Charles).

other colleagues who were tortured with beatings, kicked with boots and physically pitted against each other by some members of the TNI Battalion 744 in Tobir Post. The torture lasted more or less in four hours. Around 10:00 pm, Heri Mali found his brother Charles Mali died in the Tobir Post. KontraS received information that Charles Mali's death was due to torture alternately perpetrated by TNI Battalion 744 members that resulted in bruises, bruises at victim's back, the victim's face bruised and the chest and head injuries are bruises allegedly caused by the kick of perpetrator's boots. News of Charles Mali's death was finally passed by the TNI to the family at 17.00 Central Indonesian Time.

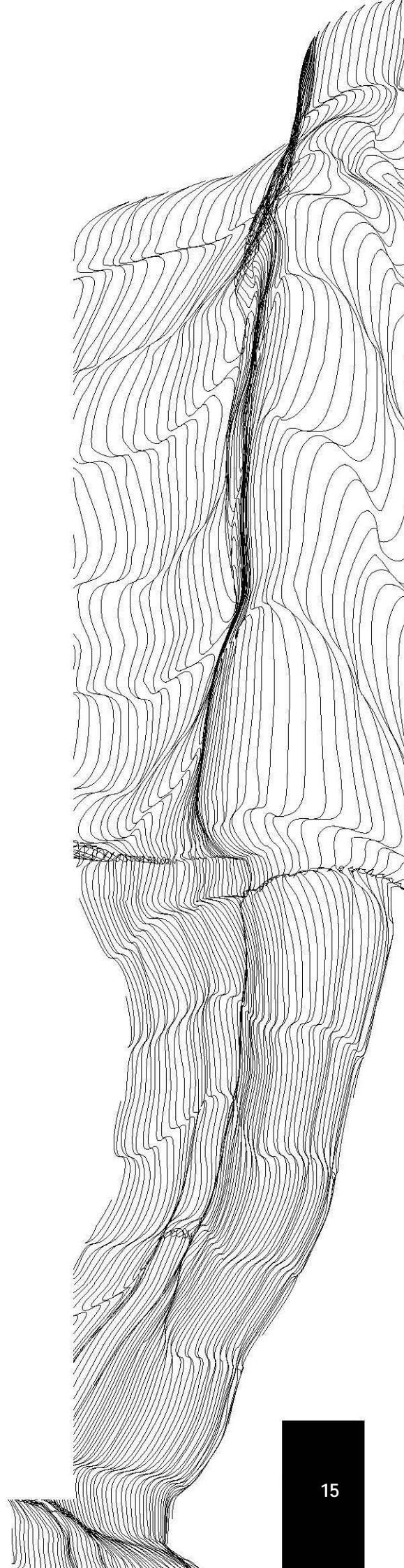
In addition to Charles, his eldest brother, Heri Mali is currently undergoing intensive treatment at the Sitohusada Hospital, Atambua, due to punches and kicks which caused injury at his back, head and right side of the chest and vomiting which supposedly caused by a hard blow to the head. In relation to this incident, the Sub Denpom Atambua has examined 23 members of Battalion 744/SYB allegedly have direct involvement in the torture and murder of Charles Mali and his friends. Up to 23 suspects were detained, there has been no significant progress, instead there are rumors that the prisoners can freely go out to meet their families.

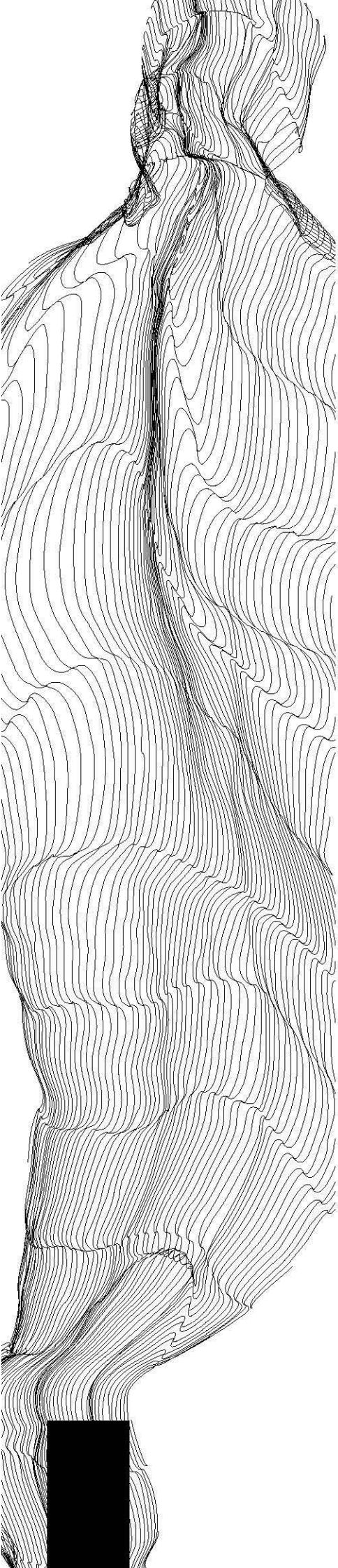
III.4. The Miscarriage of Justice in Aan's Case at Artha Graha Building

Cases of torture are also common in miscarriage of justice category, where the motive was to force the suspect to admit the alleged crimes by pressing, forcing, and conducted a series of torture. Susandhi bin Sukatma aka Aan former company employees Maritim Timur Jaya (MTJ) a subsidiary of the Artha Graha (AG) Company, on 14 December 2009 experienced abuse and confinement. The violence took place at the 8 th Floor of Artha Graha Building, Jakarta, where the owner was often regarded as a figure close to the high police officials. Perpetrators of abuse against Aan is Viktor B Laiskodat, a Commissioner of the MTJ. Act of persecution was witnessed by other MTJ leaders, Roni Bratawijaya and Anwar Sanusi, as well as the Director of Criminal Investigation Department of Maluku, Police Commissioner Jhony Siahaan. The persecution was carried out because Aan considered uncooperative for providing information related to firearms held by David Tjioe. After the persecution Aan was detained and interrogated by two Maluku police, John Watimanela and Obet Tutuarima (during the interrogation they did not explain the identity and purpose), in the meeting room in the same building. During the process of interrogation, Aan suffered intimidation and inhuman treatment such as being stripped naked. Since Aan was considered not to provide full information they requested, John and Obet then manipulated the discovery of amphetamine powder (0.134 grams) claimed to be found in the Aan's wallet. After being held for about 10 hours Aan was sent to Jakarta City Police Narcotics Division officers who picked up Aan at the building.

KontraS and a number of Aan's companions reported Aan's case to the Legal Mafia Eradication Task Force, the Judicial Commission, National Police Commissioner (Kompolnas), LPSK, as well as Profession and Security Division (Propam) Police Headquarters, the Jakarta Metro Police Headquarters and Criminal Investigation Division for alleged Miscarriage of justice case and the practice of violence during the investigation process¹⁷. Initially Profession and Security Division Chief, Inspector General (Police) Oegroseno stated on the investigation result that Aan's case was a miscarriage of justice. Shortly after, Inspector General (Police) Oegroseno was reassigned and at the end

¹⁷PMH Task Force visited Aan at the Cipinang Prison and moved Aan's location from Cipinang prison to undisclosed location. Task Force assessed that there was a big mafia behind Aan cases. See "Satuan Tugas Mafia Hukum Temukan Indikasi Penyimpangan Kasus Aan", 19 February 2010, www.tempointeraktif.com.





the Police denied any violence during the investigation and the miscarriage of justice.¹⁸

The criminal case against Aan had been resolved to the Supreme Court appeal which the verdict is to release Aan from all charges. While the process in the police department did not continue.

III.5. Cruel, Inhuman, and Other Degrading Punishment and Flogging

Article 16 of the Convention Against Torture explains the existence of human rights violations that resembles torture, which despite not meeting all the elements/definitive elements or what is often referred to as other ill-treatments¹⁹. Thus Article 16 of this Convention also explicitly prohibits the practice of cruel, inhuman or degrading treatment or punishment. In the context of Indonesia, there is a problem of application of flogging in Aceh, particularly for crimes related to the act "immoral" (khalwat), gambling (maisir), and liquor (khamar). During the last year, KontraS noted a total of 61 cases of flogging practice still applied. Earlier in late 2009, also in Aceh on the basis of "special privileges" justification, the local parliament passed the Aceh Qanun Jinayat (local regulations related to criminal) which include stoning for adultery acts committed by married couples. Afterwards, the status of this rule became unclear because it was rejected by the Governor of Aceh and not included in the legislative agenda of Aceh local parliament of the next period.

III.6. Persisting Impunity

The absence of criminalization of torture in Indonesia in accordance with the provisions of Article 1 of the Convention against Torture caused only a handful of cases could be processed in the court to be punished. From various reports of complaints filed by KontraS, victims or their families, none of which resulted in justice where the perpetrators appropriately punished. This further made worse by the absence of repair (recovery) to victims of torture or their families as required by Article 14 of this Convention.

Of the few cases that were followed up by the relevant authorities, all of them were not sufficiently resolved according to the standard of this convention.

In the case of torture against RMS activists in Maluku, KontraS reported this action to the Police which were responded by General Supervision Inspector (Irwasmu) and Profession and Security Division (Propam) of Police Headquarters to conduct an internal examination. Maluku Police held a meeting of the code of ethics as a form of police accountability mechanism. Code of Conduct hearing was held on a violation of the profession to two members of the Police Brigadier Frans Siahaya as Saparua Sub-District Police Deputy and Brigadier Santonious as head of Criminal Investigation Unit of Ambon and P.P. Lease. On 20 June 2011 Chairman of the Ethics Commission has

¹⁸Polda Metro Jaya (Jakarta Metro Police) published SPPP (Number: SPPP/651/IV/2010/ Dit Reskrim, April 19, 2010) for the ill treatment experienced by Aan by the perpetrator Viktor B Laiskodat, of the PT. Maritim Timur Jaya. SP3 (The Termination of Investigation Warrant) was issued based on the reason that there was no witness who saw the presence of Viktor when the incident took place. While the Jakarta Police Chief, when he accompanied the National Chief of Police at the meeting with Commission III of Indonesian Parliament/DPR RI (26 April 2010) said that cases of persecution against Aan continues. Assembly session that examined the Professional Ethics Commissioner Jhony Siahyan said he was guilty of using forged official letter. But the decision was annuled Warrant Termination of Investigation by the Maluku Police Chief.

¹⁹Constituting elements of the act of torture under Article 1 of the Convention against Torture are: the existence of suffering or severe pain both physically and mentally; conducted intentionally; the goal is to gain confession from the victim, obtain information from victim or other parties, act of punishment, or solely by reason of discriminatory; done or on the order/approval of a public officer.

decided that the two examinees has been proved to have violated the code of conduct especially Chief of Police Decree No. 7 of 2006 regarding the Police Code Article 5 (a) where examinees were not maintaining the image and honor of National Police Agency; Article 6 where examinees were not using their authority under the rule of law and disregard the norms of religion, decency, ethics and human values; Article 10 paragraph 1 (a), where the examinees did not respect human dignity and worth through appreciation and protection of human rights. Against such violations, Chairman of the Ethics Commission sanction that both examinees obliged to follow the coaching profession as well as re-transferred to a different place.

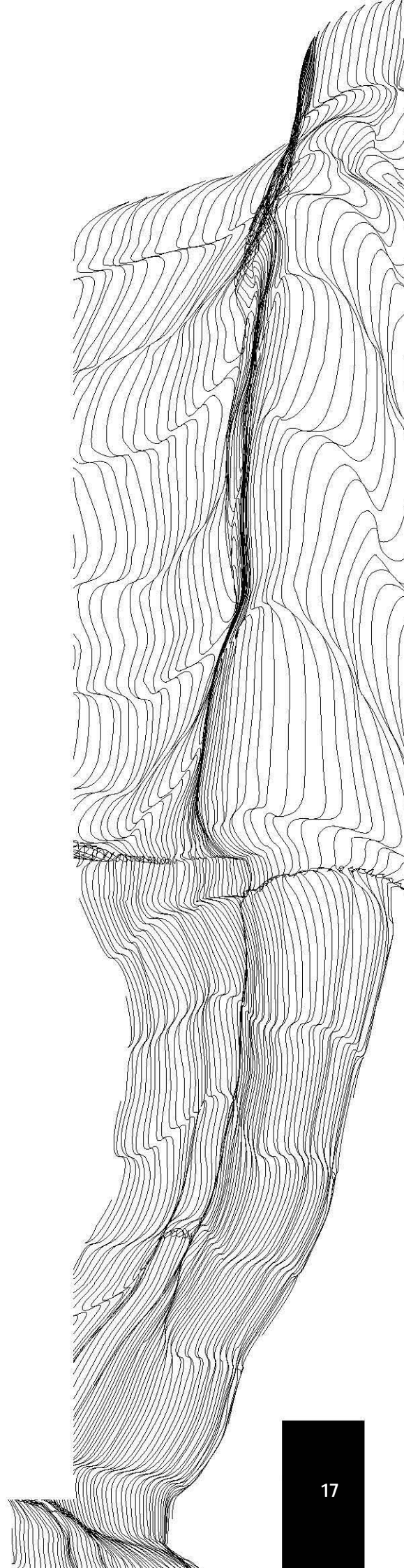
The verdict of the ethic hearing appeared to be still far from justice for the victims and not in accordance with the standards of Indonesia's obligations under the Convention against Torture. According to Article 4, this act of torture is a violation of human rights to be convicted where the perpetrators should be prosecuted and punished. The verdict should be balanced with the physical suffering of victims and immaterial losses suffered by their family members. The verdict of ethic hearing is still far from impressing a deterrent effect to both examinees and to other members of the police.

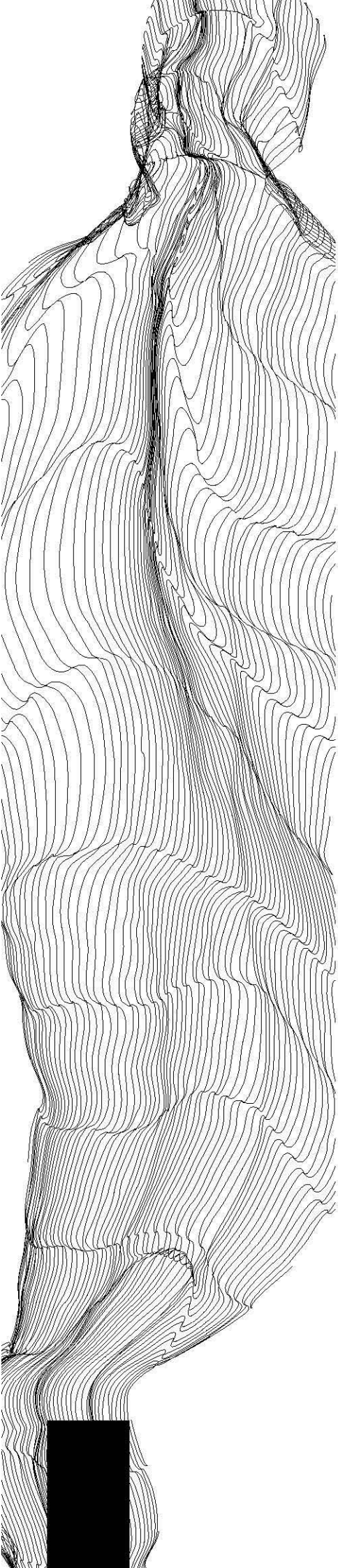
The lack of punishment for torture perpetrators also occur in the process at the Military Court in Papua. Military Court Judge III-19 Jayapura sentenced three members of the TNI Infantry Battalion 753/Arga Vira Tama - Nabire. All three defendants found guilty of acts of torture to Anggen Pugo aka Tunaliwor Kiwo and Telangga Gire, are both farmers in Puncak Jaya-Papua²⁰. The case became famous after a video the torture posted in 'Youtube' social networking site and immediately drew criticism both within and outside the community of the country. The verdict handed down on 24 January 2011 by a panel of judges led by Lieutenant Colonel (CHK) Adil Karo Karo, is the defendant had violated the disciplinary action, guilty of intentionally violating the order department or supervisor to punish Second Sergeant Irwan Riskianto (Deputy Commander of the Gurage TNI post) with verdict of 10 months in prison, while the TNI post Gurage, respectively Makangiri Private Thamrin and sentenced to eight months in prison, Private Yakson Agu 9 months in prison²¹.

Previously, III-19 XVII/Cenderawasih Territorial Command Military Court Judge also sentenced three members of Battalion 753 Pam Rawan Unit Arga Vira Tama/Nabire Cendrawasih XVII Territorial Command each 5 months in prison. All three are PFC Syahmin Lubis, Second Private and Second Private Sulistyono Dwi Joko Purwanto. They were convicted because it proved to meet the elements of violating Article 103 of the Military Criminal Code jun-to article 56 in Criminal Code, i.e. violating a command or disobeying superior service to treat people appropriately. In another indictment, the Military Court Judge sentenced the command Second Lieutenant Infantry Cosmos with 7 Months prison sentence for violating Article 103 of the Military Criminal Code 56 junto, namely that an act against orders from superiors. The trial was originally expected to respond to incidents of the aforementioned 'YouTube' torture video, but was associated with cases of torture (other victims

²⁰All the crime, including torture, committed by military forces can only be resolved through military justice system. Despite continued criticism, and has been confirmed in the Law No. 34/2004 on the Indonesian National Army. Article 65. Unfortunately up to now revision of the military justice system is yet to occur.

²¹Previously military prosecutors charged Second Sergeant Irwan Riskianto 10 months, First Private Thamrin Makangiri 9 months and First Private Yakson Agu 12 months. See Press Release KontraS, KontraS Papua and AMPTPI, Responding To Charges of Military Oditurat to TNI Defendant on Top of Puncak Jaya Torture Case, Jakarta, 22 January 2011.





were mentioned in the trial of facts, Goliath accused of involvement in the Free Papua Movement/OPM) in Tinggi Nambut²².

III.7. The Shaky Report of National Commission of Human Rights Regarding Torture in Papua

In November 2010, the National Commission of Human Rights (Komnas HAM) set up an investigation of Violence in Papua, especially the violence that occurred in Puncak Jaya. The team was formed immediately after the 'YouTube' torture video incident sparked criticism from various parties.²³ In the report conclusion, the Commission states that "human rights violations have occurred during security operations in Puncak Jaya with human rights violations pattern including: deprivation of life, deprivation of liberty or the other deprivation of physical liberty in an arbitrary manner, the right to be free from torture, cruel, inhuman and degrading treatment and the right to security ".

The report did not recommend the establishment of pro justisia investigative team under the pretext of authority used in the monitoring and investigation of violence in Puncak Jaya is the Law No. 39 Year 1999 on Human Rights and have not found a systematic or a widespread element that can be expressed as "gross human rights violations" as stipulated in Law No. 26/2000 on Human Rights Court. Unfortunately the Commission did not emphasize that torture is one of the international crimes that have serious nature, whether practiced systematically or as an individual case. As one part of jus cogens norms, the crime of torture under international law can be judged by the national jurisdiction of any nationality regardless scene and the victim or perpetrator.²⁴

Given the serious nature of torture, many countries in the world conduct specific policy for the prevention and punishment of perpetrators of torture. This never happened in the case of visa rejection of Syafrie Syamsuddin (then Secretary General of the Department of Defense) to the United States. The base of this refusal was the Immigration and National Act of the United States where one of them mentions an entry visa rejection can be done to "someone who did, ordering, instigating, assisting or participating in an act of torture and killings outside the law (Act 212) . The importance of the issue of torture is also often used as a consideration for a mechanism of 'vetting' adopted by various countries against other countries in conducting the defense and security cooperation, such as military training cooperation programs. In this context, should the Commission use the 'universal mechanism' which limited the space available for perpetrators of torture, regardless of whether torture is practiced systematically or individually occurred.

Another problem related to the torture that occurred in Papua, there were already common view that action is generally practiced there. To that end the Commission should also conduct special investigative efforts related to

²²The lack of evidence submitted by the Military Trial Counsel also shown in the trial process, which were only a single VCD contains 30-minute video recording of persecution and violence against of all three Tinggi Nambut people, Nokia N.70 cellular phone owned by Second Lieutenant Infantry Cosmos that was used to record the video, and boots that were used by the perpetrators. See KontraS Press Release, XVII/ Cenderawasih Territorial Command Military Court of Justice Ignores Victim's Sufferings, Jakarta, 11 November 2010.

²³This report focuses on three events, which are the assassination of Reverend Kinderman Gire, violent operation video incident, and violent interrogation process incident.

²⁴As one of the serious crimes under international law (be it human rights law and international humanitarian law), the principle of universal jurisdiction applied for the crime of torture. See Article 5, 7, and 8 of the CAT. See also Antonio Cassese, International Criminal Law, Second Edition, Oxford University Press, Oxford, 2008, p. 149-151.

the practice of torture in Papua, one of the areas where violations occurred more intensely than other regions in Indonesia. It can also be done based on the mandate given by Article 3 (2) of the Convention Against Torture where there are allegations of torture practiced patterned or massive. Thus every report of National Human Rights Commission investigation related to individual torture cases should have a stronger political impact despite its rather weak legal effect.

IV. Development of New Legislation Draft Related with Torture Issue

Convention against Torture Article 2 (1) states that "Each State Party shall take effective legislative measures, administrative, judicial or other measures to prevent acts of torture in all territory under its jurisdiction". This provision requires that the products of a State Party should not facilitate the possibility of torture. In the context of Indonesia there are currently a little progress, but there are two major setbacks.

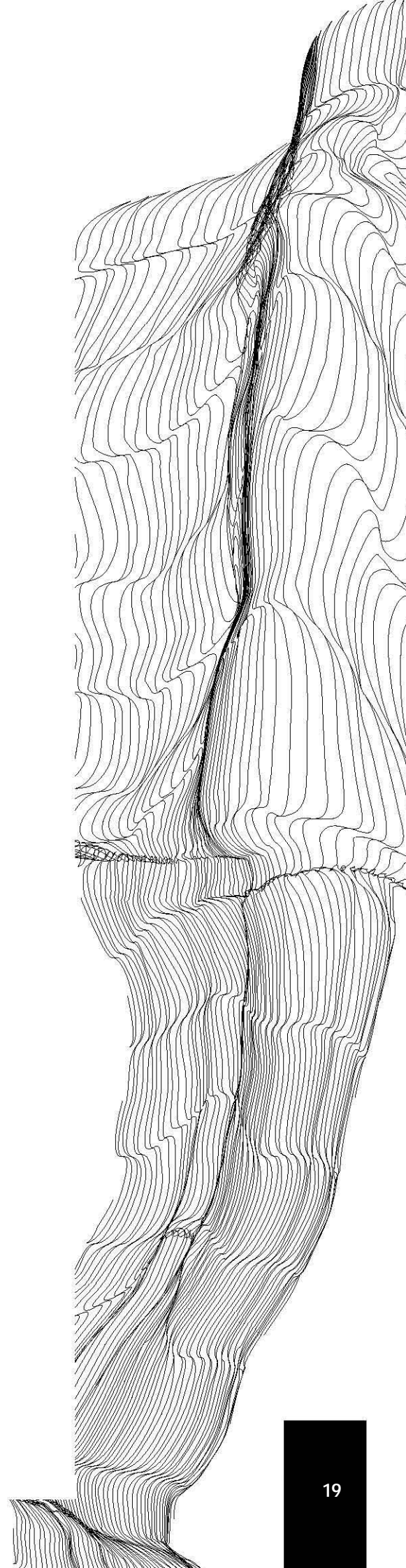
The positive step that can be appreciated was the signing of the Convention on the Protection of All Persons from Enforced Disappearance (CPED) by the Government of Indonesia on 27 September 2010 by Marty Natalegawa at UN Headquarters, New York, United States. This signing does not have legal binding effect before Indonesia ratified the Convention. The Article 17-22 of Convention against Enforced Disappearance is considered as a "close relative" of the Convention against Torture—it obliges states to provide safeguards for suspects or those whose liberty is taken (deprivation of liberty) in order not to become disappearances victims who would generally experienced torture. Small positive steps should be finalized towards the ratification or it will become a mere sweetening diplomatic maneuvers. This happened to a plan to ratify the Optional Protocol to the Convention Against Torture, which is always on the agenda of the ratification of the National Action Plan for Human Rights (Human Rights National Action Plan 2004-2009 and 2011-2014), based on Presidential Regulation, yet with no result so far.²⁵

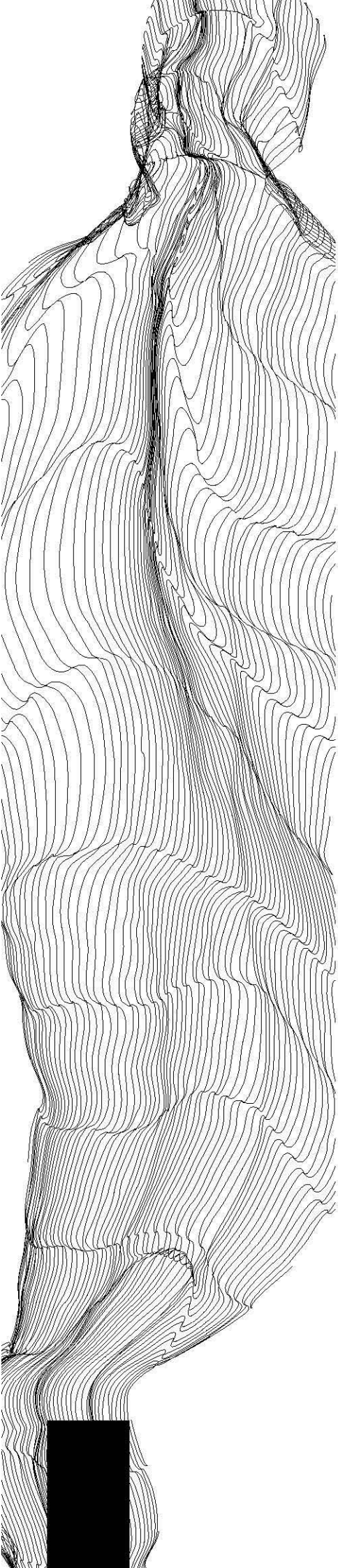
Unfortunately though there was one small step forward as mentioned before, in matters of legislation there will be two major potential setback that would facilitate the practice of torture. First, it is currently being discussed in Parliament a Bill on Intelligence in which there is a provision that gives intelligence officials the authority to arrest and detain anyone for any alleged crime. This authority of arresting and detaining is not explicit and covert, which the Intelligence bill expressed as "security" function. The "security" function in the explanation of the bill is presented as a "series of activities carried out in a planned and targeted to prevent and/or against the effort, work, intelligence activities and/or Party opponent is detrimental to the interests and/or national stability".

The explanation stated that "security" which meant "includes security in the sense of internal (organic functionality) and security in the sense of counter-intelligence. The flexibility of "series of activities of the security function" if not strictly described could possibly overlap with the police authority and the might bring about human rights abuses. in the previous Intelligent Draft Bill the arrest and detention authority was covered with the function of "intensive investigation" with the same meaning. Authorizes the arrest and detention to the intelligence institutions—which should only be held by law-enforcement officials—in the absence of a common law enforcement mechanism that those arrested and detained stays within the reach of law. This could facilitate the practice of torture and/or disappearance.²⁶

²⁵Commitment to ratify the Optional Protocol to CAT is delivered by the Indonesia government on the Universal Periodic Review at the UN Human Rights Council, UN Doc. A/HRC/8/23, 14 May 2008, para. 19, p. 6.

²⁶For the connection between torture and forced disappearances see UN Doc.A/56/156, hal. 4-6.





Second, the potential for abuse is also present in the plan to amend/change Law no. 15 Prp. 2003 on Combating Criminal Acts of Terrorism which is also on the agenda of the National Legislation Program 2010-2014. This is related to plans to extend detention period for those who are suspected as perpetrators of criminal acts of terrorism.²⁷

Table 5
Period of Detention in Comparison
to Anti-Terrorism Legislation Amendment

Law No. 15 Prp./2003 Article 25	Amandement Draft Law No. 15 Prp./2003 Article 25
(2) For the purposes of the investigation and prosecution, investigators are authorized to detain the suspects for the longest period of 6 (six) months.	(2) For the purposes of the investigation, the investigator has the authority to arrest the suspect within a period of 120 (one hundred and twenty) days.
	(3) For the purposes of prosecution, the prosecutor has the authority to arrest the suspect within a period of 60 (sixty) days.
	(4) Period of detention referred to in subsection (2) and (3) can be extended by proposing an extension of detention to the head of district court.
	(5) Extension of period of detention referred to in subsection (4) shall not exceed 60 (sixty) days and may be extended for 1 (one) for a maximum of 60 (sixty) days.

V. Conclusions and Recommendations

The Government of Indonesia has repeatedly recognized the weaknesses in the legal framework to define torture as an offense as provided for by Article 1 of the Convention Against Torture and tried to adjust it through the Penal Code draft. Unfortunately there is yet any sign that the Penal Code draft will be passed by Parliament. To expedite the criminalization of acts of torture, the Government of Indonesia, especially the Ministry of Justice and Human Rights can design a special bill on the prevention and punishment of torture as provided by this convention. The criminalization of torture will become an important key for Indonesia to fight the practice of torture in the future.

Various complaints of the torture practices began to be submitted to the Police by both the victim and the community of human rights organizations. This is done because the police have an internal normative prevention rules and does not condone the practice of torture. Unfortunately the perpetrators of torture who successfully brought into the internal accountability mechanisms have so far only sanctioned to disciplinary, conduct, or administrative sentences. Torture has been recognized as one of the serious human rights violations under international law. The perpetrators of torture should be criminalized and brought to justice. In addition the Police must also have a vetting mechanism in matters of promotions and positions of mutations that take into account the track record of officers who have committed torture. In the context of institutional reform, the Police should also increase the capacity of its personnel in the activities of inquiry and investigation. Various cases of torture often occurs because of the inability of an investigator or lack of adequate investigative techniques of investigators so that they look for shortcuts in gathering evidence and testimony through the practice of torture.

TNI (the army) also has internal rules that prohibit the practice of torture. Based on internal regulations, any military personnel should understand that torture should be forbidden for whatever reason or in any situation, includ-

²⁷Close relation between the extension of detention and the potential for abuse is also a concern of UN Working Group on Arbitrary Detention, UN Doc. A/HRC/10/21, UN Doc. para. 47-p. 19 and the 52-p. 20.

ing in a military operation. Moreover, the TNI should also have a vetting system based on a person's track record, whether the person has ever done or ordered torture or not. This provision should be used in promoting the position of a military officer and will determine their involvement in a military cooperation with other countries. More specifically, the military must improve its internal accountability mechanisms by revising the Law on Military Justice to ensure that acts of torture become part of a criminal act and punishable by a maximum.

As one of the important state human rights institution, National Commission of Human Rights (Komnas HAM) should make a prevention strategy and fight against the practice of torture. So far the public opinion still think that torture is a common practice by security forces. This presents the allegation that the practice of torture is still a patterned practice though not in the category of technical practice "systematic or widespread" which became elements of a crime against humanity in Law no. 26/2000 on Human Rights Court. Torture as an individual case remains a form that is considered a serious violation of human rights which is part of the norms of international law 'jus cogens'. Komnas HAM should be able to uncover patterns and root causes of torture practices, especially those committed by security forces, in order to provide strategic input to the relevant state institutions.

As part of an international entity, the Government must obey the recommendation of the Committee Against Torture, the official country visit of Special Rapporteur on Torture, Manfred Nowak in 2007 and the Universal Periodic Review (UPR) in 2008. To execute the mandate of the recommendations be an indicator of partisanship Indonesia to uphold human rights becomes necessary with the election of members of the UN Human Rights Council for the second time.

