

NGO Written Statement submitted to the 19th Session of the UN Human Rights Council
Item 3: Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment

Widespread incidence of torture in the provinces of Papua and West Papua in Indonesia.

Introduction

Franciscans International (FI) with the support of the Faith Based Network on West Papua (FBN) and TAPOL welcome the report of the Special Rapporteur (SR) on torture and other cruel, inhuman or degrading treatment or punishment, and his ongoing commitment to address the issue.

With reference to the Report, we would like to draw the attention of the Special Rapporteur to the widespread incidence of torture in the provinces of Papua and West Papua in Indonesia.

During the UPR in 2008, the Indonesian government accepted the Working Group's recommendations to ratify the Optional Protocol to the Convention against Torture, Cruel, Inhuman and Other Degrading Treatment or Punishment, to include the crime of torture in the criminal code, and to increase its efforts to combat impunity. However, these commitments remain unfulfilled.

Our organisations are deeply concerned that, despite the fact that Indonesia ratified the UN Convention against Torture in 1998 and is therefore legally bound to prohibit torture and all other forms of ill-treatment, the use of torture continues unabated. Provisions have yet to be made in the military and civilian penal codes to criminalize torture so the Indonesian security forces carry out this practice with impunity. The military has been employing torture in Papua for decades, to such an extent that it is now an institutionalised practice. Torture is used as a weapon against the perceived threat of the Free Papua Movement - OPM (Organisasi Papua Merdeka). In this highly militarised area, accusations of separatism and treason are considered reasonable justifications for the use of torture as the priority of the military in Papua is to secure the state against the threat of Papuan secession. A recent survey carried out by the Partnership for Governance Reform (Kemitraan) and the Legal Aid Institute (LBH) has found that the National Police (POLRI) is the most violent institution of the Indonesian security forces and uses torture as a primary means of extracting confessions from suspects. The practice is also systematically carried out in prisons as a disciplinary measure to maintain order.¹

¹ <http://www.pmc.aut.ac.nz/articles/police-torture-widespread-west-papua-confirms-new-report>

Current Situation

The Third Papuan Congress was held from 17th-19th October 2011 at the Zacheus football pitch of the Catholic mission in Padang Bulan, Abepura, Jayapura. Thousands of people from various groups of Papuan society participated in the proceedings. The congress proceeded peacefully from the beginning and at its close a declaration of self-determination was read by Forkorus Yamboisembut, the Congress's elected President of Papua, and Edison Waromi, the elected Prime Minister. At approximately 16:30, about an hour after most of the participants had left, several hundred members of the police and military forces, who had been securing the event since that morning, sent a volley of gunfire onto the football pitch before advancing in armoured vehicles, firing randomly and shooting tear gas into the crowds. The violence continued until 22:30. First-hand witnesses claim that more than three hundred people were subjected to violent beatings, torture and other forms of ill-treatment. As of the beginning of November 2011, there were at least three people identified as dead, and another seventeen people reported missing, while ninety three were reportedly injured from the gunfire and brutal beatings.

The military regularly conducts anti-separatist sweeping operations to flush out alleged OPM supporters. These often involve the burning of villages, killing of livestock, arbitrary arrests, extrajudicial killings and torture. The people who suffer most from this military action are innocent civilians. The most recent of these operations took place in early December 2011 in the Paniai region of West Papua. A massive sweeping operation conducted by units of the military, including the U.S. and Australian-funded Detachment 88, and the Mobile Police Brigade (Brimob), drove hundreds (possibly thousands) of villagers from their homes as they fled the waves of brutal aerial and ground assaults. About five hundred inhabitants of Dagouto village in Paniai Regency left home in fear to seek refuge in Enarotali following the deployment of one hundred and fifty Brimob officers to their area.²

Despite the grave human rights abuses perpetrated against civilians by the military in Papua, security personnel are not tried in civilian courts. According to Indonesian Military Law No.31, 1997, even when soldiers commit crimes against civilians they are still within the jurisdiction of the military and are therefore prosecuted within the military's internal justice system. Military court proceedings do not follow due process principles. Presided over by poorly trained military judges, the decisions cannot be challenged at the Supreme Court. Very lenient judgements and a severe lack of transparency in the military courts feed into the culture of impunity. This is further exacerbated by the military command's blatant lack concern about the widespread use of torture against civilians by its personnel. In October 2010, a video depicting two incidents of torture of indigenous Papuans was leaked and published by the Asian Human Rights Commission. The military leadership's response was to condemn the leaking of the footage rather than the brutal violence the video portrayed. Under increasing international pressure, the military prosecuted three of the six soldiers involved in the incidents, but the court delivered minimum sentences on the charge of disobedience. The impunity with which the military operates at all levels grants soldiers free rein to act as they wish and this creates an extremely dangerous situation

² http://www.faithbasednetworkonwestpapua.org/news_release/west_papua_report_-_january_2012

for civilians in Papua. Women are particularly vulnerable to ill-treatment by security personnel. A government-backed report on violence against women in Papua entitled STOP SUDAH! documents cases of torture, rape, sex slavery and forced abortion carried out by state actors.³

The practice of torture beyond the confines of detention facilities is widespread. On 14th November 2010 at 07:30, Adam Marandof, an indigenous Papuan, was walking to church when he passed a person dancing to loud music on the street. Marandof asked one of the watching members of the Military Infantry Unit to lower the volume as it was almost time for the church service to begin. An Air Force Unit soldier insulted Marandof and, together with six other soldiers, forced him to the ground and beat him until he lost consciousness. They then locked Marandof in the nearby restaurant 'Harto Moro' where a member of the Air Force Unit, Bripka Basuki, reportedly tortured him until the arrival of Commander Joko Ariwibowo. The victim pleaded for his release but Ariwibowo strangled him, beat him, and ordered the continuation of the torture. Eventually Marandof managed to escape. However, many other cases of torture by security personnel in Papua have ended with the death of the victim. On 17th March 2010, Reverend Kindeman Gire of the Evangelical Church in Indonesia (GIDI) was severely tortured by members of Infantry Battalion Yonif 756 in Kalome Village, Tinggimambut District, Puncak Jaya Regency. After several hours of brutal abuse, Reverend Gire was shot twice and his body was found in a rice bag by members of the local community on 22nd March in the Yamo River near Yambuni Village.

The institutionalised use of torture permeates all sectors of the security forces in Papua, not just the military. Civilians in police custody have been subjected to various forms of ill treatment and torture. On 25th March 2010, Ikimo Kosay, a member of an indigenous community, was in police custody in Pasar Jibama, Wamena City, Jayawijaya Regency, when police officer Daniel Tapilatu poured hot water over him in his cell. Kosay suffered serious burns to his left cheek, right ear and back. In Manokwari on 14th December 2010, seven people (including five students) were arrested on the charge of *makar* (treason) for attending a peaceful rally to protest against human rights violations and celebrate the anniversary of the independence of 'West Melanasia' (a group known as Bintang 14 advocates for Papuan independence and the recognition of the state as the West Melanasian Republic). While in police custody the group was held in cells that had leaking roofs and were strewn with bags of rubbish, and they had to sleep on the wet floor on thin mattresses. As a result of these poor conditions they fell ill with gastric disorders and malaria. Kemitraan and LBH found that the most frequent types of torture carried out by police included "punching, kicking, slapping, hair pulling, dragging, forced nudity, water-boarding, burning with cigarettes, electric shocks, groping, burning parts of the body, forced kissing, forced masturbation, forced oral sex and rape."⁴

³ Stop Sudah!! Kesaksian Perempuan Papua Korban Kekerasan dan Pelanggaran HAM 1963 – 2009: http://komnasperempuan.or.id/publikasi/Indonesia/materi%20publikasi/Laporan%20Pemantauan/new_buku%20laporan%20stop%20sudah%20papua_revisi%2004102010.pdf

⁴ <http://www.pmc.aut.ac.nz/articles/police-torture-widespread-west-papua-confirms-new-report>

Despite accepting the UPR's recommendation to do so, the Indonesian government has still not ratified the Optional Protocol to the Convention against Torture.

Conclusions and recommendations

Considering that Indonesia ratified the UN Convention against Torture fourteen years ago, Article 4 of which requires that "each State Party shall ensure that all acts of torture are offences under its criminal law," Franciscans International, Faith Based Network on West Papua and TAPOL urge the Government of Indonesia to:

- Domesticate the Convention against Torture into national law immediately so as to criminalise the use of torture in accordance with international standards and Indonesia's obligations as a state party to the convention.
- Amend Military Law No.31, 1997, to ensure that military personnel who commit crimes, including torture, against civilians are tried in a civilian court.
- Implement the National Action Plan on Human Rights 2010-2014 in full, with particular priority placed on ratifying the Optional Protocol to the Convention against Torture, and establish the necessary administrative infrastructure for its comprehensive implementation with particular regard to the designation of at least one national prevention mechanism.