

NGO REPORT- UNIVERSAL PERIODIC REVIEW
REPUBLIC OF INDONESIA
MAY 2008

Submitted by:

Franciscans International, NGO in General Consultative Status with the United Nations.

Co-written by:

Franciscans International and Justitia et Pax Netherlands, in partnership with the Office for Justice and Peace (SKP) of the Catholic Diocese of Jayapura, and the Evangelical Christian Church of Papua.

Co-signed by:

For further information, please contact:

CHRIS DUCKETT, duckett@fiop.org

ELIN MARTINEZ, martinez@fiop.org

MARIJN PEPERKAMP, Marijn.Peperkamp@justitiaetpax.nl

EMBARGOED UNTIL 20th NOVEMBER 2007

We submit the following written report on the situation of ongoing human rights violations in **West Papua, Indonesia**, to the attention of the Office of the High Commissioner for Human Rights, for its consideration in the Universal Periodic Review of the Republic of Indonesia.

The Government of Indonesia (GoI) has reassured the United Nations Treaty bodies that its State ideology, enshrined in the Pancasila and its Second Amendment of the 1945 Constitution, and now in Law No.26/2000 on Human Rights Courts¹, has always strengthened its work in the advancement of human rights. We recognize that Indonesia has in recent years gradually improved its human rights performance, amongst others by ratifying the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR) in 2006.

We acknowledge the Government's overall progress in relation to human rights in Indonesia, but note that in the Province of West Papua, **the steadfast pattern of human rights violations, including torture, repression of the freedom of expression, unfair trials, arbitrary detention and the denial of social, economic and cultural rights, have created a culture of fear and have resulted in a stagnated development, which has made Papua the least developed province of Indonesia.**

TORTURE

The Office for Justice and Peace (SKP) of the Catholic Diocese of Jayapura, together with Komnas HAM, civil society and community organizations, recorded approximately two hundred and forty two cases of torture in the last nine years in Papua (Annex II)². One of these cases involves the Abepura incident of 16th March 2006, demanding the closure of mining operations by FreePort McMoran in Timika, where, as an aftermath of the protest, 24 inditees were tortured during police custody (see Annex II and III). **Women and children, including girls, were amongst those who suffered from brutal torture, rape and sexual violence**, while in custody and as part of general reprisals against the indigenous population.³ In 2006, **the youngest female victim was 9 years old and the youngest male victim was 7 years old**. The Committee of the Rights of the Child expressed its concern in 2004 on the number of children who had endured such violence and torture in Indonesia.⁴

Laws regarding the prohibition of torture in Indonesia are, in practice, not adhered to by Indonesian security services, and its **use is widespread amongst the military, police and paramilitary forces**. Torture, although addressed in various human rights legislation, has not yet been incorporated into Indonesian law as a punishable crime, as the draft Penal Code has been subject to Parliamentary review for more than a decade. Despite the Committee Against Torture's concerns in 2002, in relation to conflict areas⁵, **torture is regarded by Indonesian security services as one of the most effective methods to obtain forced confessions and instill a climate of fear, and is conducted repeatedly and systematically**. Torture in Papua is also used strategically as a means to control the whole community. Torture is accompanied by **ill-treatment in custody**, as well as **unnecessary and disproportionate use**

¹ Doc. A/61/855, 13 April 2007, *note verbale* dated 12 April 2007 from the Permanent Mission of Indonesia to the United Nations addressed to the President of the General Assembly.

² This number excludes raids against villages; 192 individuals, 16 villages and 75 families who have been affected by military abuse and ill-treatment; approximately 51 cases of arbitrary arrest and detention; approximately 9 extra judicial killings. See Annex II- Table of cases.

³ See Shadow Torture Report on The Practice of Torture in Aceh and Papua 1998-2007 presented to the Committee Against Torture (Shadow Torture Report), pgs. 83-85; Human Rights Watch Report, Out of Sight (HRW Out of Sight), Endemic Abuse and Impunity in Papua's Central Highlands, July 2007, Volume 19, No. 10(c), pg 58-63.

⁴ Note that the Committee of the Rights of the Child (CRC) expressed its concern over the lack of measures taken by the Government of Indonesia in relation to the prevention of violence against children, including disappearances and detention, see CRC/C/15/Add.223, 26 February 2004, Concluding Observations: Indonesia, paras. 9, 41 and 71(a). Also refer to Report of the Special Rapporteur on the Independence of Judges and Lawyers Dato' Param Cumaraswamy, Mission to Indonesia, 15-24 July 2002 E/CN.4/2003/65/Add.2, 13 January 2003.

⁵ Concluding Observations CAT: Indonesia 01/11/2002 A/57/44, paras. 36-36, par.7.

of force resulting in **prisoners' deaths, incommunicado detention, forced confessions**, and the constant **threat of being killed** if orders are not obeyed or confessions are not extracted.⁶

Recommendations

The widespread use of torture in relation to other human rights violations should remain a focus of the Human Rights Council, due to its intricate nature with the development of other human rights. Due to its recurrence in West Papua, **torture should be specifically addressed during the UPR**. We therefore recommend the Human Rights Council:

- Urge the Government of Indonesia (GoI) to harmonize Indonesian law in line with the definitions of the Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), by including the definition of torture into Indonesian criminal law, especially in the Penal Code (KUHP);
- Urge the GoI to ratify the Optional Protocol to the CAT in order to fulfill its national Human Rights Action plan of 2004-2009;⁷
- Urge the UN Special Rapporteur on Violence Against Women, its Causes and Consequences, and the Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, to address and monitor human rights violations including the use of torture, ill treatment and sexual violence against women and children in West Papua;
- Encourage the OHCHR to offer the GoI technical assistance and advisory services in the practical implementation of human rights standards for local legislators, officials and policemen stationed in West Papua; in which the prevention of torture should be prioritized;
- Urge UN member States that have military ties with Indonesia to be transparent and accountable in matters related to the training materials, instruments and techniques provided to Indonesian security forces. These States should also ensure that no equipment or techniques provided could *potentially* assist security services in torturing individuals.⁸

HUMAN RIGHTS DEFENDERS

The Special Representative of the Secretary General on Human Rights Defenders, Ms Hina Jilani, visited Indonesia from the 5th-12th June 2007. In her press statement, she concluded that although the overall situation of human rights defenders in Indonesia has improved during the last five years, she is *“deeply concerned by the testimonies that she has heard indicating the continuing activities of the police, the military and other security and intelligence agencies that are aimed at harassment and intimidation of defenders or to restrict their access to victims and to sites of human rights violations”*, a trend, as she notes, which *“is more pronounced in the province of West Papua.”*⁹ Ms. Jilani's statement outlined that **human rights defenders in West Papua still face torture, arbitrary detention and harassment from the Indonesian police, military and security forces**.¹⁰ They also experience **psychological violence**, often in the form of stigmatization from the government which labels them as separatists, which is used to justify their oppression.¹¹ Often, their **access to victims and to sites of human rights violations is restricted**.¹² After Ms Jilani's visit, many human rights defenders with whom she spoke were intimidated and received threats.¹³ The same happened to lawyers and human rights defenders involved with the trials on the **Abepura incident in March 2006** (Annex III).¹⁴

⁶ The list also includes recorded cases of: **collective punishment, forced labour under the threat of death, stealing money and property under threat of death, paralysis, trauma and numerous reports of disabilities as a consequence of the torture sustained by the victim.**

⁷ Rencana kegiatan Ranham Indonesia Tahun 2004-2009.

⁸ See Report of the Special Rapporteur on the question of Torture, Theo Van Boven, E/CN.4/2005/62, 15 December 2004.

⁹ Press Release, UN Communications Office: Press Statement of the Special Representative of the Secretary General on the Situation of Human Rights Defenders, Ms Hina Jilani, concluding her visit to Indonesia.

¹⁰ 'Indonesia improving on human rights, but stringer steps needed' UN expert, 12 June 2007.

¹¹ Shadow Torture Report, pg 81-96.

¹² Shadow Torture Report, pg 94-95.

¹³ 'Urgent Action: fear for safety Socrates Yoman (m), head of Baptist Churches (Papua), Noahk Nawipa (m), Kingmi Church Leader, Benny Giay (m), Kingmi Church leader' Amnesty International 3 August 2007; 'Urgent

Recommendations

In a situation where human rights are violated structurally, human rights defenders are the first ones to signal, monitor and report on the human rights violations on the ground. It is therefore of **utmost importance that human rights defenders in West Papua are able to perform their work**. We therefore recommend the Human Rights Council:

- Urge the GoI to ensure that human rights defenders are able to carry out their work unimpeded and without facing harassment, intimidation, threats, arbitrary detention and torture;
- Urge the GoI to remove restrictive regulations that hamper their work and make sure human rights defenders have full access to victims and sites of human rights violations;
- Assist the GoI in fulfilling its responsibility to protect by providing adequate training to the police, army and paramilitary forces, and prosecuting those who have carried out brutal acts against human rights defenders;
- Advise the OHCHR to provide technical assistance to the GoI in order to strengthen the legal authority and support the capacity and resources of the Komnas HAM office in West Papua, so that it can monitor the situation of human rights defenders in West Papua.¹⁵

FREEDOM OF EXPRESSION

Journalists trying to collect information to reveal the truth behind the 2006 Abepura incident (Appendix 3) were harassed by police officers trying to impede their work.¹⁶ Journalists were amongst those hospitalized after the demonstration. Local NGOs observe that the media in general produce tainted reports due to authority control. Foreign journalists, human rights researchers and human rights organizations are not granted access to West Papua or are very restricted in their movements.¹⁷ Peaceful political expressions are often **stigmatized** as being ‘separatist’, which is the **most common justification for indiscriminate operations against ‘suspected militants’**.¹⁸ A flag raising ceremony can spark army and police hostility, including arbitrary detention and use of force on the spot.¹⁹ In 2005, Filep Karma and Yusak Pakage, were sentenced to 15 and 10 year prison sentences for organizing peaceful celebrations and flying the Morning Star flag.²⁰ In 2006, at least eight people were **prosecuted for peacefully expressing their opinions**.²¹

Indonesian law distinguishes between cultural symbols used to express Papuan identity and symbols understood as a symbol of sovereignty. While the Papua Special Autonomy Law, passed in 2001, explicitly allows symbols of Papuan identity such as a flag or anthem, courts have treated the raising of flags as a symbol of secessionism, and, as such, a banned form of expression. Furthermore, local journalists are continuously threatened by intelligent agents acting in disguise as journalists. Such tight control hampers their credibility and independence.

Action: fear for safety Albert Rumbekwan’ Amnesty International August 2007; Urge Indonesian authorities to ensure Albert Rumbekwan’s safety’, Human Rights First, 8 august 2007.

¹⁴ Amnesty International, ‘Annual Report 2007 Indonesia’ (AI Annual Report Indonesia).

¹⁵ The Komnas HAM office in Papua only serves as representative office and its role is limited to receiving complaints, without the authority to conduct investigations, unless it works with an express authorization from Komnas HAM Jakarta. This paralyzes its capacity to address violations of human rights (Law No. 39/1999).

¹⁶ On 18 March 2006, Chief of Police of Papua, Inspector General Tommy Jacobus, even apologized to the journalists for the harassment committed by his officers.

¹⁷ Whilst researchers carrying out investigations about wildlife or endangered species are generally not restricted, restrictions are in place against organizations with a human rights mandate.

¹⁸ HRW, Out of Sight, pg 2.

¹⁹ Shadow Torture Report, pg 84-85.

²⁰ Human Rights Watch, Protest and Punishment, February 2007.

²¹ AI Annual Report Indonesia.

Recommendations

Freedom of expression is a basic right and often acts as an enabler of other rights. **Therefore, where freedom of expression is not respected, other rights are rarely secure.** We therefore recommend the Human Rights Council:

- Urge the GoI to honour its obligations under Article 19 of the ICCPR, and therefore advise it not to impede the freedom of expression in West Papua;
- Urge the GoI to invite the Special Rapporteur on Freedom of Expression to visit West Papua as part of his/her country mission and to not impede the Special Rapporteur's access to West Papua;
- Urge the GoI to repeal those articles of the Criminal Code which criminalize "public expression of feelings of hostility, hatred or contempt toward the government" and prohibit "the expression of such feelings or views through the public media," release all persons detained or imprisoned for the peaceful expression of their political views, including raising the Morning Star flag; and drop any outstanding charges against individuals awaiting trial for their peaceful political activities;
- Urge the GoI to guarantee the safety and independence of the local journalists to report the reality to the public;
- Urge the GoI to guarantee access to Papua for journalists and human rights organizations, both foreign and Indonesian, and make sure that they are able to carry out their job without restrictions and harassment.

RULE OF LAW

In its voluntary pledge in 2007, when Indonesia was re-elected as a member of the Human Rights Council, Indonesia committed itself to further strengthening the rule of law. In West Papua, the human rights situation on the ground however, shows that it **still requires much improvement on the rule of law.** For example, the trials of those indicted for the violence in the **Abepura** incident of March 2006 not only **violated the principles of a fair trial** (see Annex III), but also **Indonesia's Criminal Procedure Code (KUHAP)**. During the trial, the provisions related to the identification of witnesses, the prohibition on carrying firearms or other weapons in the courtroom and the prohibition on the intimidation of witnesses were violated.²² In 2003, the Special Rapporteur on the Independence of Judges and Lawyers noted in his report that Papuans *"have no confidence in the administration of justice at a time when strong and courageous judges, prosecutors and lawyers are more needed than ever."*²³

Recommendations

Guaranteeing the rule of law is the key to rebuilding the trust of the population of Papua in the GoI and therefore to promote reconciliation. We therefore recommend the Human Rights Council:

- Urge the GoI to establish an active monitoring process of its judiciary in West Papua, ensuring that the principles of fair trial apply in all cases, in order to: prevent arbitrary arrests; guarantee full access of lawyers during the whole trial; prohibit incommunicado detentions; and guarantee the independence and impartiality of the judiciary;
- Urge the GoI to ensure that all judicial procedures adhere to due process standards, by excluding any statement made under torture from consideration in any legal proceedings, except against the torturer;
- Urge the GoI to give free access to all regions to those Special Rapporteurs who will visit Indonesia, especially the Special Rapporteur on the Independence of Judges and Lawyers and the Special Rapporteur on Extra Judicial Killings.

²² KUHAP section 1 part 8 and 9 on the identification of witnesses; KUHAP section 219 which prohibits carrying firearms or other weapons in the court room; KUHAP section 315 article 1 and 2, section 335 and section 336 article 1 which prohibits the intimidation of inditees.

²³ Doc. E/CN.4/2003/65/Add.2 13 January 2003, Report of the special Rapporteur on the Independence of Judges and Lawyers Dato' Param Cumaraswamy, Report on the mission to Indonesia, 15-24 July 2002.

IMPUNITY

In 2006, fourteen cases of abuse by Brimob, the police paramilitary unit, have been documented in the central highlands of Papua. **Brimob is responsible for raping, killing and beating unarmed civilians in Papua. With one exception, no one has been prosecuted for these grave human rights violations.**²⁴

The Committee Against Torture's conclusions on Indonesia's first periodic report in 2001, indicated that a climate of impunity is *"advanced in part because of the fact that there has been little progress in bringing to trial members of the military, the police or other state officials, particularly those holding senior positions, who are alleged to have planned, commanded and/or perpetrated acts of torture and ill-treatment."*²⁵ The names of those most senior level officials involved in the mass atrocities perpetrated against Acehnese and East Timorese populations also appear in the ranks of the armed forces and police forces in West Papua (See Annex IV). These members of the security forces are in a position to continue their campaigns in full knowledge that prosecutions are rare, even negligible²⁶ even for the most serious crimes, evidenced by the lack of fair and impartial trials, and the **questionable verdicts** against those involved in the **Abepura incident in 2000** and **Wamena incident in 2003** (See Annex IV).

Recommendations

Impunity is directly linked to continuing human rights violations. The confidence to beat the human rights defender, torture the political and human rights activist, and intimidate, rape and kill those living in the areas where the OPM (Free Papua Movement) is active, results from the **certainty that the perpetrators will be exempt from punishment**. We therefore request the Human Rights Council:

- Urge the GoI to investigate, bring to justice and prosecute perpetrators of human rights violations according to criminal procedures and ensure that the offence meets an adequate punishment and that victims receive adequate reparations;
- Urge the GoI to adequately prosecute all persons, including senior officials, who have sponsored, planned, incited or financed paramilitary operations in which gross human rights violations towards civilians were committed;
- Remind the GoI of its obligations under international law to prosecute those guilty of committing violations, and therefore urge the GoI to no longer allow perpetrators and suspects of past human rights violations to be on active duty;
- Urge the GoI to review its defense strategy and policy and to bring it in line with the Second Amendment of the 1945 Constitution.

²⁴ HRW, Out of Sight.

²⁵ Conclusion and Recommendations of the Committee Against Torture-Indonesia. 27th Session 12-13 November 2001, Cat/C/XXVII/Concl.3, 22 November 2001.

²⁶ HRW, Out of Sight, pg 5.

ABBREVIATIONS

BIN	<i>Badan Intelijen Negara</i> , State Intelligence Services
BRIMOB	<i>Brigade Mobil</i> , Mobile Brigade : a special rapid deployment unit within the Police Force.
CAT	Committee Against Torture
GAM	<i>Gerakan Aceh Merdeka</i> , Free Aceh Movement
GoI	Government of Indonesia
KOMNAS HAM	<i>Komisi Nasional Hak Asasi Manusia</i> , National Commission for Human Rights
KOPASSUS	<i>Komando Pasukan Khusus</i> , Special Command Forces
KOSTRAD	<i>Komando Strategis Cadangan Angkatan Darat</i> , Strategic Reserve Command
KUHAP	<i>Kitab Undang-Undang Hukum Acara Pidana</i> , Indonesian Criminal Procedure Code
KUHP	<i>Kitab Undang-Undang Hukum Pidana</i> , Indonesian Criminal Code
OPM	<i>Organisasi Papua Merdeka</i> , Free Papua Movement
POLDA PAPUA	<i>Kepolisian Daerah Papua</i> , Provincial Police of Papua
TBO	<i>Tenaga Bantuan Operasi</i> , Assistant for Military Operations
TNI	<i>Tentara Nasional Indonesia</i> , Indonesian Armed Forces

ANNEX LIST

ANNEX-SUBJECT	PAGE NUMBER
I- TORTURE	10
II- TABLE OF CASES OF TORTURE	12
III- ABEPURA INCIDENT OF 16 MARCH 2006	19
IV- IMPUNITY	20

Annex I
TORTURE

When the essence of human rights is neglected through the deprivation of human dignity and inhumane treatment, serious concerns for the overall state of human rights should arise.

Widespread use and abuse of torture²⁷

Laws regarding torture in Indonesia are, in practice, not implemented seriously by Indonesian security services and the use of torture is widespread amongst the **military, police and paramilitary forces**. Despite the Committee Against Torture's concerns in 2002 in relation to conflict areas²⁸, torture is regarded by Indonesian security services as one of the most effective methods to obtain **forced confessions** and instill a **climate of fear**, and is conducted **repeatedly** and **systematically**, often in full knowledge that such acts will never be condemned in a **climate obscured by impunity**²⁹. Torture is also accompanied by **ill-treatment in custody**, as well as **unnecessary and disproportionate use of force resulting in prisoners' deaths, incommunicado detention, forced confessions, and the constant threat of being killed if orders are not obeyed or confessions are not extracted**.³⁰ But to date, those perpetrators of torture who have been charged and faced court are only those of very low rank. Furthermore, the sentence delivered to perpetrators of torture is a far cry from that sought by the victim in order to feel that justice has been served. A torture case proceeding to court has generally only occurred when there has been a **very strong reaction by the community** to the acts perpetrated. When there is not sufficient pressure from the community the offender may simply be released without being subject to legal processes.³¹ Furthermore, often tension between the TNI's (Indonesian Armed Forces) special units can lead up to rivalry which results in gross abuse against the people.³²

Using the OPM as an excuse to further the torture and violence campaign

In most cases, the stigma of being a 'separatist' is the most common justification for torture and for indiscriminate operations against 'suspected militants'.³³ As separatist stigma relates to politics, it indicates a **strong relationship** between the **practice of torture** and the **government policy** towards **West Papua**.³⁴ Furthermore, there is **widespread** use of **forced and signed confessions** to establish guilt for a crime or membership of the OPM (Free Papua Movement). The judicial system has been unable to convene fair trials owing to the pervasive influence of the security apparatus. This was illustrated by the trials of the suspects of the **Wamena** and the **Bolakme** case where the court tried and sentenced the suspects to the fullest extent possible, despite weak evidence and irregularities during the trial.³⁵ **Particularly in relation to women and girls, many may suffer sexual violence and harassment over alleged partnership or association with OPM members.**³⁶

Enforced or Involuntary Disappearances³⁷

An aspect of disappearance is that cases are never investigated by the authorities. Such lack of investigation into a disappearance represents a continuing crime and continuous trauma for the victim's

²⁷ Report of Special Rapporteur on Torture, Theo van Boven, E/CN.4/2005/62/Add.1, pgs 171-173.

²⁸ Concluding Observations CAT: Indonesia 01/11/2002 A/57/44, paras. 36-36, par.7.

²⁹ Shadow Torture Report, pg 93-96.

³⁰ The list also includes recorded cases of: **collective punishment, forced labour under the threat of death, stealing money and property under threat of death, paralysis, trauma and numerous reports of disabilities as a consequence of the torture sustained by the victim.**

³¹ Shadow Torture Report, pg 17.

³² Shadow Torture Report, pg 84 documenting a case between Kopassus, Indonesia's Special forces, and Army Battalion 726.

³³ Human Rights Watch, Out of Sight, Endemic Abuse and Impunity in Papua's Central Highlands, July 2007, pg 2.

³⁴ Shadow Torture Report, pg 96-97.

³⁵ Joint written statement by Franciscans International and other Organizations with special consultative status, E/CN.4/2005/NGO/225, 9 March 2005, pg 3.

³⁶ HRW Out of Sight, pg 60, 62.

³⁷ Report of the Special Rapporteur on Extrajudicial, summary or arbitrary executions, Philip Alston, E/CN.4/2005/7/Add.1, 17 March 2005, pg, 127.

family. Often corpses have been found a few days after the victim was tortured, violently attacked and killed. The security forces have often blamed civilians for these acts, but the wounds sustained by the victims have always borne signs of army violence.³⁸

Failure to adhere to CAT recommendations

In 2002, in Indonesia's first review, the CAT's observations stated seven concerns indicating Indonesia's violation of the CAT. In 2007, these are still applied in Papua, and no obvious reform has taken place to address such issues. They include the following:

- (a) "The large number of allegations of acts of torture and ill-treatment committed by members of the police forces, especially the mobile units (Brimob), the army (TNI), and paramilitary groups reportedly linked to authorities, and in areas of armed conflict (Aceh, Papua, Maluku, etc)..."
- (b) Allegations of excessive use of force employed against demonstrators or for purposes of investigation
- (c) Allegations that paramilitary groups, reported to be perpetrators of torture and ill-treatment in Indonesia, are supported by some parts of the military, and sometimes reportedly are joined by military personnel;
- (d) ...Attacks directed against human rights defenders, sometimes leading to death;
- (e) That human rights abuses related to the Convention are sometimes committed by military personnel employed by businesses in Indonesia to protect their premises and to avoid labour disputes.
- (f) ...Inadequate protection against rape and other forms of sexual violence, which are frequently alleged to be used as forms of torture and ill-treatment;
- (g) The high number of persons reported to be suffering from the after-effects of torture and other forms of ill-treatment."³⁹

³⁸ Shadow Torture Report, pg 86-87.

³⁹ Concluding observations CAT: Indonesia 01/11/2002 A/57/44, paras. 36-46, par.7

Annex II

Tables of Cases (Please see above pg 8 for Abbreviations)

Cases of Torture in Papua from 1998-2007			
Number (Village)	Year	Reason (if specified)/treatment	Death resulting from torture?
2+ (Epouto)	1998	Accusations of providing assistance to OPM leader. Village Heads and other prominent persons violently interrogated, including being submerged in a trench and poured cold water.	No
3 (Waghete)	1998	OPM accusations.	No
15 (Bibida and Ugidimi)	1998	Unknown reasons, forced the individuals to do push ups.	No
Youth (Kopaidagi and Pugo)	1998	False accusations. Soldiers beat the youth with wood and iron bars.	No
1 village (Waidide)	1998	False charges of offences (including not cleaning the roads. Ill-treatment of villagers and threats to throw them into river.	No
1 (Yigi)	1998	Refused to collaborate with TBO.	Yes
1 (Yigi)	1998	Torturing individual with a piece of wood until he was unconscious, thrown in muddy water and abused by military	No
1 village (Biak)	1998	Flag raising ceremony/ 4 people reported seriously injured, 33 people wounded by shots, 150 people arbitrarily arrested and tortured/ pouring water in their cell, and beating them continuously for more than 3 hours.	Yes, 8 people.
1 (Oksibil)	1998	OPM accusations/rivalry between units led to abuse of local people/ beaten and interrogated until forced confession.	No
2 (Nabire)	2000	Papua sentiment/trodden on the chest by Brimob, finger set alight, burn right shoulder, electric shock treatment-hand, asked to choose which instrument of torture to be used next.	No
1 (Nabire)	2000	Flag raising incident. In custody, subjected to intense torture. Incommunicado detention.	No
2 (Madi)	2000	Unknown reasons. Submerged in fish pond for more than 12 hours.	No
Abepura			
23	2000	Beaten with plastic sticks, rifle butts, spades and wooden instruments.	See below
14	2000	Men beaten and kicked continuously: 1 forced to eat his own hair. 1 completely paralyzed.	1
9	2000	Women-burnt with cigarette butts, beaten all-over their bodies.	-
48	2000	Captured, ill-treated. A group of women, two children less than two years old and a pregnant mother, forced to crawl from home to main road. Homes completely wrecked.	?
2 (Wasior)	2001	False charges of attack against BRIMOB. Husband and wife tortured. Wife dragged on the beach for 10 meters.	No
4 (Wasior)	2001	False charges of attack against BRIMOB/ill-	No

		treatment resulting in abrasions and bruises.	
1 (Wasior)	2001	Beaten until his eye sockets bled.	No
5 (Isui and Rasiei)	2001	Tortured and then bodies soaked in diesel.	No
9 (Ransiki)	2001	Beaten, shot and dragged along the road. As a result, 1 suffers from a life long disability.	No
1 (Ransiki)	2001	Beaten and stomped on, a bayonet was used to mark the letter X in left hand and arm.	No
Wamena			
30	2003	Presumed Weapon Theft. 23 adults, 7 children targeted.	No
1	2003	Unknown reasons. Continuous beating with wood, kicking body, pinching nipples with pincers and ill-treatment during interrogation, including pouring cold water, using force, and forcing the accused to clean the Command Station before being able to eat.	No
1	2003	Stripped of clothes, handcuffed and beaten with wooden bar which broke 3 times due to the excessive force used. Later in detention, threatened with a bayonet, burnt ears with cigarette butts, soldiers stepped on thumbs, water poured over detainee, locked inside toilet whilst wearing only underwear. Forced confession to accept he knew OPM leaders. Sent to a different detention center.	?
1	2003	Forced confession of involvement in weapon theft/Stripped of clothes, taken to a cell, forced to drink dirty water poured over him. Hit in the ribs, face, head and back. Torture caused blood in vomit, faeces and urine.	No.
1	2003	Beaten by 7 soldiers in eyes, chin nose and mouth.	No
1	2003	Threatened with a gun pointed to his ears and beaten with a wooden bar. Hands, legs and neck jointly tied and ordered to roll on the wet floor.	?
1	2003	Questioned whilst handcuffed and cold water poured over him. Kicked in back and stomach until he fell unconscious. When consciousness regained, forced to write down a chronology of events of theft. Refused: beaten with rifle butt, jaw and forehead kicked. Lost consciousness. Detainee refused to confess; repeatedly beaten, kicked and his ankle and thumb were cut, leg placed under a chair and stepped on. Detained for 5 days, shins kicked twice, and ribs and jaws. Use of a bottle to commit torture. Armpits were burnt. Penis pinched with clips, right knee and penis burned with a cigarette butt.	?
1	2003	Kicked in mouth and bayonet pointed to his chest and chin in order to force him to	No

		confess involvement in theft. Then kicked in face and legs.	
1	2003	Eyes covered with shirt and stomach kicked while soldier questioned detainee.	No
1	2003	Hit in temples and chin by soldiers, shoulders stomped on, ordered to lie down and then stepped on legs, questioned about involvement in theft with a bayonet pointed towards neck and chest. Witnessed when army kicked his son's testicles until they were smashed.	No
1	2003	Beaten with a rifle butt and repeatedly kicked by soldier, then forced to face downward from night until morning.	No
1	2003	Kicked in back when arrested. Repeatedly beaten with rifle butts and combat boots, forced to face downwards.	No
1	2003	Soldiers held detainees hands and neck, then kicked his bottom causing detainee to fall down. Stepped upon. Mouth hit, teeth were broken and mouth was bleeding. Forced to confess involvement in theft.	No
1	2003	Beaten in order to force person to reveal hiding place of OPM leader.	No
1	2003	Cheeks and waist beaten three times. Back kicked.	No
1	2003	Ordered to strip of his clothes; stomach beaten with rifle butt, back kicked.	No
1	2003	Beaten by soldier with a rifle butt. Pistol pointed to his eyes, ears and chin. Grenade placed in mouth. Due to ill-treatment, detainee turned blind.	No
1	2003	Woman beaten with a rifle butt and wooden bar and repeatedly kicked with combat boots by 2 soldiers. 4 soldiers tore down her clothes with bayonets. Cold water poured over her even though it was raining heavily.	No
2	2003	Woman beaten and threatened at gun point; gun pointed to her mouth and ears. Clothes torn off with bayonets. Gun put into minor's (7 years) mouth and bayonet on shoulders before tearing clothes.	No
1 (Jayapura)	2004	Sex worker tortured until she died during interrogation by 6 policemen.	Yes
1 (Merauke)	2005	Accused of being an OPM leader. Interrogated, hands tied with plastic rope and stripped off his clothes. Beaten and punched in head and temples, army then tied neck with plastic rope and if wrong answer was given, strangled detainee. Beaten and punched until detainee fainted. Forced confession. To avoid further ill-treatment, detainee lied about names. A day later, passed on to police custody, and then to KOSTRAD guard post, threatened with	?

		consequences of torture brought about on GAM members. In custody for more than 5 days, constantly threatened at gun point in order to give a false confession. On the final day, hands burnt by military police, punched and beaten.	
1 (Merauke)	2005	Arrested and taken to KOSTRAD, interrogated and then released. 3 days later, arrested again as a result of forced confession in previous case. Handcuffed, body wrapped with a black jacket and forced to go to detainee's house to show where he hid the gun. Detainee tried to escape and kicked soldiers, but army caught him and began beating him, dragged him down the road, as a result detainee was bleeding and fainted. When they arrived at the military post, detainee was thrown to the ground and beaten with rifle butts on his chin. Taken to another post where interrogation continued. Then taken to police, where police did not find any evidence against detainee and previous detainee, and therefore released them.	No
2 (Kimbim)	2005	Beaten due to link with an incident on the road. Taken to the guard post where army repeatedly beat detainees with an iron bar, rifle butts and combat boots. Stripped of clothes and forced to crawl on their chests while they were being beaten up. Army tied their hands and threw them into a fish pond while they were naked. One detainee escaped when their bonds were released. The remaining detainee's arms and legs were stretched and tied with a plastic rope to a wooden bar, like a crucifix. Detainee was then beaten with rifle butts and iron bars and kicked. Detainee was then forced to face downward while dry grass was placed on his back, kerosene was poured over his body, and then set on fire. Continued to be kicked and beaten, urinated upon and bitten by a soldier. Bayonet used to hit detainees forehead and stomach stabbed with an arrow. Detainee told "You were an OPM leader so you must be tortured..." Then passed on to police custody, where he was released 2 days later when real confession was given.	1
Abepura			
19 approx. (different number of students taken to police stations after the incident at different times. These may also figure below due to the switching of	2006	Detainees repeatedly beaten and kicked. Water poured into their cell leaving them in wet conditions for the night. Electric shocks used to force confessions of at least three of the detainees. 1 detainee beaten with a chair, kicked in the stomach and slapped in his face. Kicked in chest, head and face, stomach punched until detainee lost consciousness. Detainee died due to serious injuries sustained due to stabs to his back, left arm and stomach.	1

custody of detainees)			
8	2006	Beaten, stabbed and ill-treated. 2 minors reported to have been ill-treated.	?
16 (trial)	2006	Ill-treated in custody of the State Court for almost two hours before the court session began. Defendants kicked with rifle butts and rubber batons in order to force a confession before the court. Those who refused to accept the charges, allegedly beaten and kicked after the trial. 3 detainees who confessed being ill-treated during police custody, beaten by police officers. 1 of them: head beaten with cane stick and then kicked in ribs and body stomped on by police officers.	?
1	2007	Accused of stealing Sergeant's money. Dragged into a fish pond and head pushed into it. Tied up to a flag pole whilst being repeatedly punched. Forced to confess theft of money. Despite confessing three times, continued to be beaten up, kicked with combat boots, water poured over his head. Taken to Sergeant's home. Tied to a chair with a plastic rope while being interrogated and forced to confess. When detainee refused to do so, soldiers lit a candle. Detainee was then stripped off his pants and forced to stick out his tongue. Penis and tongue were burned; when detainee tried to pull out his tongue, threatened by Sergeant. Pinchers were then used to pinch testicles and toes.	No

Cases of Abuse of Power by Military			
Number (Village)	Year	Reason/Treatment	Death resulting?
150 (Waghete)	1998	Collective punishment-village	No
1 + villagers (exact number unknown)	1998	Collective Punishment	No
1 village (Bibida and Ugidimi)	1998	Forced Payment to the Army (Followed by torture)	No
1 village (Madi)	1998	OPM; Forced Payment, violence against those who declined. Threats against women and children.	No
1 village (Oksibil)	1998	OPM accusations/rivalry between units led to abuse of local people	No
1 village (Pianai)	1999	-	No
75 families (Kampung Wamena Abepantai)	2000	Abepura/Separated men from women; men beaten with rifle butts, stomped on with military boots and subjected to firing of weapons. 4 men were taken.	?
16 (Wondiboi, Wasior)	2001	Arrested, beaten and ill-treated. Forced to	No

		crawl on their chests. This included one minor.	
1 (Wasior)	2001	Ill-treatment, resulting in swelling of body parts.	No
13 villages (Wamena)	2003	Presumed weapons theft/ 3,000-4,000 people internally displaced: army burnt down health clinics, traditional houses, churches and pastor's houses.	Not as direct consequence, but 36 died due to starvation and diseases.
1 (Wamena)	2003	Forced confession with violence	No
1 (Wamena)	2003	1 house ordered to get out of building. Victim was then separated from family and questioned about involvement in theft. Slapped and legs were repeatedly kicked and bayonet pointed towards chest.	
1 (Wamena)	2003	Kicked in genitals when soldiers did not receive correct information	No
3 (Wamena)	2003	Women watched while urinating, under the pretext that they were guarding the women so that they wouldn't run away.	No
1 (Wamena)	2003	Minor (15 years) kicked by soldier who fired his gun not less than 20 cm from her feet.	No
Abepura	2006	18 student dormitories targeted and destroyed	Yes

Cases of Arbitrary Arrest/Detention, kidnapping, etc.			
Number (village)	Year	Reason/Treatment	Death resulting?
Sorong	1999	Flag raising incident/ 22 people, out of which 2 had their legs broken and were left unconscious.	No
Abepura	2000	23 detained including 14 men, 9 women, 1 child.	?
1 (Wamena)	2003	Beaten with a wooden bar, cold water poured over him repeatedly	No
Abepura	2006	Approx 51 people, including women and minors, arbitrarily arrested and subjected to ill-treatment. Death threats against the mother of one of the detainees.	?
1 (Abepura)	2006	Plastic bag put over head, then beaten, kicked and driven away in a car. Pistol put to head in order to force person to confess killing of a member of the military. Thrown out of the car, face hit with hard objects and forced to kiss police officer's shoes. Kicking and beating continued until person vomited blood. Back in the car, forced to eat used tissues and bite on shoes.	?

Extra judicial killings			
Number (Village)	Year	Reason/Treatment	Death resulting?
3 (Nabire)	2000	Flag raising led to violent incidents	3 dead
1 (Abepura)	2000	Abepura incidents	1 dead

3 (Yopanggar)	2001	Unknown reasons/ 2 minors, 1 adult	2 dead
1 (Kecamatan Windesi)	2001	Mistreated and killed. Body found 3 days later by a lake.	1
1 (Wamena)	2003	Witness saw army taking victim and he was found dead in hospital with a bruised neck and bleeding nose.	1

Annex III

THE ABEPURA INCIDENT OF 16 MARCH 2006

A demonstration against the operations of the gold and copper mine Freeport McMoran escalated on the 16th of March 2006. Five members of the Indonesian security forces died during a clash with the students who were demonstrating. In the aftermath of this incident, the Indonesian security forces and legal apparatus committed gross human rights violations. **Abepura is not a case in itself; it is exemplary for the human rights violations the indigenous people of Papua face.** The following is based on reports from the Ecumenical Council of Churches of West Papua.

Background

After more than a month of peaceful demonstrations against the Freeport mine, on 16 March 2006 approximately 1,000 Papuan students in Abepura blocked the main road to attract the attention of the Indonesian government and Freeport McMoran, the mining company in Timika. They demanded negotiations, but met with the police who deployed water cannons, armored vehicles, tear gas and fired rubber bullets. In the resulting clash, four police officers and one member of the air force died. At least 24 people, both students, journalists, civilians and policemen, were hospitalized.

These demonstrations originated in frustration for the impunity of PT Freeport Indonesia, the world's largest gold and copper mine.⁴⁰

Torture

The twenty-four detainees were ill treated during police interrogation to make them confess their involvement in the violent acts. One of them reported that a senior police officer threatened to shoot him if he did not disclose certain information. Two hours before their trial in May, 16 defendants were reportedly kicked by police officers and beaten around the head and body with rifle butts and rubber batons in order to compel them to admit their guilt in court. Those who refused to acknowledge the charges were allegedly beaten and kicked by the police when returned to detention.⁴¹

Unfair trial

The right to counsel of detainees has been repeatedly infringed upon. Representatives from the Office for Justice and Peace (SKP), of the Catholic Diocese of Jayapura who visited the detainees, stated that one of the detainees revealed that the lawyer assigned to the detainees had not accompanied them during interrogation

Judges used questioning techniques aimed at intimidating witnesses to make statements against the accused. During the second hearing on 24 May 2006, a police witness was forced to admit he knew the accused when Judge Lakoni reprimanded him saying, "You are a member of the security forces, so you should speak clearly, or do you want to be punished? You must be loyal to your oath and not bring shame on your unit." Several police witnesses were not able to positively identify the indictees as being involved in the criminal act as stated in the indictment. Their statements were inconsistent with the statements that were included in the Police Investigation Reports (BAP).

The hearings concentrated on the Police Investigation Reports, whose content was rejected by the indictees since these statements were given during an interrogation in which the police used torture as a means to gain confessions.

Material evidence submitted to the hearing had not been found at the location where the Abepura incident had taken place, but was taken from another location, irrelevant to the case.

⁴⁰ Already since 1995, reports from Komnas HAM and human rights organizations have identified gross human rights violations carried out by the military and police while protecting the mining area of PT Freeport, see for example 'Laporan Pelanggaran Hak Asasi Manusia Terhadap Penduduk Lokal di Wilayah Sekitar Timika, Kabupaten Fak-Fak, Irian Jaya, tahun 1994-1995'; 'The Environmental Impacts of Freeport-Rio Tinto's Copper and Gold Mining Operation in Papua' WALHI 2006; 'Mining Ombudsman, annual report 2001-2002', Oxfam Community Aid Abroad; <http://www.corpwatch.org/article.php?id=986>

⁴¹ AI Annual Report Indonesia.

During the hearings, armed policemen for the Jayapura police station were constantly present, which created an atmosphere of intimidation. Members of the BRIMOB (Mobile Brigades) threatened the indictees during the hearings on the 17 and 24 May. During the hearing on 12 July, members of BRIMOB brought in two family members of one of the policemen who died during the clashes. They threatened the indictees with a knife.

IMPUNITY

Torture precedent through previous conflicts

The names of those most senior level officials involved in the mass atrocities perpetrated against Acehnese and East Timorese populations also appear in the ranks of the armed forces and police forces in Papua. **It is therefore not a surprise that such acts are being committed to instill a climate of fear, parallel to such use during the armed conflicts in Aceh and East Timor, and are not sanctioned.** In a victim's statement the army threatened him that "... he would take the lesson from what the army did in Aceh with GAM members. The army would give him a spade to dig up a hole for his own grave, close his eyes with black cloth, ask him to pray, force him to get into the hole and shoot him dead."⁴²

In December 2003, Colonel Timbul Silaen was appointed as the new Head of the Regional Police in Papua, having served previously as East Timor police Chief.⁴³ General Mahidin Simbolon, Chief of staff of the Udayana regional command in Bali, which oversaw East Timor for the military during the period where most atrocities were committed, is widely believed to have been a key figure in the setting up and running of the militias in East Timor⁴⁴ was appointed Military Commander in West Papua. In 2007, Brig.Gen. Haryadi Sutanto, who used to be the Former Head of Battalion 745 in East Timor, was appointed Chief of Trikora Military Command in Papua. He will replace the current Commander Major General Zamroni.

In 2007, Colonel Burhanuddin Siagian was appointed Commander of the Jayapura sub-regional military command (Korem 172) in Papua. Colonel Siagian has been indicted twice in East Timor for crimes against humanity. According to two indictments issued by the UN-backed court, Colonel Siagian publicly threatened to kill supporters of East Timor's independence and was directly responsible for the death of seven men. He is also thought to have been responsible for the creation of the Bobonaro militia system, one of the most brutal in East Timor. Colonel Siagiana and Colonel Silaen are named as suspects in the report of Indonesia's own Commission of Investigation into Human Rights Violations in East Timor⁴⁵, which investigated human rights abuses in East Timor in 1999.

All these high ranking officials have been accused of hundreds of cases of gross violations against human rights against civilians, yet they have never been convicted and are still on active duty and appear to have been promoted.

Past human rights violations (2000-2003):

Abepura incident 7 December 2000

An unidentified group of people attacked a police post near the market in **Abepura**. Two policemen were killed in the initial attack and a security guard was killed shortly thereafter at a nearby government office. Soon after the attack began, Brimob and police reinforcements arrived at the market. The perpetrators quickly dispersed in various directions and none were caught. A small group of the attackers headed for a nearby student dormitory. The attackers appealed to students to join their uprising, but then left when the students refused to do so.

Shortly after the attackers left, a group of Brimob troops, apparently in hot pursuit, stormed the Ninmin dormitory. The troop awakened 23 students who were not already awake, rounded them up, **and began brutally beating them.** Two died in custody and dozens suffered serious injuries. Over the next twenty-two hours, Brimob and **police troops went to other dormitories in Jayapura, rounding up and brutalizing people as they went, often in broad daylight, shooting and killing one high school**

⁴² Shadow Torture Report, pg 92.

⁴³ Written statement submitted by Franciscans International, E/CN.4/2004/NGO/120, 3 March 2004 pg 4.

⁴⁴ Human Rights Watch, Justice Denied for East Timor, <http://www.hrw.org/background/asia/timor/etimor1202bg.htm>

⁴⁵ Indonesian Commission of Investigation into Human Rights Violations in East Timor KPP-HAM: Komisi Penyelidik Pelanggaran Hak Asasi Manusia di Timor Timur.

student and injuring many more. Within twenty-four hours, **three students had been killed, and one hundred individuals had been detained, dozens of whom were badly beaten and tortured.**⁴⁶ A Swiss journalist, Oswald Iten, previously imprisoned by the police, was present in the same jail as those detainees who died due to the torture and witnessed the process of torture inflicted upon all detainees.⁴⁷

In February 2003 the Indonesian Attorney General's office completed its investigation on another human rights violation that took place in Abepura in 2000. The Attorney General's Office announced that it had completed its investigation, and named the **former Jayapura Police Chief and Police Mobile Brigade Commander as suspects.** There was **no mention of 23 other people named as suspects by an earlier inquiry by the National Human Rights Commission.** On 8 and 9 September 2005, the Human Rights court in Makassar **acquitted the two police officers.** Not a single member of the Indonesian police force has been convicted for these crimes. The verdict in Makassar further denied justice to the victims by failing to award compensation to them and their families, as provided for in the Law establishing Human Rights Courts.

Other recent human rights violations, which remain unresolved, include the incidents of Wasior (2001) and Wamena (2003). For both cases the National Human Rights Commission Komnas HAM conducted preliminary investigations concluding that gross human rights violations took place.⁴⁸ Furthermore, the murder of Theys Hiyo Eluay, a leader of the Papuan Presidium Council, in 2001, has not yet been fully clarified. In 2003 seven low-level Special Forces (Koppasus) soldiers were found guilty of mistreatment and battery leading to Eluay's death.⁴⁹ The lengthiest sentence was three-and-a-half years. No further investigations have taken place.

⁴⁶ SKP Jayapura AI HRW 'Indonesia: Violence and Political Impasse in Papua', Human Rights Watch 2001.

⁴⁷ Torture Report pg 107, and Oswald Iten, 'Prison, Torture and Murder in Jayapura- Twelve Days in an Indonesian Jail' 22 December 2000.

⁴⁸ 'Ringkasan Eksekutif Hasil Penyelidikan Tim ad hoc Penyelidikan Pelanggaran HAM yang berat di Papua', Komnas HAM Indonesia,

⁴⁹ HRW Out of Sight, pg 65.