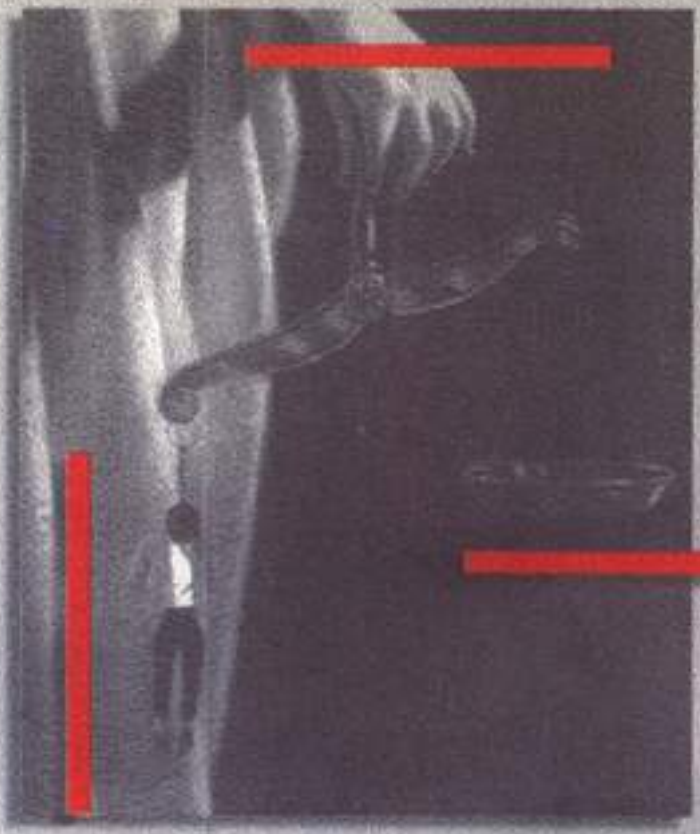
revealing tortures

by public officials



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by: team study ELSAM

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cover
Gendut Ryanto

Lembaga Studi dan Advokasi
Masyarakat (ELSAM)
Jl. Kampung Melayu Besar No.44
Jakarta Selatan,
Telp. (021) 8296905 Facs. 8353690
E-mail: ELSAM @ Nusa.or.id.

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PREFACE

The Institute Policy Research and Advocasy (Lembaga Studi dan Advokasi Masyarakat/ ELSAM) is a non-governmental organization which promotes respect for human rights in Indonesia--particularly civil and political rights. This entails studying soceity, education, training and advokasi. Its aims are to induce change in state policy and the establishment of just laws with regar for human rights.

The study of torture by public officials is one of the aspects of ELSAM's human rights studies. The following studies have been completed: i) An Impact Analysis of Development Projects on Human Rights and the Development of Human Rights Parameters on Development Policy: The Case of Labor Issues and "People's Core Plantations" (Perkebunan Inti Rakyat?PIR, a system where a plantation enterprise hires local land and labor); ii) A Study about the Alternatives for Solving Environment-base Conflic, Labor, and Land; and iii) A Study on the Impact of World Loan Funded Projects on Human Rights, the Case of Kedung Ombo and Family Planning.

ELSAM has initiated a study on torture by public officials. It is base on the fact that in the last five years there has been an increase in the application and methods of torture as well as extrajudicial executions. This has been observed through the ways in which people's dissatisfaction have been handled in such region as Aceh, Sei Lepan (North Sumatra), Nipah (Madura), Kedung Ombo (Central Java); in the handeling of industrial labor cases (the case of labor strikes in Medan); intervention in the internal conflic of a religious organization (the case of HKBP); and the employment of military operations--such as in East Timor. In the Following study on the use of violece specific cases are reconstructed and analyzed

This study has been conducted with the explicit aim to provoke the government to prepare legal instruments in which to control, avoid, and reduce the use of violence by public officials To achieve this goal ELSAM is introducing international norms for human rights for ratification by the Indonesia government as an element of national law. This is base on international norms established in the Convention Against Torture and Other Cruel, Inhuman, and Degrading Treatment or Punishment The ratification of this UN convention needs to be complemented through adopting principles established in other international codes, such as, i) Code of Conduct for Law Enforcement Officials: ii) Basic Principles on the Use of Force and Firearms by Law

Enforcement Officials, iii) Effective Prevention and Investigation of Extra Legal Arbitrary and Summary Executions; and iv) Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power.

This study was implemented by a team of researchers who interviewed victims, their families and acquaintances knowledgeable about the case. We express our gratitude to everyone who participated. We also want to thank those institutions which have helped to make this study possible. Whithout their support and collaboration this study would not have been completed.

Lastly, we hope that this study will be valuable for all parties involved and especially to further efforts to advocate and advance respect for and protection of human rights in Indonesia. Thank You.

Jakarta, May 1995
The Executive Director.
Abdul Hakim G. Nusantara, S.H., LL.M.

I. INTRODUCTION

Thought to have been subject to police torture, Suwahni alias Pak Maman, 35, a villager from Raksaan hamlet, Trigonco village, Asembagus District, Situbondo region, was unconscious for seven days.[1]

In the process of arrest and investigation of accused National University students, there was an infringement of criminal law. Some of the students initially came to Pasar Minggu police station to report the incidence in their campus, and became the accused instead. Some others were initially offered protection because of being sought after by certain members of Student Regiment. During the investigation the accused were deprived their right to be assisted by lawyers, on one occasion a policeman even pointed a gun at the head of one of the students.[2]

Background

During the last few years, mass media has given enough coverage about cases of intimidation, violence and torture, in the process of investigation conducted by law enforcement officers in order to obtain confession or information, as well as extra-legal process related to public policy in order to secure agreement from general public. Quite often such torture entailed in the victim's death. Despite the fact that those news did (could) not reveal the objective facts clearly, by understanding the "meaning between the lines", however, it seemed more than enough for some people to know the real picture.

The region and dimension of such torture, clearly a violation of human rights, are quite extensive. It covers, among others, the domains of labour, land problems, religious organisation up to that having abstract dimensions, such as those related to rights and freedom of opinion.

Geographically speaking, act of torture conducted especially by law enforcement officers, is distributed quite equally throughout

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1 See, "Tortured by police, Sunahwi was unconscious for seven days", *Surya*, 20 January 1995.

2 See, "The accused were interrogated under the officers' gun point", *Kompas*, 1 February 1995.

Indonesia, from Aceh, Medan, Jakarta until East Timor.[3] Ironically, in almost all those cases actors of torture have never been brought before trial. It means that, so far, those actors have been save to violatehuman rights. There have been no serious efforts of the Indonesian government to prevent the occurrence of torture, despite the fact that sets of international law – in the form of conventions which have been signed, but not yet ratified, by the Indonesian government – have already been available.[4]The problem, perhaps, is related more to *policy* rather than to merely goodwill.

Meanwhile, act oftorture that has been taking place was indiscriminate with regard to the victims' social classes. Torture may befall evey body, from workers, farmers, entrepreneurs to that stratum that can be called intellectual class. For this latter category, Act of torture was suffered by activists of a study group in Yogyakarta, who were charged with subversion because of selling Pramoedya Ananta Toer's book.[5]

Despite the fact that viewed from fifferent angles, acts of torture can not be justified, especially in a country proclaimed herself to be high civilized, in a self-styled civilized society, oddly enough there are voices that tried to "understand" such practice.[6]

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3 Torture and murder taking place in East Timor in turn inspired an author to write a series of short stories with East-Timor setting, which was later published in a book. See Seno Gumira Ajidarma, *Eye Witness*, Bentang, Yogyakarta, 1994.

4 See ____, *United Nations Convention Against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment*, ELSAM, Jakarta, 1994.

5 See Ariel Heryanto, *Discourse and State-Terrorism: a case study of political trials in new order Indonesia 1989-1990*, doctoral thesis at the Department of Anthropology, Monash University, 1993.

6 Viewing the psychological aspects in the police works, Satjipto Rahardjo, a professor at the Law Faculty, Diponegoro University, for example, tried to explain how difficult it was for a police officer to avoid violence when dealing with different criminal cases. See Satjipto Rahardjo, "Why the Investigator Used Violence?", *Kompas*, 6 October 1994. This article invoked a strong reaction from Lubut MP Panguribuan, who saw a tendency that the Protocol of Investigation prepared by the police is frequently used as the only source by the Attorney to prepare an accusation. Whereas more often than not, the Protocol of Investigation itself is

Thus reality calls for grave concern, especially in view of the fact that the number of torture victims continues to increase, without any efforts to make further investigation against actors of torture. And this takes place in a certain legal process (in investigation, for example) as well as outside a legal process (in dealing with a demonstration, for example). In the meantime, ironically, the victims (their families or dependents) are not in a position to demand for any compensation, because there is no available procedure for that purpose in our legal system.

In a legal process starting with an inquiry, torture is frequently used to pursue the target of "truth" within a short time. Or it is also possible that such torture is used to compel the victim to accept a prefabricated scenario, whereas legally speaking, a confession of a suspect is not the main instrument of proof.[7] Hence, torture becomes a modus for the state apparatus to forcefully take a short-cut to settle a case. In this context, truth becomes so easily manipulated, like it was revealed by Beccaria as follows:

> A strange consequence, which will certainly arise from the use of torture is that an innocent person will be placed in a worse condition than the guilty one; because if these two people were asked, the innocence will not win, as he may admit the charge and consequently is punished, or he may be found not guilty after suffering from a punishment he does not deserve; but the guilty one has a better chance, namely if he can endure the torture resolutely he should be declared not guilty; he can already replae a lighter punishment instead of a more severe one. Thus, the innocence can only be disadvantaged, while the guilty gets the benefit.[8]

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coloured by violence on the part of the investigator. See Luhut MP Pangaribuan, "Investigator, Violence and Protocol of Investigation", *Kompas*, 17 October 1994.

7 Abdul Hakim G. Nusantara SH LLM, "Message of ELSAM Director", in Budiman Tanuredjo, *Lungah-Pucuh: Fighting for Justice*, Pustaka Sinar Harapan, Jakarta, p. 7.

8 Cited from Antonio Cassese, *Human Rights in a Changing World*. Yayasan Obor Indonesia, Jakarta, 1994, pp. 130-131.

In 1994, this act of torture became a national issue when the accused in Marsinah's murder case were brought to trial, which gave rise to the term "misleading judicial proceeding". When receiving Yap Thiam Hien Award, Trimoelja D. Soerjadi, the defence counsel of one of the defendants said:

> "In Marsinah's murder case, all nine civilian defendants had been arrested by the military apparatus and were detained for 19 days in the Intelligence Detachment Headquarters of the Vth Military Regional Command "Brawijaya". Except Mrs Mutiari, all defendants were brutally tortured and maltreated. Unable to bear the torture they received, all of them, except Ayib alias Karyono Wongso, consented to what the interrogators wanted .... For all defendants, the military involvement was a nightmare, the most painful, the most terrible and the most fearful experience in their lives".[9]

It goes without saying, in accordance with the purpose of this book, the understanding of the act of torture is limited only to the context of relation between the state and the society. It means that when the act of torture is taking place, the torturer holds a position or is a representative of a certain institution in the existing governmental structure. In other words, the torturer is in a position of a certain authority holder or, more clearly, Viewed from the positions they are holding, the one giving order or the executor of torture must be related to state institutions.[10] Therefore, the discussion on torture cases among society members should be neglected in this article, as a separate legal code has been available to arrange it, namely those embodied in the Criminal Code (KUHP).

Objective

This book tries to give a factual picture on the realities of act of torture which have been conducted in many instances by state

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9 Trimoeja D Soerjadi, *A Reflection for the Improvement of the Code of Criminal Laws*, a speech on the occasion of receiving Yap Thiam Hien Award, Jakarta 10 December 1994.

10 Heru Hendratanoko, "It is Time to Ratify Against Torture", *Kompas* 10 December 1994.

apparatus against members of the society in different cases of conflict. The emphasis on empiric elaboration of cases was deliberately made in order to do away with an impression that act of torture taking place in Indonesia was only and illusion and was not based on facts. More than merely a proof, this study also tries to give explanation around the problem of torture itself. The analytic interpretation on facts of torture, written in a separate chapter, is intended more to widen the problem of torture -- without any scientific pretension in the sense of academic connotation – in order that the readers may understand more easily the context of the problem.

More importantly, and this is, indeed, the main objectives of this book, it is intended to encourage general public to increase their sensitivity against torture as a grave violation of human rights. For the Indonesian government, these facts of torture hopefully can be used as one of the references to ratify the United Nations Convention Against Torture and Other Cruel, Inhuman or Degrading Threatment or Punishment immediately, in addition to complete it by integrating other international norms related to the efforts to minimise torture or direct murder by public officials into national law. These international norms are, (i) Code of Conducts of Law Enforcement Officials,[11] (ii) Basic Principles on the Use of Force and Firearms by Law Enforcement Officials;[12] (iii) Prevention and Effective Investigation of Extra-legal, Arbitrary and Summary Executions;[13] and (iv) Declaration of Basic Principles of Justice for Victims of Crime and Power Abuse.[14]

The inclusion of international norms mentioned above in the positive national law, can be regarded as a concrete step denoting the government commitment in securing the most fundamental rights, namely the right to live. It seems that there is no single reason which

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11 Adopted by Resolution 34/169 of the United Nations General Assembly, 17 December 1979.

12 Adopted by the United Nations 8th Congress on the Prevention of Crime and the Treatment of Defendants, Havana, Cuba, 27 August - 7 September 1990.

13 Adopted by Resolution 1989/65 of the United Nations Economic and Social Council, 26 May 1989.

14 Adopted by Resolution 40/34 of the United Nations General Assembly, 29 November 1985.

can be used to delay both the ratification of the Convention Against Torture and the integration of international norms referred to above. It is high time to abandon a verbal approach in dealing with the respect to the right to live, by providing means and instruments to protect and to improve the respect of the right to live, one of them is free from torture.

Methods

This book contains some cases which has become wide public issues. These cases were chosen in this study on the consideration that these are unresolved cases. They were unresolved in the sense that the actors were not punished accordingly and the victims were not compensated justifiably. Besides, there were limited time, manpower and financial resources. They also serve as an answer to the question, why only certain cases were raised, and not some others. The research which had been conducted to prepare this book was descriptive-qualitative in character and was aimed, among others, at describing in details and thoroughly a certain social phenomenon.[15]

It was descriptive in that this research was aimed at describing the whole context where an event took place; and it was qualitative, because it did not attempt to present torture cases as many as possible, but it tried to enter into the substance of each individual event. This method was used to give more power to the structure of explanation of the subject and the object of problems and to show details of each event. Its basic assumption was that each case or event had its own unique charac- teristic, which will become too simplistic if a generalisation is made. Each case, each event is always found in a certain context. Technically speaking, the qualitative approach

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15 Masri Singarimbun, "Type, Method and Process of Research", in Masri Singarimbun and Sofian Effendi (eds.), *Methods of Survey Research*, LP3ES, Jakarta, 1985, p.4. According to Lincoln and Guba, in a qualitative research the researcher starts from an assumption that the context is critical so that each context should be dealt with in its own context. In other words, a qualitative research is closely connected with the contextual factors. See Dr Lexy J Moleong, MA, *Methodology of Qualitative Research*, Remaja Karya, Bandung, 1989, pp. 181-183.

becomes relevant if we consider that the access of the research team to (stte) institutional resources is very limited.[16]

Hence, according to its nature, data (material) collecting technique was performed by means of (i) interviews with torture victims; (ii) interviews with witnesses of acts of torture: (iii) conducting in-depth interviews[17] with key informants in order to obtain deeper information and details of problems submitted by the researchers; and (iv) collecting data (material) through secondary sources, among others books and literature related to the topic of research, news and articles in printed mass media, and documents in connection with the topic of research. After all collected material (data) are read, studied and analysed, the next step is data reduction by means of abstraction.[18] After that, in other parts, analytic efforts were made based on relevant literature.***

16 For example, it is very difficult -- if not impossible -- for the research team to find a quantitative data on the number of acts of violence in security apparatus offices. In addition to the limitation of financial means, personnel and time, the prevailing admittance policy will not allow the realization of said purpose.

17 Concerning in-depth interview technique, see Catherine Marshall and Gretchen B Rossman, *Designing Qualitative Research*, Sage Publication, California, 1989, p. 82.

18 Abstraction is an effort to make a basic summary, process and statements should be maintained to be within the content. See Dr. Lexy J. Moleong, MA. *op. cit.*, p.209.

II. VARIETY OF TORTURES BY PUBLIC OFFICIALS

From Aceh To Dili

Rachmat Adc Amir (31), was 'snatched' by a number of armed men in front of his own house, somewhere in Central Jakarta, without any clear reason, on Monday (15/5). Rachmat, who refused to accept an accusation of himself as receiver of stolen goods, said that because of the torture during his detention, he was forced to sign a blank form of the Protocol of Investigation.

Introduction

This chapter depicts ten cases of torture, from Aceh case, Medan workers, HKBP, Bredel, Kedung Ombo dam, worker's dismissal at the Military District Command, Marsinah Proceeding, Nipah, Sei Lapan to Liquica. In the efforts to "reconstruct" those cases, some of them were given in the form of direct confession of the victims written in a narrative style without eliminating the whole context. Such sytle is needed in order to obtain a picture of humanitarian-subjective dimension when those events took place.

The series of events taking place behind the heated discussion about democracy and human rights, have a clear picture about brutalism which inevitably presented an ugly look of just and civilized humanitarian aspect of the state principles. Such violence and torture have negated the efforts and ideals of civilized nations which, during the last few decades have become a global concern. These factual violence and torture undoubtedly have shaken and undermined the foundation of a legal state (rechtstaat). From the muldest from of veiled violence, intimidation, to the mist brutal from of treatment can easily be found in the cold and frozen interrogation rooms. Among those walls, which seem to be isolated from outside world, screams of pain or shoutings for mercy become a kind of ritual of extra legal cruelty.

From the following description, a picture about abuse of law becomes real, when the authority presents itself concretely in a most frightening feature. The helplessness of the victims and the atmosphere of anxiety

dominated the citizen's consciousness, whether they involved themselves in those events or not. Every boot step approaching a door, for a citizen who lives in an atmosphere of fearm can mean everything. It can mean a happy news because a person who have been waited for a long time finaly comeshome, or it can mean a terrible disaster. Uncertainty is the only certainty for those who live under anxiety because of abuses of power. Perhaps it is tru what has been stated by Prof. JE Sahetapy, that a decaying process of law has been taking place.***

CASE BY CASE

1. WHEN "RED NET OPARATION" WAS LAUNCHED: ACEH CASE

Introduction

The Aceh Case referred to in this article is the period of military operation, 1989-1993, against the Free Aceh Movement (GAM) a splinter organisation under the leadership if Hasan Humamad Tiro. By the Indonesian Armed Forces this movement is called Hasan Tiro's Wild Trouble Making Movement (GPLHT) or, more popularly, Trouble-Making Movement against Security/Free Aceh or its acronym GPK/AM.

The period between 1989-1993 saw the peak of conflict between GAM and the Armed Forces, these especially took place in three regions: East Aceh, North Aceh and Pidie, which also found reflection in the surrounding regions, among others Central Aceh and Greater Aceh (Banda Aceh Municipality). During those years, a desire to live in peace and free from anxiety or fear to be victim of either side was absurd. It does nor mean, however, that after the crisis was over everything was back to normal. Aceh as a military operational territory -- known as the "Red Net Operation"-- up to now has had an atmosphere of conflict in the air, especially in three regions (Pidie, North Aceh and East Aceh). This was marked by the latest two fire exchanges between GPK and the Armed Forces, on 11 December 1994 in Bland Pandak village, Tangse district, Pidie where some people on both sides were victims, and another one on 12 February 1995 in Cot Sula and Keunee villages, Geumpang district, Pidie, where somepersons were also victims.

The climax of all worries, restlessness and uncertainty among the people came in 1990-1992, when the Indonesian Armed Forces launched a military operation against GKP/AM actions which attacked military posts in some villages and districts. Some instances of GPK/AM actions were when thy attacked a military post the military were carrying out a social voluntary works (the Armed Forces entering the village programme) in Kuta Makmur district, North Aceh. Some other actions included attacks on police stations at Batee, Geumpang, Tiro in Pidie, Tanah Pasir,

Syamtalira Aron, Kuta Makmur, Meurah Mulia in North Aceh, and a ambush against a military patrol.

To cope with such actions, the Indonesian Armed Forces launched a military operation by means of, among others, burning houses suspected to be owned by GPK members/sympathizers. Such burning actions took place in Teupin Raya, Pidie, Kembang Tanjung, Tiro, Tangse, Geumpang -- all them in Pidie -- and in Matang Geuhumpang Dua, Samuddon and Kuta Makmur in North Aceh.

Context of Event

Actually, the Aceh Case started at the beginning of 1983, marked by the organization of mass rallies in some villages in North Aceh region, such as in Dewantara, Gandapura and Kuta Makmur districts. In those rallies the speakers, who were said to have just returned from Lybia, exposed matters that incited social envy. They said that the result of natural-resources exploitation in North Aceh (gas, fertilizer, etc) are not used for the benefit of Aceh's development, labour force recruited for giant projects in Lhok Seumawe does not consist of local labour, but from Java. In those rallies, the speakers also denounced members of the Armed Forces conducted blackmailing, beating and amoral acts against the people, especially those living in rural areas.

Such rallies were held only in North Aceh region, and they were without any police nor military permission. Invitation to the rallies were delivered from mouth to mouth. Every rally was attended by a considerably big crowd, the security apparatus from district level was also present. But no measure was taken on those rallies, so that there was an impression was launched in Aceh, however, many people who had been active in those meetings were arrested.

In August 1989, there was an act of violence against members of the Armed Forces, where a Sub-district Military Commander and another military personnel were shot to death in Tiro district, Pidie, and some police stations were under volleys of gunfire in several districts, such as Ratee Tiro in Pidie, Syamtalira Arun, Kuta Makmur, Baktiya and Seumuddon in North Aceh. News like this quickly spread among common people.

From day to day GPK actions against military personnels and posts. The situation became more and more critical, check points were erected

everywhere and passers-by should show their IDs. In front of police headquarters and also of sub-district military command headquarters situated along Banda Aceh-Medan highway, barricades of drums were set up so that cars should go zig-zag and reduce their speed. At night the lights in those stations were switched off, so that no activities in them could be seen from outside. Stations of neighbourhood - security system were erected in all villages, guarded by the villagers in turn, but they were not allowed to patrol. They were also obliged to examine everybody passing the post. At night the situation was very frightening, especially after the GPK attack on military posts.

The military operation was officially launched in Aceh in August 1990, by the sending of Kopassus elite commando troops by parachute at Seumoddon, North Aceh. Their first action was the burning of four houses at Matang, Geulumpang Dua, North Aceh, in the evening of 17 August 1990. This action took place after in the morning, the elite corps together with local population observed the 17 August (national day) celebration in Matang Geulumpang Dua square. From then on the operation continued. In Keude Krueng village, Kuta Makmur district, North Aceh, the soldiers ordered all male villagers, Kuta Makmur district, North Aceh, the soldiers ordered all male villagers to go out of their houses and made a line in front of the market. Then they were forced to crawl on a gravel road to cover a distant of 1 km, and from time to time the soldiers fired a shot 30 cm well above their heads, thus forcing them to bend their heads closer to the road. Events like these took place at night. The villagers were woken up by vollyes of gunfire into the air. Throug a loudspeaker the villagers were ordered to wake up and to go out of their houses. After those events, a number of villagers were willing to be informants. Such practice took place during the period from 1990 - the beginning of 1993.

However, the shock therapy introduced by the Armed Forces during its operation in Aceh proved to be effective to deal with GPK activities among the population. By so doing, the people began to dislike GPK who were thought to have brought misery and made them unable to earn a living. In several cases, the Armed Forces conducting operation in coastal area forbade fishermen to go to sea. Such restriction was experienced by fishermen living along the eastern coast of Pidie and East Aceh. For the same reason, farmers in Tangse, Geupang and Tiro districts in Pidie were nor allow to got to their fields, despite the fact that their crops needed to be harvested. Besides, there was an unwritten provision on the

enforcement of curfew in three regions (Pidie, North Aceh and East Aceh) and of an obligaton to report for every villager who wants to leave his or her village for more than 12 hours.

In Kembang Tanjung, Mutiara and Tiro districts, the people got an unforgettable experience when suddently at one midnight in August 1990, they were awoken by volleys of gunshots. The soldiers subsequently ordered the inhabitants to come out of their houses and got together in front of the village hall. Part of the soldiers searched their houses, where only children and women left, while all men were assembled in front of the meunasa (village hall). They were lectured about the cruel GPK actions, and should be retaliated accordingly: an eye for an eye.

Such was the general condition of Aceh as a military operational theatre. The deployment of marine troops along the eastern coast of Aceh made the at atmosphere all the more frightening. Operational and interrogation posts could be found everywhere by using houses borrowed from local population or unused sheds. Torture of detainees in thoses posts, situated not far from the houses of other inhabitants, especially at nights, made the villagers familiar to screams of pain. This event took place, among others, in Jeurat Manyang village, Glumpang Tiga district, Pidie. This situation gave rise to a grave anixiety among the people. Consequently, people were reluctant to speak with strangers coming to their village. They took a very closed attitude to all unknown persons. Friendliness became rare, because helping another peron in trouble may cost them a terrible consequence.

Arrest and Detention

As it was mentioned in preceding paragraphs, arrests of people suspected to be members or sympathisers of GPK were made without producing any letters/written orders. Arrest followed by detention was made during daytime, but more often at night by fetching the victims at home in front of their families. Usually the ones arrested at home were taken away with whatever clothes they had on, without being given a chance to change clothes, not speaking about taking some spare clothes. While the arrest during daytime, be it at home, at market place as well as at places of work, were made by approaching the target person and inviting him/her to a picking-up car, pushing him/her inside the car, and

drove away without any notice. Later his/her family learnt about his/her fate from mouth-to-mouth communication.

Generally, those who were arrested did not know the reason for their arrest. They only guessed that their arrest had something to do with GPK and military operation. Unfortunately, there were instances of arrest without any connection with GPK, but because of debt problem where the creditor used some military men to press for payment. Anyway, all arrested persons were brought to interrogation places, such as at Lamlo, Jeurat Manyang, Leung Putu, District Military Command of Sigli, Reubee (in Pidie region), and at Rencong, Alue Bili, Ulee Jalan, Jeunib, Lhoksukon, District Military Command at Lhokseumawe in North Aceh.

The arrested person were subsequently detained for an unknown period. During the first one month, nobody would know their whereabouts. In order to get a piece of information about their detention, their families had to spend quite a lot of money. For most of them, only after two months of detentionncould they be visited by their families. The arrest of targeted person were done by plain-clothes men and by using civilianlicenced cars. The arrest and detention without any warrant gave rise to the difficulty of finding information about the fate of the arrested persons. Quite a number of them never returned and their places of detention were equally unknown. Subsequently, they were declared simply as having been los.

The Interrogation Process

People who were arrested during the military operation were interrogated in military operational stations by inhuman methods. These detainee were ordered to take off their clothes so that they wore only undershorts. Their eyes were covered with pieces of black cloth, and then they were beaten with bare hands as well as kicked with boots on until they fell unconscious. Generally the victims did not know where theblows or kicks came from which were done by several persons in the room. After the victims fell unconscious, their faces were splashed with a bucket of water until they regained consciousness.

The interrogation was conducted by forcing the accused to confess that he/she is a member of GPK that is fighting against the Indonesian Armed Forced and the government. Whatever answer was given, however, torture continued to be applied, among others by beating the shinbones

with a piece of stick, lashing the accused with spinned electric wires with a knot on one end, electrotorturing, scolding or abusing the accused with degrading words

Confession Before the Court: Drs. Adnan Beuransyah

On 16 August at 00.00, I was examining the paper works of my student at Jalan Belanak No.2, Lamprit, Banda Aceh. There was a knock on the door, and somebody calling "Assalamualaikum" from outside. Upon hearing the greating which was repeated several times, I went out of the room with a bunch of my papers in my hand to be burnt. After that I went to the door and opened itu. I found out there was a group of armed soldiers to arrest me. At that time I did not see any written warrant for my arrest.

As soon as I was out of the house, I was pushed into a car and my eyes were immediately bandaged with a spectacle-shaped black cloth. Before I was taken away to "Laksus" (Special Operational Command) at Lampineung, I happened to see an officer entering my study and made a search, but nothing was taken from it.

When we arrived at Lampineung, I was stripped of my clothes until only the underpants were left. Not only that, I was handcuffed behind my back then I was pusedh into a room, where I received inhuman treatment Blows and kicks were aimed at by stomach and chest until I fell on the floor. Staggeringly, I was forced to stand up in order to receive further blowas and kicks. Once again I fall on the floor, and I felt difficult to breathe.

After one hour in that room, I was led to another room, where I was treated more cuelly than in first room. I was beaten with a piece of wood (5 x 5 cm) and military belt, in addition to rain of bare-hand blows and kicks which I received with eyes remained covered with black cloth. My shinbones were the target of the wood blow, followed by the tendon of my calves. The pain was unbearable. Up to now there have been scars on my back, as an authentic proof of the torture.

My hair was burnt with cigarette butts, and in the process my nose was accidentally burnt as well. Then I got electric contacts through my body, feet, penis, and ear until i fell unconscious. As a result of this electro torture I was rendered impotent for about 3 months. After that I

was seated on the floor with both legs straight forward, and then a piece of wood was placed across both knees. Meanwhile another piece of wood was inserted under my ass until one end was on top of the former (on my knees). then the other end was lifted, just like the way people jacking up a pillar of their house. Just imagine, how painful it was as both knees were squeezed to the point of breaking. I screamed for mercy, but they took no heed. Under such condition, I was forced to confess whatever they wanted. At that time I thought, with the prospect of dying in vain, it would be better for me to agree with whatever they said, altough in fact I have never known nor done it.

The jacking up was completed. I was asked to sit on a long bench in front of an interrogator, with my eyes still covered and electric wires continued to be attached to both my big toes. If there were something not conforming to their wish, I was electrified again. This experience continued until 9 o'clock the next morning (which means 8 hours of physical torture).

In the third night I experienced another torture. This time it was not as severe as that of the first night. But the pain was much worse than before, because my body was full of bruises and was swollen in many places as a result of the big wooden-stick blows. My body was bleeding and wounded, while my chest was painful because of the blows and kicks so that I found if difficult to breathe and to speak. When urinating there was blood in the urine and when coughing red sputum came out of my mouth.

The torture in the third night was conducted by lifting my body in the air and flinging me on the ground, so that I was upside down and felt a deep pain in my feet because of the big wooden-stick blow on my shinbones and the tendon of my claves the night before. Not only that, until I fell to the ground face down. In this position, my neck was trampled upon until my tongue stuck out. As a result of this inhuman treatment, there emerged "confessions" that never were. This was the most difficult problem I had, because the right to defend myself was non-existent there.

I was detained at Lampineung for 1 month and 4 days, namely from 16 August to 20 September 1990. Then I was taken to Lhoksemawe, wich was said to be frightening and the most dreadful place. It was found out that I was treated humantly at Rancung Lhoksumawe, although I had to sleep on a concrete floor in a room full of mosquitoes for about two months. However, the degree of my anxiety was not lessened. I remained

frightened and shocked because I realized that I was a military detainee. I was in Lhokseumawe for 3 months, from 20 September to 22 December 1990. After that I was fetched by an officer to be brought back to Lampineung, Banda Aceh.

Four days after arriving from Lhokseumawe, exactly on Friday, 27 December 1990, a team of the Higher Attorney Office of Aceh came to the Special Operational Command complex at Lampineung to make interviews. Their visit at first cherished a hope in me, in that as law enforcement officers they may bring a fresh wind. It means, that I was able to channel my complaints to them. It was found out, however, that it was a false expectation. Instead, they even threw me into a deeper abyss. Mr. Attorney declared that officially I belonged to the Free Aceh Movement (AM) from 20 April 1990 and I was, at the same time, an information gatherer for that movement.

Drs. Abdullah Hussein

On 7 December 1990, at 21.30 I was fetched by somebody --who was later known to me as Yustus Saleh, the Commander of the Intelligence Platoon of the Regimental Command 012 TU Banda Aceh -- on the oral order of Mr. Agus Ramadhan (lieut.Col. Agus Ramadhan, the Military District Commander 0101 Banda Aceh *ed*) I did not harbour any suspicion at this invitation, because Mr. Agus Ramadhan was a costumer of Kuta Alam Taylor (ready-made clothing/tayloring enterprise owned by Drs. Abdullah Hussein, *ed*) and I had known him well. After bidding my wife good bye, I was ushered to a car that had been waiting in front of the house, and was driven away. In the car there were two soldiers in military uniform with their weapons and another man in civilian clothes, and we drove to a complex which I had not known before. As soon as getting out of the car, I was taken to a room followed by several soldiers who had been waiting. They sorounded me and asked me to strip off my clothes, except the underpants.

Under such condition, they asked me about meetings held in Kuta Alam Taylor, alternated with electrification of hands, ears and most private members. Then I was confronted with several witnesses: Mulkan Usman SH, Drs. Nurdin AR and Drs. Hasbi Abdullah. They happened to see me stripped naked, without anything on. At night untill before dawn, I

was led to an open space in the yard and got different kinds of treatment, including splashing water into my nose time and again.

In the following days, the same treatment continued, until one night I was asked to put on a helmet and then my head and shinbones were beaten several times with a piece of wood until I could no longer bear the torture and fell unconscious. Then I was offered some liquor, and was forced to drink my own urine. In the following days I continued to face threats and kicks from some officers who wanted to get other information and about the so-called meetings in Kuta Alam Taylor.

At the beginning of January 1991, the investigating attorney was scheduled to come to examine the wintesses Nurdin AR, Drs. Hasbi Abdullah and Mulkan Usman SH. One day after the morning physical exercises session, I strolled in the yard of the Inteligence Plaston complex at Lampineung, Banda Aceh, together with Mulkan Usma SH, Drs. Nurdin AR, Drs. Hasbi Abdullah and Tnk Armia LML. An officer came with a hoe in one hand, threatening me that I would be executed in front of those witnesses, if the "mystery" about Kuta Alam Taylor was not revealed. The officer kicked me down to the ground. At that point, the witness Drs. Nurdin AR requested to have a word with me in a room. In that room, Mulkan Usman SH and Nurdin AR urge me to follow what had been engineered. Hence meetings in Kuta Alam Taylor came into existence, completed with dates and agendas and minutes which in fact, had never taken palce.

Imagine hor our faily, wife and children feel, if suddenly we were taken away, especially if it was at night, by unidentified person and withour any warrant? More over if for days our wives and children did not know where abouts wewere detained and who detained us? And after they known our where about, their worries increased what might have happened to usa, because they were not allowed to see us, our condition was far different from what we were before: we could not walk properly, our body was so thin as a rail, and with a frigtening hair and beard

Tnk. Armia M Ali LML

On 14 December 1990 at 20.55 several armed plainclothesmen came to my house at Jalan Teratai NO. 8, Lampulo, Banda Aceh. They told me that the Commander of the Regmental Command requested my presence at his office. Without having slightest suspicion, I changed my clothes and

followed them. I was taken to a place which I had never known before. At 21.00 I was brough before and interrogator. Here I began to be posed witih questions I had never done before.

At about 01.00 midnight I was confronted wiht 4 person mith my eyes covered wiht a piece of cloth. One by one they related their confession tha I ttok par in meetings with them in Kuta Alam Taylor. I resolutely refuted it, because Ireally never took part in such meetings. Consequently, however, I had to receive more severe punishment. At 02.00 am with only underpnats on, eyes covered and feet chained, I was electrified and received blows by blows with a piece of wooden stick until dawn came, the torture was ended by makin me lying on my back and they splashed water in my mouth and nose. When the call to prayer was heard, I performed the prayer by lying on my back and without covering my 'aurat' (from navel to knees) properly. The same treatment was repeated on the following days, my right arm was very painful, and I found it difficul to for some time.

Drs. M. Gade Salam

It all began with my presence in the court proceeding on a subversion case in the Court of the First Instance of Banda Aceh, to be exact on 9 March 1990. I attended the proceeding only in order to follow itu, jus as other people did. When the General Attorney read his accusation against Drs. Hasbi Abdullah, I was higly surprised at the mention of my name and because I thougth that I had no connection whatsoever with them. I did not even know the defendant before. From tahat time I was very uneasy, especially after I read the newspapaer that my name was also mentioned in the accusation against Drs. Hasbi Abdullah and Mulkan Usman, SH. In face ora such problem, I held a consultation meeting with the whole family in order to clarify things and to ask their suggastions. We came to conclussion that I should appear before the Chief Public Prosecutor of Aceh and request for clarification.

At the Chief Public Prosecutor Office I was received by the Assistand Attorney who, in turn, contacted the Public prosecutor Office of BAnda Aceh accompanied by a cousin of mine and an official of the Chief Public Prosecutor Office. In the latter office I was received by the Public Prosecutor who obliged me to report myself everday to his office. I was

given a letter cerifying that I has reported myself. That letter is now in the hand of the Special Operational Command (Laksus).

Four days fafter I reported myself, on Saturday, 22 March 1991, I was brought to Lhok nga prison by three staff members of the Public Prosecutor Office, namely h. Siahaan, Suman SH and Munir SH respectively, to be confronted with Drs. Abdullah Husein, Tgk. Armia Ali LML and Drs Nurdin AR As a result of the confrontation, Drs Abdullah Hussein and Tgk. Armia LML stated I was not involved in the meetings at Kuta Alam Taylor discussing the cause of Free Aceh, and that they followed the confession of Mulkan Usman SH Meanwhile Drs. Nurdin AR stated that he had not known me at all.

On 24 March 1991 I came to the Public Prosecutor Office as usual. After reporting myself, I was asked to wait by the Attorney H. Siahaan in order to confronted with Mulkan Usman SH after his trial proceeding. When I was waiting in the waiting room of the prosecutor Office, I was approache by two unknown persons who tried to involve me into a conversation But it was not really a conversation, because they invited me to go with them to the ground floor and I was led directly to a waiting car. And only after we arrived at the Intelligence Platoon Headquarters at lampineung did I realize that I was arrested. This was a cheat, wasn't in? The warrant for my arrest and de4tention was never shown to me

Upon my arrival at the Intelligence Headquarters at Lampineung, the officers made me strip myself off my clothes, until I wore only undershorts on. Afterwards I was ushered into a cell. In the evening with tense feeling, I was led out of the 1 5 x 1 mcell with eyes covered. In the ensueing interrogation, I was treated like a dead log. I had to endure kicks, blows from bare hands and a piece of big wooden log, so that physically I was completely power less, especially since it was in the middle of the fasting month. The following night I was posed with successive question about things that I has never done. I refuted all of them with reasons and alibis. In return, however, I was treated more inhumanly. I received electric shocks so that my body was floundering on the gorund, like an eel roasted alive. I was treated that way during eight succesive days. The most frightening experience was in the last night. My eyes were covered, my hand were tied behind my back, and was brought to the place hitherto unkown to me. Suddenly I was pushed into a hole which, I thought at that time, was not very deep. It was at his point I was hit and threatened, "Any message from your family?"

Seeing and experiencing such condition, I was compelled to agree with all questions posed to me by making up replies from what I read in newspapers about the court proceeding against Drs. Hasbi Abdullah and Mulkan Usman SH in order to conform with the interogator's wishes. I regretted however, that I was never confronted with those people who slandered me . And based on the Protocol of Investigation, the Prosecutor interogated me at Intelligence Headquarters at Lampineung. But every time I denied his allegation, the Prosecutor immediately threatened me,"I will send you back to the Special Operational Command (Laksus) for more schooling."

What astounded me , the Prosecutor did not only threaten and terrorize but his hands were also actively used to pull my hair, while his mouth uttered degrading abuses, such as "dog, pig, beast, pretending to be clever, arrogant and conceited." This took place when the Prosecutor Interrogated me at Company B Lhok Nga, Banda Aceh on 14 October 1991.

Extra-Judicial Process

Outside judicial institution, there were other events that did not take heed of legal process. This was experienced by Iskandar Maun (not his real name), 58, entrepreneur from Pidie, as it was related by his family and some witnesses. In October 1991 at 16.00 local time several military personnels in plain clothes in canvass Toyota Jeep came to Iskandar's house near the market, witnessed by his wife, children and some of his neighbours. when Iskandar refused to came with them, the soldie dragged him, beat and kicked him and forcefully pushed him into the car. The next day, around 11.00, Iskandar was found already dead in front of the neighbourhood security-system pos no far from his village. His body is full of scars of toture and there was a gunfire wound in his head.

Here is another experience of Makbur Jamal (not his real name), 42, a native of North Aceh, who was detained at Rancung for 6 months and 17 days He was arrested in June 1991 is a village of North Aceh when he was visiting a friend of his. Makbur was accused of being a GPK member, becouse he brutallytortured beyond description, except "What I had in mind at that time was, how my family willget to know where my body will be disposed of". According to his confession, he was beaten up by bare hands and by big wooden stick, was electrified and was led to

witness how they kill another detainee. He was also forced to lift the dead body into the car which will dispose it, God knows where. And all the time he was treatened, "Maybe you will be next!".

Arsyad Suman (not his real name), 27, who used to do odd jobs, residing in Pidie region, related his experience. In January 1990 around 17.00 local time, when he was sitting in a coffee stall, came before a military personel was shot at, and that event became a topic of discussion among general public. The four soldiers approached Arsyad's table and ursed him to go with them. Feeling that he had done nothing wrong, Arsyad agree to go with them. With canvass Toyota Jeep he was driven to the direction of Lamlo and stopped in front of a hall in a military headquarters complex.Arsyad was urged to enter and to report to the officer on duty in a room of 4x4 m. In that room he saw a table with a roll of electric wire on it and a wooden bench. An officer wearing commando T-shirt sat behind the table spinning the wire into a kind of whip with knot on one end.

When Arsyad came in, the officer seemed to be indifferent. But out of sudden he yelled, "Sit, you, GPK!", and he continued with question about Arsyad's identity. Two of the soldierswho fetched him entered to the room together with two other persons. They raised Arsyad on his feet by holding his both hands which were bench behind his back. Then without any ceremony, two of the soldiers hit Arsyad;s face and stomach and kicked his shinbones. "I yelled my lung out becouse of the unbearable pain", related Arsyad. This torture continued for about 15 minutes. Blood streamed out of his face and head and he felt a terrible pain on his shinbones. Then he was stripped of his clothes until he wore only underpants. With his hands tied behind his back he was made seated before an interrogator.

Arsyad was forced to admit that he was a GPK member who knew the one firing gunshot at the military personnel the day before. As he answered that he knew nothing about that, he was scolded with abusive words. Then he was led to choose some big wooden stick on the table, but he did not responded. Consequently he was made to stand up and a big wooden stick landed on his back and shinbones until he feel on the ground, face down. Meanwhile the spun electric wire added to his suffering. The torture continued until midnight. When going out of the room he could not walk by himself, somebody had to support him. The he was locked into a cell of 3x2 m, which had been occupied by 5 other persons, all of them

were and their bodies were full of wounds. "I want to sleep", Arsyad said. The next day they told him that they had been four months in that place. Arsyad shared the same condition with them: wearing only underpants, sleeping on concrete floor and they body was thin, pale and full of scars of torture.

Arsyad was kept in that place for 8 consecutive days, and during that time he was constanly interrogated about the guard assault on the military personels and he was persuaded into showing some persons he suspected to be members of GPK. "I was very tired and I thought I could die soon because of the unbearable torture", he said. On the ninth day he was fetched by an officer from his cell and was brought to the interrogation room. There he got back his clothes.

After that, around 10.00 hours local time he was driven away in a Toyota Kijang van. Arsyad was frightened, especially when his eyes was covered with a black cloth. After almost 3 hours of going to and from, and occasional halts, the car stopped. The black cloth was uncovered and Arsyad was ordered to get off the car. He found himself around Sigli on Medan-Banda Aceh highway. He was given Rp. 1,000 and was warned not to tell his experience to anybody. Arsyad went home. The next day, he went to Banda Aceh and did not dare to return to his native village since then.***

2. LAND AND GIVES FRUIT TO TORTURES: SEI LAPAN CASE

Introduction: From Local Resettlement Programme to Local Nucleus-Plasma Enterprise

Sei Lepan Local Resettlement Project in Alur Dua village, Babalan District, Langkat region, North Sumatra was initially meant as a pilot project for local Sumatra Governor sent a letter to the President on the Project Proposal concerning local resettlement programme in that area. This proposal was accepted by the provision of local resttlement project with the Presidential assistance at Sei lepan amounting to Rp. 1,5 billion in 1982.

The idea of local resttlement programme basically sprang up from the fear of the Provincial Authority of North Sumatra for the use of state land by people on the forest land formely exploited by PT Si Kuncung (based on the Right to Use Forest Land) from 1970s. Meanwhile, the reforestation project which should have been responsibility of PT Si Kuncung after the exploitation period, was never realized, neither by the company itself nor by the Forestry Agency which had planned to cultivate mahogany on that land. The land abandoned by PT Si Kuncung was immediately made use of by the people living around the area. At first only one or two hectares, but later more and more people made use of that land, including "White Collar" farmers from outside. Other farmers came in greater number to that area

In oreder to deal with the uncontrolled use of the state land, in 1975 a regulation on the permission to use land was issued the 2nd Level Regional Authority of Langkat : the Regional Authority No. 5, year 1975. Later, this regulaion had to be cancelled, because it was made without the coordination with the Forestry Agency, another important authoritative body on that area.

Based on the precidential decision on the appointment of Sei Lapan as a local resettlement area under the Presidential Assistance of 1982, participants to the project bega to be resettled as participants of Sei Lepan resettlement project settled themselves in that area After the official transfer from the central government to the regional authority on 2 April 1984, Sai Lepan resttlement project was officially established.

Problems began to appear when field condition did not conform to the government promise at the time of the project participants' recruitment. The land which should have been ready for use, because it had been land cleared, in reality was in reverse condition, it can not be cultivated because it ws still full of tree stumps. Meanwhile, the farm land I covering one hectare per family was given only nine months after the participants had been resettled, namely in october 1983. On the other hand, living-maintenance assistance for 6 month (February to July 1983) provided for by the goverment was not enough to cover the basic needs of the participants. Scarcity of food was unavoidable. Therefore, it became natural that the participants sold the seeds and fertilizer given by the goverment as assistance, to meet their daily needs, in view of the fact that their land could not be cultivated, while their seeds began begin to be spoiled. Some participants left the location for the time being to find live-hood somewhere outside the project, expecting to return to the project after the land-clearing work has been completed.

As an affort to cope with the situation, in October 1986 the project participants presented their problems first of all to the regional office of Transmigration Affairs, then to other related agencies. But these effort resulted only to promises that have never been realised. Likewise, thier effort to demand for the realitation of farm-land II in March 1987 were to no avail. On the other hand, they got an information that the area used for local resettlement had not been realised from the control of the Forestry Agency as the Regional Authority had not appointed its replacement.

While the difficult problem faced by the project participant has not been settled, at the begining of February 1989 the Hed of Langkat 2nd Level Regional Authority posed a new problem by announcing the nucleusplasm Plantation (PIR) for Sei Lepan resettlement area.

Despite the resistance of the participating farmers who had never been invited to discuss this matter, by hook or by crook, PT Anugrah Langkat Makmur which had been established in the resttelement area since 1988 with its director H. Anif succeeded in making itself the foster father for the new Nucleus-Plasm Plantation project, by relying on the blessing of the Regional Authority. Under the new provision, the participating farmers were reduced to be workers on their own land. Different efforts were made by PT ALM to put the local resettlement area under its control for the sake of its palm-oil plantation project, among other by destroying

the crops cultivated by the farmers and by dismantling the houses abandoned by some of the farmers.

Split among the farmers themselves could not be avoided. Some of them became the accomplice of PT ALM because of the necessity pressure, and some others continued to fight for the abrogation of Nucleus-Plasm Plantation programme and for the restoration of their land to its former status, belonging to their right. By the middle of September 1991, several days after PT ALM demolished a farmers houses for the umpteenth time, the farmers sent a big delegation to the regional People's Representative Council of North Sumatra, the Governor of North spent the night at the 1st level Regional People's Representative Council by unfolding posters, while in Langkat they spent the night at Amir Hamzah Cultural Park.

A legal proceeding was also followed by the farmers by authorizing the Legal Aid Institute of Medan to accuse the Head of IInd Level Regional Authority of Langkat on 26 September 1991, demanding among others, the annulment of his 1989 announcement on cancelation of the right to be local resettlement participants and voicing the disagreement of the participants with the conversion of local resettlement programme into local Nucleus-Plasm Plantation by the Regional Authority and PT ALM.

The struggle of the farmers began to bear fruits by the issuance of decision on land allocation (SKPT) by the Head of the IInd Level Regional Authority of Langkat step by step. From November 1991 to January 1992 around 412 SKPTs (certificates) were issued by the Regional Authority. However, the struggle local resettlement participants continued to be obstructed by different parties having interest on Sei Lepan Land, be it from PT ALM as well as by certain government apparatus themselves who were thought to have sold land. The intimidation against the participating farmers reversely has continued to heighten their awareness. Its climax came when on 20 June 1992 the participating farmers spontaneously burned down PT ALM office and several houses inhabited by the company's employees. Consequently, the farmers had to deal with security apparatuses.

The demand that PT ALM should leave the local resettlement area immediately continued to be fought for, by sending delegations to the Departement of Home Affairs September 1992. Pressures from all sides finally resulted in an agreement, reached in the deliberative meeting between the Ist Level Regional Authority of Langkat, the IInd Level

People's Representative Council of Langkat, PT ALM, security apparatuses, and the participating farmers on 28 September 1992. The agreement stated, among others, that the remaining SKPTs will issued shortly, and PT ALM was willing to withdraw from being the foster farther, if the participating farmers were ready to pay a compensation.

On 23 December 1993 a review meeting was held, resulting in an agreement that the provisions on the Nucleus-Palm Plantation project with a foster father will be decided later and that the Sei Lepan area be declared status-quo. It means that there should be no activity of land control and preparation, while at that time palm-oil trees cultivated on it began to bear fruits already.

Arrest and Violence: A Result of Solidarity among the Suppressed.

In the end, palm oil gave fruit to disaster. In an compelling situation, because of the urgent need for food, the farmers harvested palm oil on the land that had been declared as status-quo. Nevertheless, the farmers continued to report this harvesting activity to Harapan Jaya Village Head. The harvest took place from January to March 1993, without any incident. In the fourth harvest, 23 March 1993, two farmers, namely Zulkifli Sitepu and Amat Surbakti and a truck driver which was to transport the palm oil, were arrested without any warning. They were charged with committing a crime of theft. This arrest startled and infuriated Sei Lepan farmers.

The arrest of Zulkifli Sitepu and Amat Surbakti was soon known to other farmers. That very evening they came to Pangkalan Brandan Police Headquarters, demanding that the two detainees be immediately released. This effort did not bring any result. The next day they reported this matter to dhe District and Village Heads, and then togther the demanded the release of their two fellow farmers to Pangkalan Brandan Police Headquarters. This effort was equally futile, despite the fact that some of them were ready to replace the two detainees, in order to enable the letter to celebrate Idul Fitri festivity on 25 March 1993, the next day.

As a final attempt, Sei Lepan farmers came in throngs to Pangkalan Brandan Police Headquarters, as a concrete manifestation of their solidarity on the first Idul Fitri day, 25 March 1993 at about 12.00 hours local time. Mrs. Nasib Boru Sembiring, Amat Surbakti's wife brought along her five children, one of them was still a baby. She strongly

demanded to see her husband, although it was refused by the police. Likewise, the participating farmers persisted in their demand.

In the evening around 20.00 hours, the second throng of Sei Lepang farmers came in using two buses. But their emotion ran high all at once when they learnt that both detainees had been removed. They felt to be toyed with, whereas the local authority officials from both district and village did not show their seriousness to defend their people's interests. The fury of the mob could not be contained any longer, leading to the destruction of Pangkalan Brandan Police Headquarters. It was not clear who took the first step, but all of a sudden fragments of window glasses were scattered everywhere under the train of rocks, the offices were ransacked, police vehicles were destroyed and a police officer was wounded.

At around 23.00 anti-mob police troops, police mobile brigade, and a military troop from Airborne 100 armed to their teeth sorounded the farmers. The Commander of North Sumatra Regional Police Forces ordered the mob to disperse, but they persisted in their demand, so that finally an arrest order was issued. It was from that time the most inhuman acts of violence has begun. The farmers were treated like prisoners of war, placed under gun point and sorounded by dozen of soldiers. Acts of violence by security apparatus did not stop there beating and other acts of violence by using gun butts, wooden sticks, boots and others took place in the yard of the Police Headquarters. After that, the farmers were stripped of their clothes and their hands were tied behing their back with plastic ropes and were seated in rows.

At about 04.00 hours early in the morning the farmers were transported by trucks to Binjai Police Headquarters. The farmers who by then were treated as prisoners of war, were dumped into trucks and along the road the continued to be trampled upon. Around 05.30 they arrived at Binjai Police Headquarters. During the next continued to be beaten and abused. In the evening until treath and acts of violence of the security apparatus. Some of them were even asked to choose by themselves the torture device available, such as that experienced by animals. Under the reign of terror, threat, beating and torture performed by the officials, they were forced to admit everything that was charged to them.

In the ensuing paragraphs a detail picture is given about the misfortune suffred by Sei Lepan farmers in defending their rights.

Nasib Br. Sembiring: Defending Her Husband to Brave Beatings

Upon hearing that her husband was arrested, Nasib Br. Sembiring, Amat Surbakti's wife was very sad. She prepared herself immediately, wrapping some food and taking all her children to visit their father who was said to be detained at Pangkalan Brandan Police Headquarters. With tears in her eyes, Mrs. Amat Surbakti together with around eleven farmers set out to Pangkalan Brandan police station at about 12.00 local time.

Soon after arriving at Pangkalan Brandan police headquarters, she was met with the unfriendly attitude of the commanding officer in charge, a person from Hutabarat family. Her request meet her husband, even for only several minutes, in view of the fact that the next day was Idul Fitri festivity, was flatly rejected. Despite this rude dismissal, Mrs. Amat Surbakti and other farmers who came later, held their ground. At last, through another officer, Mrs. Amat Surbakti succeeded in entering the police office and met her husband.

"Then I saw the father of my children. He scaled the high wall to reach the iron barred window, and he looked down at us", related Mrs Surbakti. "Go home now. Take care of your children. Do no think about me.", she continued, imitating her husband's message. Nevertheles, when one of the farmers wanted to send food to the cell, where Amat Surbakti and Zulkifli Sitepu had been detained, both of them were not there any longer. The farmers did not get any information concerning their whereabout. The officers on duty, when asked always replied that they did not know. Rumour was rampant saying that both detainees had been sent by the police to the Military Intelligence Detachement Headquarters at Gaperta Street —usually called gaperta only—widely known as the notoriuous detention place for most important criminals.

When the evening dragged on, more people got together around Pangkalan Brandan Police Headquarters, while their demand that the two detainees be released was not answered. The farmers emotion ran high resulting in the destruction of Pangkalan Branda Police Headquarters mentioned above.

The act of violence conducted by the military apparatus arresting the farmers, was also suffered by Mrs. Amat Surbakti who was carrying her baby in her arm. She could not escape the beating of the military apparatus who was fully armed, while on of her children of twelve years

old got swollen in his head because of the military atrocity. Practically in that incident, all seven members of Amat Surbakti family was captured, from husband, wife to children without any exception.

In the yard of Binjai Police Headquarters, where the farmers were gathered and let dried under the sun without shirts on for one whole day after their capture at Pangkalan Brandan Police Headquarters, the following stage also took place in the interrogation room. Mrs. Amat Surbakti's defence for her husband, who was charged with commiting theft, did not mean anything, on the contrary, it resulted in more beatings and abuse. "Now you feel it. You know your husband is a thief, but you defend him!" scolded an officer.

One week of detention without a chance to take a bath accompanied by continual physical and psychological depression. "We were afraid. When this one will be killed, and when will be the turn of this one. Some of the officers terrorised us: Madam, pray in a few moment we will send you to hell...", related Mrs. Surbakti. Whatever was done by detainees, there was always some thing wrong in the eyes of the officers. Several times Mrs. Amat Surbakti was abused and even spat at by an officer, when she tried to pray and eat. "Bah, pretending pray while you ar a communist! You are a *Gerwani* member!" he snapped. (Gerwani was a leftist women organization).

Even when going to the toilet, Mrs. Amat Surbakti was always escorted by three policemen who pointed guns at the back of this mother with five children and who was still feeding her infant. Her chance to finish her toilet was also limited to five counts. At the count of five she should have finished her toilet and go immediately otu of that place. In the interrogation process, her defence for her husband who had been charged with theft only resulted in rattan beating on her back. "My husband delivered oil palm which was not stolen goods", she refuted the interrogators charge. Meanwhile several policeman stood behingd Mrs. Surbakti with rattan stick, ready to beat. In that interrogation, Mrs. Surbakti was also charged with the involvement in planning the attack on Pangkalan Brandan Police Headquarters. For the sake of her infant's health, she was compolled to accept all charges against her.

Krisman Simamora: Back as an Ashtray

Krisman Simamora was arrested together with his fellow Sei Lepan farmers on 26 March 1993 before dawn, after the destruction of Pangkalan Brandan Police Headquarters. The war-like assault launched by Mobile (Police) Brigade and Airbone 100 Medan troops could easily overpowered the farmers. Beatings, batons and gun butts were used liberally to punish those unarmed farmers. After that they were forefully dumped into trucks to be transported to Binjai Police Headquarters.

Upon arrival at Binjai Police Headquarters, these detainees, including Krisman Simamora, were forced to crawl while being beaten and gun butts. Then Krisman Simamora together withdozens of the farmers were dried under the sun in rows in the yard of Binjai Police Headquarters for one full day without being given even a drop of water. Blows and kick with bare hands, clubs, as well as gun butts landed on them successively. "This body is like a ball to them", said Simamora.

During the interrogation process, act of violence did not stop Krisman Simamora was even ordered by his interrogator to torture him. "During the interrogation, we have to accept whatever the interrogator wanted", said Krisman. The interrogator seemedto apply an efficient division of labour. An officer acted as an interrogater, while the others there were four in Krisman's case--stood behind him, acting as executors of torture. " I fell unconscious there", he refelcted.

Cocerning the toturing method,those officers were equally very creative. Krisman Simamora's bare back was an easy target. Instead of having the trouble to find an ash-tray, they prefer to stamping out their cigarettes butts on Krisman's back. "Their 'Gudang Garam' clove cigarettes were stamped out here", explained Krisman showing his back. After the interrogation and torture at Binjai Police Headquarters, around 22.00 local time Krisman Simamora together with some ofhis friends again received physical pressure. He was ordered by some local officers to do squat jump one hundred and twenty times. As he could endure to the count of sixty only, Krisman Simamora was beaten five times. "Imagine, I have not had anything for one day and one ninght", he said. After that he was required to empty his pocket. " I took out everything, including my purse. And a lighter, like this one. Because of this lighter I was beaten there times", he related.

Bare hand blow, boot kick, and wooden-club beating were again suffered by Krisman and his friends during their stay at Sabat police station. And that was not enough. Not did they receive beathings, but they were also blackmailed. Krisman's money, amounting to Rp. 120,000 (One hundren and twenty thousand rupiahs), was taken by a policement at Sabat Police Station. The same experience was suffered by Krisman's friends. Before going to be moved to Binjai prison, he gathered his courage to recover his money to an officer from Sianturi family. Instead of his money, he got some punches and abuse. "You ask for your money, while you can protect your soul", the officers snapped at him.

Sidi Siagian: Form Dog Mating Style to Japanesse Stroke

Without being aware that an incident of the destruction of Pangkalan Brandan Police Headquarters took place the night before, Saidi Siagian, an inhabitat of Sei Lepan BM II local resettlement, together with some fellows farmers from the same area set out to Pangkalan Brandan on 26 March 1993 at about 07.00 local time. Their intention was to try to release two people from Sei Lepan, namely Zulkifli Sitapu and Ahmad Surbakti. They went in small groups of two or three people to the nearest bus stop. They could not travel together, because during the Iedul Fitri festivity that morning public transportation was cramped full. Saidi together with around seventeen persond departed first, while the others would follow later.

But as soon as they arrived in fron of Pangkalan Brandan Police Headquarter, they were interceped by some policemen. "Where are you from?" demanded a police officer, when Saidi Siagian got off from the bus. "From Sekoci", answered Saidi, lying, because he got suspicious at seeing so many armed personels around. However, it seemed that there was somebody who told the policement that Siagian's group was from Sei Lepan. They imedietely surounded by dozens of armed personels in Mobile Brigade uniform. "Hands up! Put your hand behind your neck!" this order was soon heard by Saidi and his friends. Then they were stripped of their clothes, their shirt and foot wear were taken away by the police. It was unfortunate for Saidi, on this occasion a rifle butt landed on his bare neck. "I saw that they used rifles. My God! What kind of GPK they thought of us?" complained Saidi Siagian.

Under dozens of gun points this group was forced to cringe while walking and was led into yard of Pangkalan Brandan Police Headquarters "We just followed what they wanted. It was like hearding a buffaloes, they could beat us at will", said Saidi. At one point Saidi refuted the police charge about the involvement of this group in the incident the night before. "I did not know", he answered But this answere was not desired by the officer. Consquently, blows and kicks landed again on his body. Rifle butts werefound out not only useful as a combat equipment, but also became an effective device to beat Sei Lepan farmers

After that, this group was immediately transported to Binjai Headquarters. Indeed, it was not a comfortable journey. During around one hour trip, kicks, blows and abuse continued to be received by them. " GPK! CPI! You willbe dead by fired one by one!" snapped the officers They were treated exactly as prisoners of war. Both hands of those detainees were tied behind their back, their two thumbs also tied with plastic strings.

Upon arrival at Binjai Police Headquarter, these 'prisoners' were again ordered to walk with cringing. "All of you, cringe and move!" yelled the officers while not forgeting to kick and punch. "Never thing for eating, or we will kill you! CPI (communist)!" such abuse like this can be heard any time. In the yard of Binjai Police Headquarter this group was dried under the sun. bare chested, without any footwear. Then they were ordered to sit with two legs protuded forward and comfortably, those soldiers trampled their boots on the legs of the 'prisoners'

Once Saidi Siagian asked for permission to go to the toilet "To obtain such permission, I had to walk duck jump", he recalled

To an officer he complained, how could he do the toilet properly,if both his sands, and even both his thumbs, were tied behind As he was considered to have been talking too much, his face was slapped by that officer After the toilet, Saidi returned to his place cringing. However, as he was considered to move too slow, a kick and blow scene, other soldiers who had excessive energy did not want to miss the opportunity in contributing their energy to beat and kick Siagian. Thus, he became the target of the soldier's atrocity.

The interrogation accompanied by abuse and beating was done in turn. Saidi Siagian was the first. The questions posed were around the destruction of Pangkalan Brandan Police Headquarter According to the interrogators, the arrival of Saidi and his groupwas regarded as a

reinforcement. The interrogation of detainees was conducted by several officers. The configuration remained the same : an officer put questions, the other were ready to beat and kick the detainee, if the later did not want to a charge the torture device may take different forms In the absence of the rattan, the handle of dustcloth would do. This was experienced by Saidi. "Louder if you speak!" snapped a soldier, followed by a blow of dust-cloth handle on Saidi's head.

As a result of this successive torture, he sight becamw blurred and did not enable him to read the protocol of investigation properly. Once, soon after the interrogation, he intended to read the protocol. But again, a blow landed on his body "Not to long, I said!" snapped an officer. Before the detainees were dumped into 2x3 m cells, their property, such as wrist watch, was confistacated. "Last night you have a good time, together you destroyed Brandan Police Headquarters. Now take it yourself, this evening you will be taken out one by one and shot to death!" terrorized the officers. Fear continuedto haunt Saidi Siagian and his friends. Every time foot steps to the cell were heard, it means that ritual of torture on them will soon begin.

At one time some officerscame ordering the detainees to put their hands out of the iron bar. And without mercy, the hands of the helpess farmers were beaten up by the piece of wood from a chair frame until that wood was rendered useless. Tragically enough, they did not dare to withdraw their hands, although their hands became bruised and swolles, because they knew for sure, that if they dared to do so, more brutal torture will given to them.

The officers creativity in torturing detainees did deserve some praise. For some time the detainees facing each other. While singing, they ordered to slap their partners each other in turn. Each slapping should be accompanied by a scolding, "Why did you take a part?" If a slap was considerednot strong enough , as a change, an officer would be drag the detainee concerned and delivered a powerful punch on his face. One of the compulsory to be sung by the detainees was the popular song *Bola* (Ball) with some words of its verses were change into a Marlon and Misnan.20) The reexamination was conducted in turn. After five days of full torture in Binjai Police Headquarter, the detainees were removed to Binjai prison. It was in this prison that they received more human treatment. Neverthelles, two days after they spent the ninght at Binjai prison, one by one of detainees were taken out to be reprocessed at Binjai Police Headquarter.

After around half a mounth stay at Binjai prison, it was Saidi's turn to be taken out. "The interrogators have been changed", said Saidi. The interogator may be replaced, but torture continuied all the same. "Give a correct statement! Do not make mistakes! Otherwise you will bear the consquences! You will be smashed!" threatened the interrogators.

While waiting his turn to be processed, Saidi and one of his friends were told to simulate dogs walking up and down the couryard of the polres (police precinct headquarters) of Binjai. After persecutors treated them like animals.They were told to sit opposing each other. Saidi was told to put his right hand in the armpit of Giman (his fellow captive) and rub Giman's teeth with the fingers of his left hand. Then their roles where reversed. To make the game more exciting, they were forced to undress. After which theybfvgt5r4 were again forced to reverse their hand movements, the hand used to rub the armpit had tu rub the teeth and vie versa. Both men became nausated but they didn't dare to say anything. They didn't even dare to spit. They kept their saliva in their mouths and spat it out wher their captors were not looking.

The beating and torture continued even when this case was being processed. The list of crimes Siadi was accused of continued to increase. He not only was accused of taking part in the Pangkalan Brandan incident but he was also accused of burning the houses of the PT. ALM employees in 1992. Saidi Siagian's head was beaten with a stick untill it was swollen, because he refused to confess to these accusations. But finally, dus to the unceasing torture, Saidi confessed and signed the interrogation proceedings, stating that he was involved in the action of setting the fire to the houses of the PT ALM employees on the resettlements site of Sei Lepan in 1992. "If you had confessed honestly from the start, you wouldn't have been injured like this!" the officer told him, smilling victoriously. Covered with wounds, Saidi was returned to the Binjai prison. The hearing in his left ear was impaired and his face was swollen from these beatings. He was beaten using the "Japanese Method" of torture which employs both hands at once to the left and right of the head.

Back in Binjai, a rumor spread that the women from BM II-- the Sei Lepan "translok" settlement where Saidi was living-- were rounded up and arrested, including Saidi's wife. This exacerbated the suffering of this poor farmer. Saidi and the other prisoners experienced extreme physical abuse and psychic trauma.

On 22 November 1993, Saidi Siagian was released from the Binjai Correctional Institute after serving a sentence of ten months in prison. After his release Saidi found his community uprooted. Their rights on the translok property even more unclear. From the five-hundred heads of families who had property entitlement on the Sei Lepan site only three-hundred were left. The others were also uprooted.

Asman: Glass Shards and Sewage for Breakfast

Forty-nine people were arrested when the translok settlement community of Sei Lepan was raided by the police and mobile brigade four days after the attack on the Precinct Section Police Office of Pangkalan Brandan. Asman, who was sitting in front of his house at 06.30 a.m, had his legs beaten with a riffle butt and he was dragged away by officers without a warrant.

"Come with!" the arresting officer barked. "What is it sir?" asked Asman But he received no answer other than to be dragged away. His son in law, who happened to be visiting, was also dragged from the house but latter he was released. The forty-nine captives were brought to the Precinct Sector Police Station. As soon as they arrived they were unloaded, stripped naked, and were frog marched while being kicked. They were forced to eat the glass shards of the broken office windows. Asman and some of the others were then brought to the back of the office and thrown in the sewer. It was filled with human excrement. They were forced to to the eat the feces --eating it themselves and feeding it to their fellow captives. In all, Asman and six others were kept in the sewer for thirty minutes while the other villages were dragged into a cell and beaten. After Asman and the other victims were taken out of the sewer they were kicked with boots and beaten whit "broti" (wooden sticks like a 2x3 which are ordinarily used for building) until Asman felt as if his head was broken. After this beating he was put into a cell and forced to fight with another captive cell like fighting cocks. Finally after that episode, they were given a break for a while. But, because the cell was so crowded nobody could really rest. Asman was released after one night in the cell of the Pangkalan Brandan Precinct Sector Police Station.

However, on the morning of April 2, 1993, while Asman was still asleep officers arrived at his home to arrest him again. They took him to the Binjai Precinct Police Headquarters. En route he was brought to the

Pangkalan Brandan Sector Police Station for a beating. At the Binjai Precinct Police Headquarters he was accused of stealing oil palm fruit and damaging the Pangkalan Brandan Precinct Police Sector Station. During the interrogation the officers beat and kicked Asman so as to force him into confessing. The method of torture included what is known as "Japanese style" beating. After being interrogated he was dragged back to a narrow cell where he was kicked twice and his head was forced against the bars where an officer yanked out his moustache. (This practice had been employed with another prisoner, named Sukri, who was forced to eat his own moustache after it was yanked out)

"Where are the translokis?" an officer asked, as he headed toward the cell.
"We [are] Sir!" answered Asman and his friends.
"You took part in destroying the office?"
"No Sir!" said Asman.
"That's a lie!"
"No Sir. I was arrested at home!"
"Yes, because you ran there. Here, come here!" Then he yanked out Asman's moustache. After this torutre Asman was forced to hit the wall a hundred times.

And on another occasion:

"Who are the translokis? How dare you damage the police office. That's our office!"
"But, Sir, we didn't destroy the office!" answered Asman.
"Ah, that's your story. Where are you! Here, hit this wall a hundred time. Aren't you a brawler!" Asman hit the wall a hundred times until his hands were all bruised and swollen. According to Asman, if he didn't comply, the punishment would become even more cruel, such as those which befell another prisoner who didn't obey.

Asman's suffering was not to be taken lightly. Due to being kicked in the head, his jaw was dislocated and his ear was dripping all the time. Medical treatment was never provided. Once Asman had asked for treatment while in the Binjai Correctional Institute but he waited for a doctor in vain.

To add insult to injury, when Asman was released his property entitlement in the Sei Lepan translok site was revoked. The village

administration forbade him to enter the Sei Lepan translok settlement. Also, he was unable to find work due to the fact that his body was seriously weakened by the torture he had endured at the hands of the military at the Binjai Precinct (In Indonesia, the police are not under civilian but military command). He suffered from hip damage and his hearing had been critically impaired due to the brutal kicks he received in prison. His wife worried when Asman was arrested. He disappeared for two months. She didn't know his whereabouts. When she did succeed in locating and meeting Asman at the Binjai Precinct she found her husband battered and bruised, his mouth bleeding, and his head swollen from being beaten and kicked. The second time she came to the prison, she was not allowed to seen her husband. The third times seh came she was told that he had been taken to the Binjai Correctional Institute. Asman's family is severely traumatized. They don't have the courage to appeal, particularly to report the abuse Asman suffered at the hand military. The torture and terror Asman suffered has caused his family to also suffer from lasting depression.

Joseph Sinaga: Choosing to Confess

Joseph Sinaga, age fifty-five, was arrested by personel from the Mobile Brigade and the 100th Airborne in the aftermath of the damaging of the Pangkalan Brandan Precinct Section POlice Office Violence followed the heavily armed military raid. Early in the morning on March 26, 1993, the hand of two translok inhabitants were shackled at the back. They were stripped and beaten while under gun point. Joseph's legs became swollen as a result of being brutally beaten and kicked.

In the morning, the Sei Lepan inhabitants were brought to the Binjai Police Headquarters. There the torture continued. They were put in the courtyard of the Binjai Precinct Police Headquarters to "dry" in the sun all day, naked and without a drop to drink. In turn they were interrogated under physical and psychological pressure. Joseph Sinaga became really frightened after witnessing the interrogation of his friend from the Ginting clan. Every time his friend had denied any of the accusations a hail of blows and kicks landed on his body. As a result, Joseph decided to confess whatever he was accused of. He was already in pain. His legs hurt so much that he was unable to walk. "If you don't confess I'll kill you!" the officer told him.

When they were processed again, Joseph Sinaga experienced the same torture that had befallen his friend fro the Sirait clan. He was beaten and kicked by the officer standing around him –because they judged that Sirait's confession did not match what he had initially told them Several styles and techniques of hitting and kicking were employed, one of which was the popular "Japanese style" which effectively causes a persons face to swell. This was a lesson for Joseph. He was to remember that his confession mus not be contradictory

The victims were jailed for five days. They always dreaded hearing footsteps approach the cells because it meant they would be beaten and kicked. They were tortured unceasingly and insufficiently fed. One day they received only one small palstic container of tea for five people to share. After five days of imprisonment in the cells of Binjai Police, the prisoners –including Tua Sihombing, who died afterwards-- were given instructions by the officers. They were forced to walk and quack like ducks on the way from their cells to the room where they received the instructions. They had to walk the same way on the retur trip to their cells but instead of quacking they were forced to repeat the choir: "I have come to realize, I have come to realize"

Joseph Sinaga confessed everything because, after having witnesed his friends being battered, he was afraid that the same would befall him --he himself was not tortured at the same time as they were because his legs were so badly injured that he couldn't walk after being beaten with the butt of a riffle. He was sentenced to ten months in prison on charges that he had collaborated in planning the destruction of the Pangkalan Brandan Sector Police Station.

Susuhunan Silaban: They burned His Moustache

Susuhunan Silaban, a bachelor, was arrested on the March 26, 1993 He came to the police station to visit two friends who were there on charges of stealing oil palm fruits. When he arrived he was promptly arrested. He was taken by surprise because he was not involved in the incident of damaging the Pangkalan Brandan Sector Police Station on the night of the 25 March 1993. "Where are you from?" was the question thrown at Suhunan Silaban by one of the military men guarding the perimeter of the police office. Their weapons were readied. Suhunan Silaban answered that he was from the translok site of Sei Lepan. He was

immediately taken into the police office. Without much ado he was stripped naked and beaten with riffle buts by the mobile brigade personel. They also kicked him with their boots.

Silaban was interrogated and under duress he was forced to confess that he was involved in the incident that damaged the Pangkalan Brandan Secto Police Station. "It hurts!" said Silaban. He reported that: "They were all forcing me. They were beating me all the time." The interrogation took place at the Precinct Police Headquarters. The interrogation of Silaban was done by a number of officers led by one officer from the Sitorus clan It started with beatings and threats. Suhuman Silaban insisted that he was innocent. He was dragged from the interrogation room and threatened whit a pistol held to his thigh.

Suhuman Silaban underwen extreme suffering at the Binjai Precinct Police Headquarters. Every time their was a changing of the guard the torture team also changed. Once his arm was pulled through the bars of the cell door and beaten with a brou. He reported that: "They pulled my arm through the bars. It really hurts." After beating his arm until it was skinned and bleeding, the officers set fire to his moustache. "They burned my moustache, sir!" he said. The torture was not only physical but also psychological. Suhuman and the other prisoners had to simulate the behaviour of animals: pigs, ducks, cattle and others Their possesion were taken from them. Silaban lost his wristwatch. After this horrible process at the Binjai Precinct Police Headquarters, Silaban was moved to the Binjai Correcetional Institute. The Provincial Court of Binjai convicted him to eight months in jail.

Sudirman Pakpahan: Who's Toe Becams Victim

After the incident of damaging the Pangkalan Brandan Police Office, mopping-up operations were carried out all the way to the Sei Lepan translok settlement. These operations also involved a number of community residents as informers. The violence accompanying the operations was excessive. Sudirman Pakpahan's wife was sexually harassed and nearly raped. Sudirman Pakpahan himself was arrested on the morning of 26 March 1993 in the market of Pangkalan Brandan as he was about to go on a Lebaran (at the end of the Ramadhan fast) visit to a relative.

"I am translok resident sir!" said Sudirman Pakpahan to a plain clothes police officer. Because of this he was brougth to Pangkalan Brandan Police Office where dozens of Sei Lepan inhabitants were already gathered. In a moment, military trucks transporting personel from the Mobile Brigade and the 100th Airborne arrived the police office. The military sorounded the villagers. They pointed assault weapons at the people. "Hands up!" they screamed. After they stuck up their hands, they were ordered to strip. Then they reported that "we were beaten with broti" We didn't expected to make it" said Sudirman. He said he received a blow in the neck from a broti that knocked him down. After that, with their hands tied behind their backs, they were brought to the Binjai Police Headquarters. "On the truck the kept beating us" he added.

They were put in the sun for a day after they arrived at the Binjai Police Headquarters. Blows and kicks kept coming at them all day long. "If we looked down jus a bit (from the sun), we would be beaten. They kicked us with their boots. Like my father in law, they stamped on his neck" said Sudirman. During the first interrogation session, because of torture, undre duress Sudirman had to admit everything he was accused of. "If I didn't confess I would be beaten up. Because of the pain I just to admit everything." During that time, he was beaten with a piece of wood several times. A chair was put on his toe whereupon an officer named Sembiring wat on it. "I screamed. But nobody helped me. I was beaten again. I was starved and tortured," he lamented. At about 21.00 p.m., March 26, 1993, Sudirman and thirteen other were moved to to the Tandam Hilir Police Office where they were questioned again as they were beaten by the police officers. On the fourth day, officers came and beat them again. Screams of pain filled the cell. Ther were placed in a cell 2x3 meters in size. This cell was so narrow that for twoo weeks these thirteen prisoners had to sleep onto of each other.

"When they came for us, we were beaten again," he said about the day that the prisoners were brought back to Binjai police Headquarters. They were not only tortured in the office but also in the transport vehicle. After being questioned again at the Binjai police headquarters, they were sent to the Binjai jail. There he was kept for two additional days of interragation. He was beaten with a wooden beam as a thick as a man's arm. Sudirman was accused of being involved in damaging the Pangkalan Brandan police office. He kept insisting that he was innocent. He was forced to stand on one leg until he fell down whereupon he was beaten again.

Sudirman was sentenced by the Provincial Court of Stabat. He served eleven months in prison in the Tanjungpura Correctional Institute. This wasn't the end of his suffering. In the Tanjungpura jail he was subject to extortion. Two months before release, one of the correction officers asked for money (Sudirman knew his name and number). But Sudirman ignored him --he had no money. As punishment the officer pistol whipped him and hit him on the nose with his pistol grip until he bled.

The Widow Ms. Tua Sihoming L. Toruan: Defending One's Rights Is Staking One's Life.

The widow Ms. Tua Sihombing told about the death of her husband, Tua Sihombing L. Toruan (whose familiar name was Hombing Kacang) age fifty, who died of ill-treatment in the Binjai Correctional Institute about four months after his arrest.[19] According to Ms. Sihombing, her husband was had been in excellent physical condition and in good health at the time that he was brought to the Pangkalan Brandan Police Office. Ms. Sihombing said that her husband had been tortured in Pangkalan Brandan as well as at the Binjai police office. His ribs were broken as a result. Ms. Sihombing, a mother of seven children, was also arrested in the incident. She claimed she herself saw her husband tortured. "I saw him beaten. For two months we were held at the same place," she said.

Ms. Sihombing reported that after one month of confinement she was forbidden to see her husband. In particular, this occurred after she was moved to the Binjai Police Headquarters while her husband was imprisoned in the Binjai Jail. This was the last of thier tortures she experienced, said Krisman Simamora. According to Krisman, a witness, the reason Tua Sihombing was taken from Binjai prison to the Pangkalan Brandan Police Station was to give information about the action of the Sei Lepan people against the Pangkalan Brandan Sector Police Station. During this two month period every afternoon Tua Sihombing was tortured and beaten.

After two months, Tua Sihombing was sent back to the Binjai prison because his case was being processed by the Provincial Persecution. At that time, Krisman Simamora saw that Tua Sihombing's physical

[19] Tua Sihombing L. Toruan, One of the Suspect of the Pangkalan Brandan Mapolsektif (precinct Sector Police Station) died in the Binjai Correctional Institute", Sinar Indonesia Baru, July 29, 1993.

conditions was seriously detoriating. His body was bruised, he was pale, he was coughing and very weak.

The testimony of Asman was different. He was in one cell with Tua Sihombing after the victim was brought back from the Binjai Police Headquarters. Asman told: "When I saw him he was already ill. In the afternoon he woke up and told Manalu (another prisoner): "Sir, I am short of breath." Seing Tua Sihombing's physical condition like that, Asman took the initiative to call the guard and tell him about the victim. But the guard did nothing, saying it was already too late and that there was no doctor or other medial personel available. In this way, the chance to do something for Tua Sihombing was circumvented and the victim died. Although her husband died unnaturally, Ms. Sihombing has no desire to press charge. She has no hope that justice will be on her side. "I already have told people about his death. I have to accept fate. I will not press charges, anymore," she said bitterly.[20]***

[20] Also read: "The Death of Tua Sihombing in the Binjai Correctional Institute, His Family wil not Press Charge", *Sinar Indonesia Baru*, August 2, 1993.

3. THE CASE OF HKBP: THE CONSTITUTION IS UPHELD, TORTURE THAT IS ACCEPTED

Introdution

The bloody rift between two faction of the Christian Huria of Protestant Bataks (HKBP), found its origin in waht is called "The failure of the 51st Godang (a place) Sinode," held on the 23rd through the 28th of November 1992. The Ephorus of HKBP, Dr SAE Nababan, tried to anticipate the whole scenario as a result of this failure by sending a letter to all HKBP followers acting that the sinode was a failure and that the whole leadership of HKBP (Ephorus, Secretary General and Praeses) would take care until the next sinode would be held.

But while the HKBP leadership under the Ephorus Dr. SAE Nababan was consolidating organization, suddenly, in the name of national stability, the Bakorstanas (Coordinating Agency for Maintenance of National Stability) issued a decree (SK. Bakorstanasda No. Skep/3/Stada/XII/1992, dated 23 December 1992) which appointed the Reverend Dr. SM Nababan as the Ephorus caretaker. This military appointee was given the task of preparing and implementing the Special Godang Sinode to elect new HKBP functionaries (Ephorus, Secretary General, and Central Council) for the period of 1992-1998 and to execute the tasks of the Ephorus in the realm of the HKBP until the new leadership of 1992-1998 would be elected. This triggered the conflict that ensued.

Refusing the Bakorstanasda Decree

On the 28th of December 1992, five days after the decree, an intense reaction ensued. The followers of HKBP and their pastors held a mass action or peaceful march, as defined by the reverend JAU Doloksaribu. Meanwhile, on December 29th, 1992 the Ephorus Dr. SAE Nababan filed a suit at the Court of Administrative Law of Medan against the Chairman of the Bakorstanasda of north Sumatra to repudiate his decree. The call for struggle was out and became the base for the ensuing contest.

But the Bakorstanasda maintained its decision. This extra-judicial institution even issued a letter regardeing the instalation ceremony of Dr. SM Nababan which would be held at the HKBP main office in Pearaja Tarutung on the 31st of December 1992. As soon as this was known,

thousands of HKBP followers kept vigil at the HKBP office to prevent the instalation of the Bakorstanasda appointed Ephorus. Even when at 04.00 a.m. the security tried to occupy the office, the people still resisted, and the instalation ceremony had to be held at the Sipohon Seminary Auditorium, Tarutung, about nine kilometer from the HKBP offices.

The spliting of the HKBP body into two parties could not be avoided. The first party, (the party of Dr. SAE Nababan) called itself "Loyal Until the End" (SAA). It kept true to the rules and regulations of HKBP. The second party (that of SM Siahaan) later appointed PWT SImanjuntak as Ephorus at the Great SInode of Tiara[21] which was held according to the interest of Bakorstanasda. This party became known as SAI Tiara.

The following is the account of a ill-treatment and tortured experience by the HKBP ministers and congregation.

The Reverend JAU Doloksaribu: From Battery to Extortion

For JAU Doloksaribu, the peaceful march on 28 December turned into a nightmare because of the way in which he was treated by security personel. He was arrested on charges of inciting the masses during the march since as a reverend he represented the curch congregation.

The struggle against the Bakorstanasda Decree persisted due to the committee which had asked Rev JAU Doloksaribu to become the minister of the Jl. Sudirman Parish in Medan. According to his testimony, he never heard about the committee before. The Rev. Doloksaribu was asked to fulfil an invitation from the church to attend a thanksgiving gathering for the instalation of Minister Dr. M. Siahaan as the HKBP Ephorus caretaker. The meeting took place on 13 January 1993, altough Minister Doloksaribu rejected the Bakorstanasda Decree that appointed Dr. SM. Siahaan as the HKBP Affairs Caretaker.

At night, during a break, Minister Doloksaribu left the church for dinner. At that time his house –which was part of the church complex -- was searched by the security force. According to Doloksaribu, from midnight his house was under vigil by military personel dressed in battle fatigues with their firearms readied. Important documents, such as his pasport in his briefcase, were lost. He was unable to enter his house again becaus the church complex of the Jl. Sudirman parish was occupied by the

[21] It was called the Tiara Sinode because it was held at the Tiara Hotel in Medan.

followers of Minister Dr. S.M. Siahaan. Reverend Doloksaribu could only look at the house from the outside but he was still able to communicate by telephone wih his family inside the house.

The followers of Dr. SM Siahaan and the military guarding the HKBP church on Jl. Sudirman on the 16 January 1993 were startled becaus at 11.00. p.m. Minister Doloksaribu suddenly appeared. He was in his church vestment after consecrating a mariage and preaching. As soon as he finished preaching he was arrested. He was shown an arrest warrant but not given a chance to read it. "No this is form my commander" said the officer when the minister asked for the warrant.

He was not given a chance to change for his toga into other clothes. The minister was dragged into a car and brought to the office of the Military District Command. The Minister saw a number of other HKBP Ministers and activist there. After a while, he was brought ot the headquarters of the Military Intelegence Detail at Jl. Gaperta, Meda. This place was well known as a place of confinement for political prisoners who were considered "heavies". The population of Medan often referred this place of "horror" as just "Gaperta".

At Gaperta, the Rev. Doloksaribu was put into a room. After hours of waiting, a number of military men in civilian dress came shouting and scolding him Not satisfied with mere psychological terror they started to beat him. For approximately ten hours he was psychologically and physically abused. First, they beat in him the stomach whith their fist then on his breast and back, then sticks

Among the welcomers was Reverend Robinson Butarbutar. From the airport, the group also made a stop at the house where Dr. SAE Nababan was staying --Jl. Hang Kesturi, Medan, the house of his wife's parents.

Dr. SAE Nababan's in-law's house become crowded with his followers students, church elders and ministers. Suddenly, a group of Mobile Brigade members from the city garrison arrived in a truck as if attacking an enemy Clamor erupted around the house. The Reverend Robinson along with others went outside to see what was happening. A number of students fled back into the house when they saw fully armed soldiers in the yard. "The people outside were attacked and beaten" recounted Robinson Butarbutar.

According to the testimony of Minister Robinson Butarbutar, personel from several army units were among the attackers, such as the Kodim, Brimob and military police. The soldiers jumped over the fence

and stormed into the house. Minister Robinson was one of the people cornered. They asked for his ID. The flustered Minister started to lookfor his ID but couldn't find it. "Where is your KTP (ID)?" barked one soldier. When Robinson Butarbutar explained that he was a HKBP minister he was beaten and dragged outside. The other members of the group were treated the same, dragged and carried into the military truck

While in the truck, the soldier continued to beat their captives with rattan clubs. Upon arrival at the police station, the truck stopped to unload the prisoners. Rev. Robinson Butarbutar and the other HKBP followers were roughly shoved out of the truck. A rattan club fell on the minister back. According to Robinson Butarbutar, the police refused to handle the prisoners, so they were brought to the Kodim office. There were already fifty people who were arrested at the house at Jl. Hang Lekir. When the questioning started they were violently kicked with military boots. The prisoners were gathered together in the interrogation room after their pockets were emptied.

An intellegence officer from Medan –who often visited Tarutung and who knew Minister Robinson Butarbutar well – pointed the Minister out and said that he had led the masses. And so the minister was dragged away. His glasses fell of his face and were crushed under an officers boot. The beating at the Kodim office commenced when the minister and the other prisoners were laid in a row oth the asphalt in the courtyard. Soldiers then ran over their bodies, kicking the follower of God with their boots. Lieutenant Colonel Tasmika, the military district commander drew his gun and pistol whipped these helpless victims, including the minister who was hit in the head. "Heads up" was the command. After this the prisoners had to do push-ups. The minister could not stand the kicks and blows anymore He fainted. After which water was poured on him The torture continue nonstop for three hours.

The Kodim selected seventeen people, among others the minister Robinson Butarbutar, who were brought to the Military Intelegence Headquarters at Jl. Gaperta, Medan. "We were stuffed like sardines in a can. If we lifted our heads we were beaten with riffle butts to keep us low so that the people in the street wouldn't see us", the minister recounted as he describeng how they were transporte in the military truck. "Welcome to our campus!" yelled Gaperta personnel. The prisoners were immediately stripped naked and beaten. One was dragged to a tree and beaten with

fists till he crumpled. A female minister, the Reverend Masnida Sihombing, was terorized psychologically.

The pressure from the security forces used to force the Minister to obey the SK didn't make him waver. He even told the Chief of Staff on the Langkat Kodim, Mayor Rata Sembiring, "It is not that I don't want to move. I am ready to move anytime, anywhere. It is not like you are accusing me of being crazy for fame or money. When I was initiated as a preacher I was ready to move anywhere. But those who have the right to tell me to move is the rightful HKBP leadership, elected by the Grand Sinode, based upon its bylaws. I too will not transfer my position to anyone before Nbababan has transfered his position as Ephorus to anyone."

Time after time, Manurung was summoned to meet the Kodim commander of Langkat. He always came, bringing his wife along with him. "To the Headquarters of the Kodim 0230, that is were I was called to. Before, I was summoned once a week--At least twice a week after the SAI Tiara", he told the ELSAM investigation team. During these sessions Manurung was put under pressure to move out of his house and threatened. If he refused to move then his safety and the safety of his family would not be guaranteed. At a meeting held the 2 May 1993 at the Langkat Kodim office, the Chief of Staff of the Military district command, Mayor Rata Sembiring, the Assistant Intelligence Officer Maman Rahamana and the Military Area Commander, First Lieutenant Djafar Siddik explicitly forbade Minister TM Manurung to preach and lead services. The Minister was told that he would be put into prison if this prohibition was broken and if he refused to comply with their demands.

During a meeting on 13 May 1993, Manurung was interrogated as his wife sat beside him. The Kodim officer in charge told him to come back the next day, on the 14th. The officer said that the Minister's wife should not join him and he told her not to worry because nothing would happen to her husband --it would be just routine questioning. However, on 14th May, a tragedy befell Minister Manurung when he came alone to the meeting summoned at the Kodim--of Langkat. That day he signed the interrogation proceedings. "So you stand by your position?" asked the interrogator, First Sergeant Singarimbun, as recounted by Manurung. "My congregation is 80% loyal and is still listening to my sermons. I can not leave them", said Manurung.

On the pretext that he would be interviewed at the Military Teritorial Command (KODAM), Manurung was taken away in a Suzuki Jimny (small jeep). Using the same excuse Manurung's request to stop at this house was refused by First Sergeant Singarimbun who accompanied him. "It is not necessary, sir. It will only be for a while and then you'll go home" said Singarimbun. However, Manurung was not brought to the KODAM, Neither was he interviewed. Instead, he was given over to the Military Intellegence Detachment Headquarters at Jl. Gaperta, Medan. "I accepted my fate. I was brought to Gaperta. I checked in and then they just left me. The Sergeant went home. So he had lied. He said he was taking me to the KODAM. Only when I arrived there I knew that we were at Gaperta. I thought I had become a political prisoner. Before I was brought inside, I was held at Station II and interrogated by two men in camouflage fatigues", told Minister Manurung.

But then on 16 January, after the SAI Tiara congregation held its services, the doors of the church were closed when approximately thirty Mobile Brigade (Brimob) personel closed the gate of the courtyard. The pro-constitution party held a protest action against this occupation of the church. Sintua Polin Oberlin Silalahi tried to persuade the soldiers to allow them in the church yard. He protested to the Brimob cammander, Captain Pica Sinambela, but to no avail.

Because the argument didn't bring any result, the young people tried to enter the courtyard. But at once the soldiers draw up in riot-control formation and proceeded to drag and beat members of the congregation till they were all bruised. Seeing the confusion, Silalahi left the location to avoid the violence. But then one of the HKBP parish members being beaten called out a name which alarmed him. Silalahi cried "My child, it was my child", as he recounted the incident to the ELSAM investigator. He heard his son, Joshua Silalahi, who was lying in the courtyard with six others.

PD Silalahi turned back towards the church to defend his son. But Brimob personnel attacked him, a church elder (Pinatua) was grabbed by his tie and strangled, dragged over the ground and kicked. His clothes was all torn. Seeing her husband abused, the elder's wife ran into the yard ant threw herself on her husband, trying to get him away. But she too fell and was dragged around unitil she was bleeding from several wounds to her body, particularly her legs.

After that PO Silalahi, Joshua Silalalhi, Parlin Sibuea, Dapot Hutasoit, Surung Marbun, Parlindungan Panggabean, Helena boru Simbolon and a few others were –thirteen people in all-- were brought to the Medan precinct police office. "We were beaten after we were instructed to sit down in the courtyard of the police office And even while I was looking on, they beat the children until they were bleeding, including my child, oh..." said the elder. Soon afterwards his daughter arrived, along with a few others, to see the prisoners. But the group was immediately arrested. "I heard that my child, the girl, was beaten outside our cell," said the elder. "This one is called Dumasih?" Daak! A few times Silalahi heard the name of his daughter called out, followed by the sound of blows. In front of the other prisoners, Parlin Sibuea lay motionless, bruised and bleeding.

During the questioning, beating and other tortures continued. PO Silalahi was not allowed to sit while under torture. He had to stand on one leg. He was beaten in the face until it was completely swollen. Back in their cells, the prisoners were still abused Everytime an officer came to the cell, he indulged in sadism. People had to stand in their cells facing the wall. PO Silalahi had to face the toilet, which was overflowing with excrement.

4. EASTERN MEDAN LABOR ACTION: TERROR AND TORTURE

Introduction: Denial of Rights

A demonstration by workers in Medan exploded in the middle of April 1994. It resulted in the destruction of a number of shops and cars, and one victim shocked the nation into awareness. Besides the increasing complexity of the labor situation --as exemplary of the oppresion facing laborers– the labor demonstration in Medan was repressed with excessive brutality by the security force.

Medan, as an industrial cities in Indonesia, did not escape labor unrest when workers unceasingly struggled for a better lot. The Provincial Government of north Sumatra had determined that the Minimum Regional Waga (UMR) at Rp. 3,100/day and raised it to Rp. 3,750/day. But many companies didn't care about this regulation. The following data provides representation of the real wages received by the workers in North Sumatra.

TABLE 2.1.
LABOR WAGES IN THE REGION OF NORTH SUMATRA

No.	Name of Company	Wages
1	PT Nusantara Jaya Plastik Deli Serdang	Rp.1,700
2	PT Sari Plastik Medan	Rp. 1,750 - 3,500
3	PT Industri Karet Deli	Rp. 2,750 - 2,850
4	PT SMF Pematang Siantar a) daily workers b) new workers	 Rp. 16,000/13 days Rp. 8,000/13 days
5	PT Juta Jelita	Rp. 15,000-20,000/biweekly
6	U.D. SS. Karang Rejo, Stabat	Rp. 1,500 - 1,800
7	Citra Sandang Graha, Tanjung Morawa	Rp. 1,600 - 1,800
8	Marstex, Pematang Siantar	Rp. 55,000/montly
9	PT Eltikar Golf Indonesia	Rp. 2,600
10	PT Otani, Kawasan Industri Medan	Rp. 2,600

11	PT Bandar Nundar, Tebing Tinggi	Rp. 2,550
12	Pabrik Melati Subur, Tebing Tinggi	Rp. 2,550
13	PT Pasaman Jaya, Tanjung Morawa	Rp. 2,500
14	Growth Pacific, KIM	Rp. 1,500 - 2,850
15	Cipta Electronics	Rp. 2,300
16	Tropical Wood Indonesia, Tanjung Morawa	Rp. 1,800 - 2,500
17	Aklindo, Tebing Tinggi	Rp. 2,500
18	PT Asia Karet	Rp. 3,000
19	Meuble Dinamika, Binjai	Rp. 2,600
20	PT Garuda Mas Perkasa, Tebing Mulia	Rp. 2,450
21	PT PSIL, Teluk Nibung	Rp. 3,000
22	PT Sintong Sari Union, Pematang Siantar	Rp. 48,000/bimonthly
23	PT Medan Canning, KIM	Rp. 2,500
24	PT Bintang Cemara Indah, Medan	Rp. 2,700
25	PT Riza Mitra Lighting, Medan	Rp. 2,700
26	Buruh Nelayan di Tanjung Tiram	Rp. 2,500

Source: *Bulletin Bergerak*, Edition 24/1994. Media Information and Communication NGO

Therefore it should be expected that factory workers are restless. In the past three years, factories in Medan have started to feel ther reverberations of workers protests. Workers demonstrations are not a new phenomenon to the workers community in Medan. In the records of the Medan Legal Aid Institute just in March 1994, demonstrations occured thirty-one times. In this same month, a worker of the PT. Industri Karet Deli, named Rusli was found drown in a river after taking part in an action two days before.[22] The death of Rusli became the trigger for the

[22] The workers demonstration on the 11th March 1994 involved 12.000 workers from

anger of ther workers who had already gone through mounting resentment. The Medan case is not an isolated incident, without a social political context. It is interlingked with the oppresion experienced by the workers of Medan

The context of the Case: A Summary

On the 3rd April 1994, about thirty workers held a meeting at the same as a "halal bihalal" (social event related to the end of the Ramadhan fast) at the secretariat of the Pelita Sejahtera Group (KPS) in Tanjung Morawa. This meeting was chaired by Diapari (KPS) Partocipants discussed labor issues. Riswan Lubis, an SBSI (Prosperity Labour Union of Indonesia) activist attended this meeting.[23]

On the 10th April, a succesional meeting was held at the Secretariat of KPS at Jl. Tapian Nauli II No. 116, Medan, attended by forty representatives of twenty-three corporations and NGO's. The meeting was chaired by Diapari (KPS) and Maiyasyak Djohan (LAAI). The discussion included workers rights and pressure exerted upon workers. This forum agreed to outline four demands which had to be met by the Provincial Government: (i) a raise in wages from Rp. 3,100 to Rp 7,000; (ii) a guarantee for the freedom to unionize; (iii) an investigation int the death of Rusli, the worker from PT Industri Karet Deli, and; (iv) a resolve of the mass lay offs of PT Korek Api Deli workers.

The meeting began at 10.00 and ended at 17.00. Additionally, a plan of the PT Juta Jelita to go on strike was discussed. On the 11th of April 1994, about 10,000 workers of PT Juta Jelita demonstrated in front of the

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7 factories —among others PT. Tjipta Rimba Djaja, PT. Gunung Gahapi Sakti and PT. Industri Karet Deli —was characterized by violence between the demonstrators and the security forces. In one incident, 9 workers, including Rusli, jumped in the Deli River. Eight workers survived the accident, but not Rusli. Two days latter his body was found floating in the river.

23 The findings of the Collaborative Investigative Team, SBSI-LSBH Nusantara Bandung, stated that this meeting was a continuation of an earlier meeting initiated at the Station/Secretariat of The Forum for the Workers Aspirations (FAKB) in Tanjung Morawa, on the 27th of March 1994. At that time, the labor leadership formed a few industrial units from Tanjung Morawa and a few representatives from the Mutual Aid Union (STM) of Mabar and KIM (the Industrial Area of Medan). At this meeting the possibility for workers to hold demonstrations was discussed. (cf. *Kompas*. May 6th, 1994)

Provincial Parliament demanding that the minimum wage be paid. Amosi Telambuana (The Chairman of The Medan Chapter of SBSI) was involved in the action since he also worked at the company. After the demonstrations, Amosi and his friend Ridwan Lubis (the Secretary of the SBSI Medan chapter) were arrested and held for a night at the Medan Baru police precinct.

At that day, three workers, who were Junaedi Adinda Karya, 24, a worker of PT Industri Karet Deli, Khairil Anwar, 29, a worker of PT Industri Karet Deli, and Irawadi, 24, a worker of Growth Asia, where arrested by the police and brought to the Medan precinct. The secretary of the Medan SBSI chapter, Riswan Lubis, was also arrested on charges of having incited the mass.[24] Riswan Lubis was arrested at a raid on the 15th of April 1994 at 02.00 a.m. In anticipation of the reaction this arrest might receive, the next day (15/4) the military -- some of them armed with automatic assault rifles-- guarded almost all business centers in Medan town. They also barricaded the main roads towards the city center. Tanks and helicopter were also seen standing by. Nonetheless, the masses broke through the barricades towards the Merdeka Square (Freedom Square) were they demonstrated again. This the demonstration was broken up by force. The crowd was pushed back towards the Medan Industrial Estates (KIM). The company which the crowd targeted was the overseas-owned company PT OCI, which had closed it gates and had forbidden its workers to join the demonstration. The glass walls of the company's office were shattered and inside office equipment --computers, telephones, facsimiles, filling cabinets, and furniture was damaged. Additionally, twelve of the cars parked on the premises were also damaged.

That day a businessman named Yuli Kristanto alias Kwok Joe Lip, age 50, the owner of PT Sumatra Blau, was killed form multiple wounds to his left temple when he ducked behind the wheel of his car (a Toyota Kijang). Because of this bloody incident, the military arrested at least 82 demonstrators, 13 of them women.[25] That day, leaflets were distributed.

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[24] Besides these people, a number of other workers were also arrested and brought to the Medan precinct. In all there were twenty people. See *Journal Dawsolowan* 3rd issue, May 1994.

[25] Those arrested, among others were H (a worker from PT Golgoti), age 24, a resident from Tanjung Mulia Km7 Gang Perwira; Rd, age 42, a resident of Jalan Karya, Medan; AP (a worker from PT Cipta Jaya), age 29, a resident of Lingkungan I, Pulo Brayan; SI (a worker of Gurada Mas), age 26, a resident from Tanjung Mulia Gang P; Sg (a worker

The content of which was vehemently racist and inciting.[26] The commander of the Armed Forces, General Feisal Tanjung, in a statement he made a few days latter, immediately accused the demonstration as subversion. Also, the Chief of Staff of the Social-Political Section of the Armed Forces, Lieutenant General Hartono, said that the protests made by the workers in Medan were directed by the PKI. "These methods are very similar to those of the PKI. We have reasons to suspect, in order to step up our vigilance, that the instigators of this movement are elements like that" [27] [meaning: communist, translator's note]. It is not clear wether

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from PT Mesfy), age 24, a resident of Jalan Cempaka, Tanjung Mulia; Zs (a worker from PT Growth Asia), age 30, a resident of Jalan Bunga B II Belawan; EH (a worker of CV Singa Ijau Plastic Industri), age 23, a resident of Jalan Veteran, Gang Subur; Zn (a worker of PT Sukaresla), age 33, a resident of Pasar III, Saentis; JM (a worker of PT Golgott), age 37, a resident of Jalan Pembangunan III Krakatau; Suwanto (a worker of PT Golgott), age 24, a resident of Lorong VII Pulo Brayan Bangkel; R br S (a worker of PT Unibis); age 23, a resident of Gang Rakit Tanjung Mulia; Rg (a gardener of PT Inti Bantara Raya), age 23, a resident of Jalan Polonia Medan; SU, age 17, a resident of Pasar III Kelumpang; AH (a worker of PT Jata Jelita) age 37, a resident of Gang Kota.

[26] Quoting from *The event of Workers Demonstrations in Penaiang Sumtar: A Preliminary Conclusion by The Investigation Team*, from the Forum For Advocacy of Workers Rights Investigation Team, Jakarta 1994, the content of this circulated letter entitled "Erecting the Originality of Indigenous Indonesians - (POPI) was: among others, (A) Destroy the Chinese as the principal total oppressors of the indigenous Indonesians, rapist, murderers, robbers of the country's money which is the right of the indigenous Indonesians, oppressors of the workers, slighter of workers, robbers of Indonesia's riches which is needed only by and for indigenous Indonesians. (B) Send the Chinese home to the land of their ancestors, China. They are only makers of debts who bring greed with them and repress female workers and indigenous males, students, private employees and civil servants. The Chinese who are ex-economical convicts, stealers of freedom, spoilers of the Constitution of 45 and Pancasila, as well as the laws of this land. (C) Nationalize all the Chinese enterprises who have become like kings in their arrogance and haughtiness, who regard the armed forces as their guard dogs, who consider the indigenous people like animals and who gobble up and rape the rights of the indigenous people of our beloved country (D) Hang, destroy, imprison, and incapacitate the corrupt leaders and officials who collude with the Chinese colonizer, who deliver Indonesia to the hands of Chinese, who don't acknowledge the generations, who don't respect the deeds of the heroes and the historical values of the struggle for independence and their other evils as a result of their economical and political greed, who sell the country and are the total owners of our beloved country.

[27] See. "Riots in Medan are Subversive Action", *Kompas*, April 22th, 1994.

these two generals also read the leaflets circulating among the demonstrators.

Arrest and Torture

What followed after the demonstrations were arrests and torture. For example, on the 18th of April 1994, the office of the Indonesian Advocacy Institution for Children (LAAI) on Jalan Dr. Sutomo, Medan was stoned in the middle of the night. As a result, this NGO office was severely damaged. This office was also used by the attorney Maiyasyak Djohan SH. According to Maiyasyak, this violent act happened because there were parties who didn't wanted him to handle the defense of the accused labor activist.

Besides the labor activists such as Dr. Muchtar Pakpahan (The General Chairman of the Central SBSI), the security forces also arrested workers.[28] These arrest went often together with torture. Take the example of Indra. Indra, age 16, a worker of PT Putra Flora, was arrested on the 27th of April at 03.00 at his parents house. He told the investigation team: "I was sleeping when five plain clothes officers arrested me". According to Indra, as soon as they were in the house the

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[28] In the court held by the Provincial Level Court of Medan, Mochtar Pakpahan was sentenced to three years in jail. See: "Muchtar Pakpahan is Sentenced to 3 Years in Jail", *Kompas*, November 8th, 1994. Hearing the sentence, Mochtar Pakpahan immediately went to higher appeal. Both the High Court of Medan, which judged his appeal, increased his sentence to four years in prison. See. "The Sentence of Muchtar Pakpahan is Increased", *Suara Pembaruan*, January 1995. Regarding this decission, YLBHI commented that more and more the criminal code is employed as a tool to overcome social and political actions which are not in line with the views of the keepers of power. The article in the Criminal Code which are applied to de-legalize the realization and acknowledgement of the rights of workers to unionize –these being universal rights. They are also applied to de-legalize the activities of NGO's and other organizations which are outside the control of the state. Read: "YLBHI: The Criminal Law is invoked to face Social and Political Activities", *Kompas*, November 10th, 1994. Muchtar, according to the Council of the High Court of Medan, has certainly violated article 160 of the Criminal Code: inciting the masses. Amosi Telambuana (the Chairman of the Medan Chapter of SBSI) had the same experience. The Council of Judges of the appelate court, also chaired by Nurul Ginting, increased his sentence to three years – twenty-one months more than the sentence of the Provincial Level Court of Medan. Read, "Higher Appeal, Higher Sentence", *Forum Keadilan*, 22nd issue, Year II, February 16th, 1995.

officers immediately proceeded to shove him into a car. At the front door of his house, a police officer named Kasiman smacked Indra in the face. "I just wanted to wash my face, but they didn't allow me!", he said. In the car, Indra was forced to point out who were his friends.

They were barking and screaming at him. Not satisfied with psychological intimidation, the officers also employed physical abuse. Indra said: "I resisted. Then the officer pointed a gun to my knee and beat me with a thick sandal shoe till I was bleeding." Then the officers brought him to the police precinct of Lubuk Pakam where Indra was kept in detention for nineteen days. According to his testimony, in prison he heard many of his friends suffering from the torture inflicted by the officer. "There [were] prisoners who had hot coffee poured over them, some were pistol whipped until their heads were bleeding, some had their genitals beaten with broti (wooden beams)", said Indra. He also said that a friend of his, Herman Andisar, was taken out of his cell at 24.00 pm for a deposition. During the questioning, Herman was beaten by four police officers, his body was kicked and his legs squeezed with a chair. Indra knew about this because he heard Herman scream for mercy.

In court, Indra was accused of having violated article 170 Section (1) of the Criminal Code: excercising violence towards persons or property together in public and Article 406, Subsection 55, Section (1) Subsection 412: intentionally destroying or causing the loss of property. In the end, Indra was released because he was under age. But he had to swallow a bitter pill --the company he worked for fired him.

Basuki, age 29, a worker of PT Indocafe, was also arrested by the security forces on the 24th April 1994. Basuki was one of the people involved in preparing the demonstration on 14 April 1994. And, he was one of the delegation members who tried to meet the governor. He was arrested at the home of one of his friends. He had been talking for fifteen minutes when a number of plainclothes officers appeared. "Don't move!" they ordered. Basuki was arrested without warrant, dragged towards a police vehicle, and brought to the Tanjung Morawa police precinct.

"I was tortured at the police office", Basuki said. He was ordered to confess that he was one of the instigators of the demonstrations in Medan. Of course Basuki disclaimed this accusation and said the rights of the workers curtailed. Because of his answer the officer became angry. They hit Basuki with their fists and with a Pepsi bottle, and kicked him with their military boots. He said: "For four days they tortured me" His

torturers consisted of four officers, who stood around him in a circle. "I was hit countless times. They even hit me from behing", Basuki said.

Besides physical torture, Basuki also experienced psychological torture. They aimed guns at him, threatening to shoot. He was forced to take off his pants, whereupon threats were made to hit his genitals with a broti. He was forced to do about 150 push up and squat jump. As a result he couldn't walk. He had to crawl. In prison he heard about another prisoners who was crippled by physical torture. Basuki's family was not allowed to visit him while he was in jail. After the ritual of torture, the LAAI got involved and Basuki was released from prison. "After I came home, for a month I could only walk with difficulty" he testified. He underwent medical treatment which he had to pay himself wih help from his friends.

Another victim of violence was Ardin Zega, age 30, father of three children, who worked at the rattan factory of PT Gunung Gahapi Sakti. Ardin Zega was also a member of SBSI and one of the delegation members who tried to see the Governor. On the 18th of April, while at work in the factory, he was called by the personnel manager. A number of police officers were waiting inside the personal office. They said ther were from police intellegence of the Medan precinct. They asked Ardin to look for Amosi Telembuana.

Without a warrant, Ardin was brought to the police office of the Medan precinct. There the officers started to beat him with their fists and to kick him. They also intimidated him with guns, threatening to shot him. An officer named Adisman Purba forced to confess to the accusation that he had thrown stones. "Just say that you have thrown stones thrice" Ardin said, imitating Adisman. Ardin signed the official report (BAP) —which was already written out for him— because he couldn't stand the torture anymore. The next day, on the 19th of April 1994, Ardin was brought to the Tanjung Gusta prison. There he was incarcerated until the 9th of June 1994. While he was in jail his company fired him and his family evicted from their home because they couldn't pay the rent.

Sudiaman Zega, age 34, a worker at the PT Larija at Jl. Brigjen Katamso Km6. He was the SBSI (a labor not acknowledged by the government). He only made it to the 3rd grade. He is the father of one child. A few months before the April affair had happened a number of workers had a meeting in his house. During this meeting, six police officers came to see Sudiaman. They asked him to step outside,

whereupon they asked him to hand over Rp. 20,000. He only gabe them 15,000 because he didn't have the amount they asked for.

Sudiaman also confessed that he was involved in the workers action of April, on the 12th of April 1994. During the demonstration he came with eight of his friends to the Merdeka Square and went from there to the Governor's office. On the 18th April 1994, a number of plain clothes police officers came to his house and arrested him. He was brought by car to the Medan precinct police office. There he experienced several methods of torture beaten with fists, kicked with military boots, and hit on the head with a piece of wood. As a result his ears kept bleeding for a week. After all of that, the poor worker was exorted and robbed. He was forced to give the officers Rp. 10,000 and his Seiko watch.

According to certain sources from the Medan Legal Aid Institute, Sudiaman was arrested while he was at home on the 18th of April 1994. As usual, the arrest was executed without a warrant. A few of the officers were from the Siregar clan; Purba and Aritonang Siregar. Sudiaman was held for a relatively long period of time. He was kept for a month at the Medan precinct before he was removed to the Sukamulia jail. He was accused of violation of Article 160 section (1) Subsection 55 Section (1) of the Criminal Code (KUHP).

Waslian, alias Gendon, a worker of PT Karindo Prima, also experienced calamity. This illiterate worker was arrested by the polec when he took part in the demonstration on the 15th of April 1994. He was brought to the Lubuk Pakam sector police office. While at this police office, Waslian was intimidated and terrorized; a gun was pointed at him and they threatened to extract his nails. The officers asked him to confess that thirty times he had thrown stones. According to Waslian, while confined at the police station he heard other prisoners tortured; whipped with both rattan and bamboo and beaten. The victims he knew were Nismat, Sahlan, Ahmad, Adi and Yadi. Waslian was held in the Lubuk Pakam police station for a week together with nine other workers of PT Karindo Utama.

In addition to the above mentioned names, there were many more victims of torture in the aftermath of the April affair. Among others was Alex, a worker of PT Parsapin. The police issued him a warrant and took him from his home to the Tanjung Morawa sector station the 23rd of April 1994 at 03.00 am. From the Tanjung Morawa sector station he was moved to the Lubuk Pakam jail. He had experienced torture and terror.

After questioning, Alex confessed He was charged with destruction of property.

Andika, also a worker of PT Persapin was arrested at his home on the 27th of April 1994 at 03.00 by officers from the Tanjung Morawa section police station. Like Alex he was held at the Lubuk Pakam jail and during questioning he was beaten.

Jafar Sidik, a worker of PT IPI Mabar was arrested by officers of the Medan precinct police station on the 15 th April 1994 at 13.30 p.m. in the Medan Industrial Estate while he was throwing rocks. during the questioning he was tortured and beaten.

Amir Syariffudin, a worker of PT IPI Mabar was arrested at his house on the 24th of April 1994 at 22.30 by officers from the Medan precinct police station. Like the others, Amir was abused. He was beaten and kicked.

According to KPS documentation, as a result of the April affair, forty-eight people were arrested and brought to court. The sentences which were handed down ranged from three months to two years in prison. The charges were: violence, throwing rocks, extortion, destruction of property, manhandling and inciting unrest.***

5. PHK (TERMINATION OF WORKING RELATIONSHIP) OF FIRING BY EXTRA LEGAL AGENCIES: THE MURDER OF MARSINAH

Introduction: The Background of the Incident

In the middle of March 1993 the Governor of East Java, Soelarso, issued a circulative letter that became known as the Governors CL. The contents of the letter consisted of an appeal to all the entrepreneurs of East Java to raise the wages of their workers by 20%.[29] But many of the entrepreneurs didn't heed the governors issue. As a result, in the months that followed, a number of labor strikes occured: workers demanding their employers obey the Governors CL.[30]

The workers of PT CPS (Catur Putra Surya) in Porong also went on strike. However, they didn't demand a raise in accordance with the Governor's CL. Instead they demand a raise in accordance with the Ministerial Decree KepMen No. 50/1992, that stated that the minimum regional wage set for East Java was Rp. 2,250 while the workers of the PT CPS Porong only received a minimum wage of Rp. 1,700. They were paid Rp. 550 less than the KepMen No. 50/1992 required and far less then the Governors CL stated.

Because of this situation, the workers of PT CPS Porong went on strike. Only the temporary workers who had been hired for a month came to work. On the 4th of May 1993, the strikers went further. They demonstrated in front of the factory and staged a slod down action inside the factory. They demanded: a raise in accordance with the KepMen No. 50/1992, health insurance, menstruation and pregnancy leaves, Jamsostak (UU 3/1993), THR, financial support for transport and food. All in all twelve demands were made.[31]

Marsinah was a worker who had courage. She was in fact only one who dared to face off the security personnel during the strike. When a

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[29] The *Kwik* serials, first issue/1993, Arek Foundation, page 75-76.

[30] In the database of the AREK Foundation, during the period of March until December 1993 fifty-seven strikes occured backing up the demands made by the Governor's CL.

[31] See photocopy of the workers demands of PT Catur Putra Surya Porong.

number of company staff members tried to persuade the workers to continue with their work, Marsinah took the initiative to reject the suggestion. Around 13.00 pm a dialogue was held between the SPSI Sidoarjo Chapter, the Sidoarjo level Ministry of Labor and other related government agencies. The workers delegation consisted of fifteen workers, including Marsinah. During the negotiations, Marsinah was the one who was most determined that the demand to make up for the Rp. 550 under the KepMen 50/1992 should be accomodated. As a result of the negotiations, the company promised to fulfill part of the demand without firing, relocating or intimidating the workers because they had demonstrated (this was the 12th point made in the workers demands).

A day before the meeting, on the 3rd of May 1993, eighteen workers blockading the workplace were brought to the headquarters of the Porong military command (Koramil) --without a warrant. There they were questioned about the objectives of the strike and were told to go back to work starting with the evening and night shifts or else they would be suspected instigators of the strike. They were also told that risked being accused of using "PKI methods" because they had prevented other workers from working.

On the next day after the questioning of these workers, the 4th of May 1993, workers of PT CPS went strike. During which time a worker considered as the instigator of the strike, Yudo Prakoso, was summoned by the military district command (Kodim) with a letter of summons from the Koramil No. B/101/V/1993, signed by Captain of the Infantery Kusaeri as the CO (See the photocopy of the letter of summons). Yudo had to see the Intellegence Officer (PASI Intel) of the Kodim 0816 Sidoardjo Captain Sugeng and was forced to tell the names of the workers involved in planning the strike.

Firing by the Kodim

First Yudo was met by Kamadi, a member of the Intellegence Officer's Staff. Kamadi repeated the questions asked by the Koramil officers. Kamadi became angry because he didn't believe that Yudo gave straightforward answers. "You don't need to be convoluted (berbelit-belit). Say yes or no! If you are convoluted, this will talk!" Kamadi threatened Yudo as he thrust his fist in Yudo's face.

After that incident, Yudo was brought to the data room where he was met by another staff member called "Mister Bus". There Yudo was told to confess that he was the instigator and the brain behind the strike and to write a statement concerning his activities before the strike, the process that had created the list of demands made by the PT CPS workers. This interrogation process went on until 11.15 p.m.

In the afternoon, at about 17.00 pm, a number of the workers who were representatives in the negotiations with the company received a letter from the village of Siring, subdistrict of Porong (district of Sidoarjo). It was a formal summons to the Kodim 0816 of Sidoarjo Headquarters on the 5th of May 1993 and meet the PASI Intel Captain Sugeng. It was peculiar that letter, numbered ../404.721.5/93, was signed by the village secretary Abdul Rozak (see the Photocopy of the summons letter). A messenger of the village administration brought these letters to the addreses of the workers (where they rented rooms). Tamar, Sumarah, Hartono, Ngusmar, Jojo Santoso, Joko Suwanto and others. The other letters, in cases of unknown addreses, were given to the factory security guard. The security guard, Dedi, distributed the letters to those summoned.

The next day, on the 5th of May 1993, those thirteen workers who had received the summons arrived at the Kodim Headquarters at 09.00 am. They were kept waiting until 11.00 am, at which time they were brought to the data room were Kamadi met them. He explained to them that they weren't needed anymore in the factory and suggested that they resign. Kamadi opinion was: "How is it if I tell you just to resign-- better than to be called dogs and fucks at the company. That's not good. We are Javanese and they are Chinese. Therefore it is better that you just leave than be fired because you'll have trouble looking for work in Sidoarjo. ALL the problems will be solved here at Kodim".

When it was Yudo's turn to answer, he said: "From tomorrow on I will work better, sir! But if the company doesn't like me anymore, I am ready to be fired!" Yudo was not yes finished when Captain Sugeng entered. The Captain cut Yudo off. As he pointing at him, he said: "Oh, no, stop! I know what you are aiming at. You are the master mind! You are the big guy! What is your name? Your address?" (all these questions were answered straightforward by Yudo). "I will investigate this Yudo further. Because it is in Jombang where the Sodalirity Labour Union emerged (he meant the SBSI). And the SBDI is masterminded by the PKI!

Name of your parents? Their occupation?" (Yudo mentioned the name of his father, who happened to work at the Prosecutor's office). "Yes, your father is a clever man but his son is stupid! Just prove itu, your father or me will resign!" screamed Captain Sugeng. After that the workers had to fill out a confindential biodata format.

After doing so, the workeers given letters of resignation by Mister Bus, with a Rp. 1000 stamp legalizing the letters. The content of the letters stated that ther thirteen workers had held an illegal meeting and had prevented other workers from doing their jobs, and therefore they were resigning. The letter also mentioned that the workers offered their apologies to the owner of the company. In the end, at about 14.00 pm, the workers, under pressure by the Kodim, signed their letters of resignation.

After evening prayers, the workers who just had signed their letters of resignation received an allowance for Mutiari and Yudi Astono (company staff). After distributing the money, Mutiari, Riyanto, Widayat and Yudi Astono left. But, before he left Yudi Astono said:"This is not what I want! I was surprised myself to hear that you wanted to leave. Actually we would like you to stay, but what can we do? This is what the Kodim wants. I am also afraid".

Rejecting the Firing I: The Disappearance of Marsinah

Marsinah had heard about the summons of the PT CPS workers. In the afternoon after taking a rest, Marsinah went to see those of her friends who were summoned by the Kodim 0816 Sidoarjo. She did not find them there so she went to the Kodim 0816 of Sidoarjo. Marsinah left on a motorcycle with another worker, NG (who drove) while three other workers went by public transport. At the Kodim Headquarters, Marsinah failed to meet her friends because they had already left and gone home.

Twice Marsinah went inside the Kodim office where she meet the guard on duty asking about her friends. Since Marsinah wasn't able to caught up with some of them who had been at Kodim. From them she heard the aggreement had been breached (which had previously been negotiated on the 4th of May 1993). Marsinah became angry when she heard that her friends had been fired. Angrily she said:"*I will sue Kodim with help from my relative in Surabaya.*"

She then asked one of the victims who had been fired for a photocopy of the Kodim letter of summons and asked Yudo for a photocopy of the

agreement. With these two documents Marsinah went to Tugu Kuning where she ate. One say here again after that time until her body was found four days later in a hut at the rim of the teak forest of Wilangan, Nganjuk.[32] An autopsy of her body was conducted by Dr. Jakti Wibowo. He concluded that the cause of her death from a tear wound starting three centimeters left of her vagina to the cavity of the belly. Bone fragments were found inside the wound and her hipbone in the front was shattered. Besides these injuries, her hymen was broken, her bladder and lower intestines were bruised, and from the cavity of the belly she had hemorrhaged a liter of blood.[33]

It turned out that not only were thirteen delegation members fired but also that on the 7th of May 1993 three other workers, M, Yand and Saf were summoned to the Kodim at 08.00 pm. There they met five other workers, Sdk, Hs, Bdp, and Lh, who, out of solidarity with the ones already fired, went to the Kodim to turn in their letters of resignation. These eight workers were treated like the thirteen before them. According to M, she was called to meet Captain Sugeng who first asked her about matters concerning wages, the demands made, and about the strike. "I didn't take part sir! I also stayed home only because my friends didn't go to work," was her answer when she was questioned about her roles in the strike.

After that Captain Sugeng asked about illegal meetings: "Were there people outside PT CPS who took part in the meeting?" "No, Sir," M answered, " Only friends deliberated among themselves. The issue of demands arose after meetings were held in each section. At the SPSI meeting it was suggested to check the company's regulations. These are posted in every section. It turned out that those regulations had not yet been put into effect by the company. From there on suggestions for demands were gathered and discussed together."

Upon hearing her answer, Captain Sugeng became angry and scolded M. "You're stupid! Memelil Bawell (*said about woman who talks back, argues and is generally difficult, trans*). "What is your religion?" he asked her. "I'm a Moslem, sir" she answered. Sugeng screamed: "in that

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32 See the photocopy of the demands of the workers PT Catur Putra Surya Porong

33 See the photocopy of Dr. Jakti Wibowo's Visum et Repertum from the public hospital of Nganjuk.

case you're a hypocrite! You've masterminded the strike!" To which M replied:"You can call me a masterminded (*literally, puppeteer, trans*). The truth is, I am not the instigator! I never told anybody to strike". Hearing this Captain Sugeng became even angrier and threw an ashtray on the table so hard that it shattered. One of the shards hit M in the face causing a bleeding wound. According to M, a paper tissue was insufficient to stop the flow of blood.

"If you were a man..." threatened Captain Sugeng, "I would have you killed!" He barked: "Stay here! I don't want to talk to you again!" and he left the room. Two hours later he came back. It was not clear how long the workers had to stay at the Kodim office. That day seven workers including M, were fired from their job by the Kodim.[34]

The following day, the 8th of May 1993, Ab, who was the last to be fired, was summoned to the Kodim 0816 of District of Sidoarjo. There he was met by Busaeri who accused him of organizing illegal meetings, sabotage, and intimidation. He was also told that he was like the PKI. Busaeri then offered two choices which were compelling and posed a dillema. *Firstly*, if he still wanted to work he must go to jail for three months under the charges of the above mentioned accusations. *Secondly*, if he would resign, he would be given an allowance. After that Busaeri offered a piece of paper with a stamp (*to legalize the letter, trans*), in which to write his letter of resignation At 14.00 pm, a group from the company came to bring him allowance.[35]

Rejecting the Firing II: Suing the Kodim

After the mass firings by the Kodim, a number of the victims wrote a letter of complaint protesting the unlawful treatment they had received at the hands of the Kodim. They complained to the Sidoarjo chapter of SPSI and to the district level Ministry of Labor of Sidoarjo. They also went to see the District LEvel of the Parliament of Sidoarjo. But all to no avail. It became even worse: the Ministry of Labor validated the firing by the Kodim.[36]

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[34] (KSUM)

[35] See the photocopy of the chronology of the firings written by the victims

Because they got nowhere, the fired workers requeste the help of the Commite for Solidarity with Marsinah (KSUM) to work on their case. On the 17th of June 1993 the fired workers gave KSUM authority to represent them in a suit filed against PT CPS Porong. However, changes were made during the legal process. First charges were only pressed against PT CPS. In a later stage three parties were sued: PT Catur Putra Surya, Surabaya as the first defendant, the Kodim 0816 Sidoarjo as the second defendant and the village administration of Siring, subdistrict of Siring, district of Sidoarjo as thir defendant. Also, power of attorney was given to the Legal Aid Institute of Surabya –a member of KSUM.[37]

On the 2nd of May 1994, the first session of the former workers of PT CPS versus COmpany, Kodim and the Village Administration of Siring was at last opened at the Provincial Level Court of Surabaya.[38] The suit was stranded by a decission to interupt on the 28th July 1994. The Council of Judges in the Provincial Level Court of Surabaya applied this interruption decission thereby backing the argument given by PT CPS's company attorney against the absolute competence of a public court to examine an unlawful act of firing (because it was a labor dispute).[39] The interruption decision stated that the public court was not competent to judge charges of unlawful and unilateral firings. The Surabaya Legal Aid Institute immediately appealed to the High Court on the 6th of November 1994 and, until presently, the High Court has not responded to this appeal.[40]

What was interesting, at the time that the lawsuit was filed at the Provincial Level Court of Surabaya, was that efforts were made to stop the lawsuit by th Fifth Regional Military Command (KODAM V)

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[36] See the photocopy of the letter from the District Level Ministry of Labor, dated the 28th of May 1993. addresed to the executives of PT CPS Porong and the Chairman of the Sidoarjo chapter of SPSI concerning the firing of the thirteen workers of PT Catur Putra Surya.

[37] dated the 29th of November 1993.

[38] Memorandum, 3rd of May 1993

[39] *Surya*, 29th of July 1994

[40] See the photocopy of the memorandum of appeal to the High Court of East Java, dated the 6th of September 1994.

Brawijaya as the legal representative for the Kodim 0816 Sidoarjo. This effort included harassment of the workers. Military personel visited their parents. They were summoned to the Kodim offices located in the area were the workers live. Military personnel came to the addresses where the workers had hired rooms. Pressures was put on family members. For example, T, one of the worker was visited at 12.00 pm, by a member of the intellegence staff of the Sidoarjo Kodim and was told to repeal the lawsuit.[41] The parents of S, one of the other workers who filled suit, received a visit by security personnel. The first time it was the village level military resident, together with members of the village administration, and the second time it was a plainclothes officer.[42] (*In Indonesia, particularly in Jav, this can be called "social teror"*)

The parents of the plaintiff Ng received a visit by members of the Tanjunganom Garrison Command (Koramil) and a person in civilian dress. When they were asked about the purpose of their visit, they said they only want to drop in. Besides terorizing the plaintiffs parents at home, the plaintiffs were also called to the local Kodim Headquarters. The plaintiff P was summoned twice. The first time was a week before the court case opened by the Kodim of Mojokerto to meet the Intellegence Officer Captain Suyatno, and the second day by the Korem (Military Section Command). The plaintiff was asked why he sued the Kodim? Was this decision influenced by third parties or was it his own decision?[43]

The plaintiff MY recevied the same treatment. He was summoned by military agencies. The first time by the Koramil Prambon through the village administration when he was questioned about the case of Porong. The second time by the Kodim Chief of Staff (Kasdim) of Kodim 0816 Sidoarjo.44 The plaintiff SMR was summoned by the Kodim 0809 of Kediri to meet the intellegence section head. An interesting fact is that the plaintiff was summoned by letter on orders of the Commander of the 082 Regiment –registration number Bratel/165/V/1994.[45] (*this implicates*

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[41] See the interview of the writer with the victim

[42] See the interview of the writer with the victim

[43] See the interview of the writer with the victim

[44] See the interview of the writer with the victim

[45] See the photocopy of the letter of summons, dated 5th of May 1994

KODAM level involvement, trans). In the case of the plaintiff AS, it was his uncle, whose name is Gundarmo, who was summoned (with a note asking his nephew to join him). The reason given was "to provide territorial guidance."

The plaintiff Choirul Anam was most frequently questioned by the police intelligence of Sidoarjo as well as the area. The police aske him to write a letter explaining that the firings at the Kodim Headquarters were forced by Captain Sugeng. But Choirul refused becaus he was afraid of the possible reprocussions.[46] The fired workers and the plaintiffs were not physically abused. However, the harassment caused them to lose much time, hence, working hours and therefore they suffered financial loss. ***

[46] See the photocopy of the letter of summons, dated the 28th May 1994

6. LEGAL MURDER : THE AFTERMATH OF MARSINAH MURDER

Introduction

In the history of labor conflicts in our country, the case of Marsinah was a major event. This case later became known a deviant court case and the mass firings of workers by the Kodim. It became a major event because not only did it involve and trouble all the military and civilian agencies in this country but also becauseit raised international concern. No less than three international fora discussed the Marsinah case, two of which were the Human Rights Conferences in Geneva and Viena and the conference on women's rights, all held in July 1993.[47] Even when the US GSP team visited Indonesia, they asked KSUM about the case.[48]

In Indonesia itself, the discussions and interest about the Marsinah case were hot with students, NGO activist, and others. Several social and cultural events were held. There was a candle action/vigil (Jember)[49], a prayer action at the Police Head Office of East Java (Surabaya)[50] a solidarity action (Mataram)[51], an art instalation exhibition (Surabaya)[52] as well as other actions and countless discussions. This verifies that this case is special. It was also interesting to witness the efforts of the military to cover-up the realities behind the case. One of the tactics employed was to render this political case into a common criminal case.

The public suspected the company of masterminding the murder of Marsinah. But after four months, the police of East Java was not able to

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[47] See the interview of the writer with the witness

[48] *Surya*, June 11th, 1993, and June 13, 1993 *Republika*, June 13, 1993 and *Merdeka Indonesia*, June 14, 1993.

[49] *Republika* and *Jawa Pos*, Sept. 24, 1993.

[50] *Jawa Pos* June 18-20, 1993, *Surya*, June 18, 1993, *Memorandum*, June 19, 1993.

[51] *Surabaya Post*, July 16, 1993. *Jawa Pos*, *Surya*, *Memorandum*, *Kompas*, *Kurya Dharma* and *Bhirawa*, July 17th, 1993.

[52] *Republika*, *Kompas*, *Surya*, *Surabaya*, *Jawa Pos*, August 13rd, 1993.

uncover the perpetrators. One hundred forty-two witness were heard and a few items of evidence were found.[53] Procrastination by the provincial police of east Java to uncover the case in the end became a boomerang. Many people started to suspect that the police purposely were covering up because the military was involved.

In the end, the National Police Headquarters aided the investigation. The team from the center was in east Java for three days. They were under the direction of the Director fo the Criminal Police --The Police Brigade General Drs. Utoyo Sutopo.[54] However, there were no signs that the case would be disclosed. At that time, the police of east Java were over-reactive and repressive. Even an installation with the Marsinah case as its themes was prohibited from being exhibited before it even opened. Most NGO activist commented that the work of the Provincial Police of East Java was like facing an unbreachable wall. Then, when the court case was at last opened, the public referred to it as a "devian court case" because the people accused were tortured into admiting crimes they didn't perpetrate.

Arrest of Suspects: A Theater

This "deviant court case" started with the arrest of a number of PT CPS Porong employees on the first of October 1993. Among those arrested were Mutiari, Bambang W, Karyono Wongso, AS Prayogi and Soewono. They were arrested by a number of people in civilan dress whose identity was not known. At the same time Soeprapto was arrested at his house, four kilometers from the factory and Yudi Susanto was arrested at 06 00 am in his house on Jl. Puspita 8, Surabaya. The previous day at 16 15 p.m. officers also arrested Yudo Astomo and Hidayat at the factory. An interesting fact is the accesed were arrested and detained without warrant and it was military not the police who made the arrest.[55]

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[53] *Surabaya Post*, July 16th, 1993. *Republika*, July 17th, 1993.

[54] *Surya*, July 21, 1993

[55] The details of arrest of PT CPS workers was covered in *Republika*, September 5,1993. *Jawa Pos* September 5, 1993, September 7 1993, *Surya*, September 5,1993, and *Memorandum*, September 7 1993. The arrest without any formal procedure of Yudi Susanto was disclosed in the Procedural Court Case of Yudi Susanto.

Violence characterized the arrest. Karyono Wongso (Ayib), was hit in the head whit a pistol butt causing a bleeding wound. Mutiari was roughly dragged and pushed into a car[56]. In front of both his parents, Suprapto was grabbed in the collar and dragged into the officers vehicle.[57] After the arrest, everyone was brought to the Intelligence Detachement Headquarters (Den Intal) of the KODAM V Brawijaya in Wonocolo, better known as the Bakorstanasda. They were confined for nineteen days without any notice given to their relatives. They received inhuman treatment during this period of confinement: experiencing physical and psychological torture. Two of the suspect, Mutiari and Yudi filled pre-court procedural suits against the Provincial Police Force which was legally responsible for the arrest (KUHAP or Code of Criminal Procedure) Article 18 Section 1) because the arrest method and the detention was in violation of any formal procedure. The procedural suti filled by Mutiari was thrown out of court because the court judging the main case had already started before the pre-court sut was heard.[58] The procedural case pressed by Yudi Susanto was won by the plaintiff because his arrest was in violation of the KUHAP Article 18 Section 3, which obliges the arresting party to notice the family or nearest relatives of the person arrested.[59]

The following is an account of abuses and the consequences suffered by the suspects confined at the KODAM V Brawijaya Intelligence Detachement Headquarters.

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[56] witness Riyanto (the chairman of the PUK SPSI) and Lilik Indarsih (administrative staff).

[57] From an interview with the parents of Soeprapto (the suspect), three days after his arrest.

[58] *Republika*, February 2, 1993, *Surabaya Post*, April 11, 1993.

[59] *Surabaya Post*, and *Surya*, November 11, 1993

Bambang Wuryantoro, Age 38, General Supervisor[60]

Bambang W ws arrested at the factory on the 1st of October 1992 between 07.00-0730 am (between third and first shifts) by officers in civilian dress --their identities unknown. The arresting officers did not bring a warrant and they didn't explain what the charges were. Bambang W said that he was brought to the Bakorstanasda (for 20 days) where he was abused physically and psychologically. As soon as he was arrested he was beaten, stripped and photograped. The next days his genitals were burned with cigarettes and were electro-shocked with electrodes that connected his genitals to his hands

However, he kept insisting that he was innocent of all the charges levelled against him. As a result, he was tortured again. A table leg was put on his foot, his belly burned with cigarettes --he still bears the marks-- and kicked in the face with military boots until his mouth was broken and bleeding. He was tortured almost everyday form morning to noon to night. Even before sleeping he received inhuman treatment. His sleeping area was soiled with urine and drenched in water.

The torture stopped two days before he was moved to the Provincial Headquarters of East Java on 21st of October 1993. He was also abused there, altough not as sadistically and frequently as at the Bakorstanasda Headquarters. But, at the police headquarters, they also burned his genitals with cigarettes and beat him with the handle of a *clurit* (a sickle like weapon, trans) by two officers from the finger printing section. He could identify the following individuals involved in this torture. Lieutenant Reostamaji (Kopassus/Bais or Special Forces/Military Intelligence), Colonel Winayu, Head Sergeants Soetaji and Soekamto, Lieutenant Alex R, Lieutenant Djoko, Head Sergeant Koestamaji, and Rois Haryanto (Brimob).

As a result of this abuse, Bambang suffered lasting scars: burn marks on this body He is also traumatized so that when he sees military personnel he relieves the torture. Another result of his experiences is that his financial status suffered to the extent that his two children are now living in poverty. They are also distressed because of the harassment received from their teachers at school, members of their community, and the fellow students at school and qur'an recital classes --who call them the

[60] All the information on the torture of Bambang W was obtained from interview at the Medaeng Correctional Institute, Waru, Sidoarjo.

children of murderer. His family lives has been broken up. He can't make ends meet to pay his bills. He is innocent of the accusations levelled against him and for the above mentioned casualties he is pleading for justice, proceeding through several channels--such as the National Commision on Human Rights and with the aid of a lawyer (Soemarsono).

Soeprapto, age 23, Security Guard.[61]

Soeprapto was arrested at his house on the same day as Bambang Wuryantoro, 1 October 1993 at 08.30 am. This arrest was also executed without a warrant in front of his parents and neighbors by four people dressed in civilian clothing. He was roughly dragged into their vehicle (a Kijang). He was not allowed to change his clothes or put on shoes. He was brought directly to the Intelligence Detachment Headquarters of the KODAM V Brawijaya without being told why he was arrested. He was severely tortured during his sixteen days of confinement at Bakorstanasda.

On the first day there he was forced to strip to his underpants, brought to the second floor, and put into a bathroom. Ther he had to sit cross legged while soldiers stood on his legs and beat him, trying to provoke him to confess to murdering Marsinah. He insisted he was innocent so a soldier named Rois Haryanto urinated in a container and Soeprapto forced to drink it while his genitals were beaten with a broom. Then he was completely stripped naked and his genitals were electro-shocked until he screamed in pain. His underpants were stuffed in his mouth to stop him from screaming.

Soeprapto said there wasn't a day without torture. Once he was forced to take a bath and wash his hair before being electro-shocked so that the shocks were more powerful. After this abuse an officer pointed a gun at him, threatened to shoot if he wouldn't confess that he had murdered Marsinah. This was followed with another officer who came up from behind him and hit him on the back of the head and burned his armpits with a cigarette--permanently scaring him. This torture was accompanied by constant verbal abuse and countless blows. This occured both at the Bakorstanasda and at the Provincial Police Headquarters of East Java.

At the Provincial Police Headquarters the abuse was less physical. It was mostly verbal. Even under duress he refused orders to "reconstruct

[61] Information on the torture of Soeprapto has been obtained by the writer through interviews at the Medaeng Correctional Institute, Waru, Sidoarjo

the crime". Before he was hel at the Bakorstanasda, Soeprapto was once questioned formally by the police officers from the Nganjuk Resort Precinct on 10 May 1993. He was not abused there, he was only questioned about the demonstrations of the 3rd, 4th and 10th of May 1993. He didn't know the names of the people torturing him at the Bakorstanasda Headquarters. He knew only one person by name, Rois Haryanto, a Brimob member, who was a resident of Siring village, Porong. The names of the police officers who abused him at the Provincial Police Headquarters were Yasir, Supranoto, Hartoyo S, Soewarno, Djokbk Soetjipto and Alex.

Soeprapto became traumatized as a result of the physical abuse he experienced during confinement. Presently he is ailing. Also, due to his imprisonment his family life is shattered. Those who depended on him, his wife, two children and his parents, were left uncared for. He is trying to prove his innocence –to clear his name of the charges. During the court session, accompanied by his lawyers Djoko Soemarsono, he refused to sign the confession statement made by police that blamed him for the murder of Marsinah. When the Provincial Level Court of Surabaya sentenced him to twelve years in jail he immediately appealed to the High Court of East Java, which validated the sentence. Against the decision of the High Court of East Java he appealed again to the Supreme Court. He is also writing for the National Commision of Human Rights to fulfill his promise, as stated in the daily Jawa Pos (made by its chairman, Baharuddin Lopa).

Ahmad Sutiono Prayogi, Security Guard [62]

Like Bambang Wuryantoro, AS Prayogi was arrested at the factory without a warrant. This happened at approximately 07.00 am by unidentified individuals in civilian outfit. AS Prayogi protested against his arrest but his captors forced to keep silent by threatened to beat him up. He went through the same experience as the other suspects. He was brought to the Intelligence Detachment Headquarters of the KODAM V May 1993. He said that he honestly didn't know anything about such a meeting. As a result he was beaten repeatedly in the face, his legs were kicked with military boots, and he was electro-shocked. He was beaten

[62] The interview is not published because of security

o'clock and 3 o'clock they put pressure on her to revoke her pre-court lawsuit. Mutiari had a miscarriage and suffered from stress as a result of the harassment she experienced at Bakorstanasda and the POlice Headquarters.

She didn't know nor could she recognize anyone ther by name or -- because they didn't wear uniforms-- could she ascertain their rank. In the end, Mutiari was sentenced to seven months in jail with reduction of time in confinement. She appealed this decision to the High Court of East Java, which on the 25th of April 1994 released her from jail.

Yudi Susanto, the owner of PT Catur Putra Surya[64]

Yudi Susanto was arrested at 06.00 a.m on the 1 October 1993 at his home, Jl. Puspita 8, Surabaya. Like the others, he was arrested without warrant by a number of individuals in civilian dress at the house. Therefore, Yudi Susanto filled a pre-court lawsuit against this unlawful arrest at the Chief of the Police of East Java. On the 11 November 1993 the Provincial Level Court of East Java decided that the arrest and detention of Yudi Susanto was unlawful. After being releaseed on the 1st October 1993 he was immediately arrested again and confined for nineteen days at the office of the Intelligence Detachment of the KODAM V Brawijaya (Bakorstanasda).

Yudi Susanto had to endure inhuman torture during his confinement at Bakorstanasda and the East Java Provincial Police Headquarters. He was tortured in various ways in attempt to force him to confess to being the mastermind and murderer of Marsinah. He was electro-shocked. Once with one cord connected to one of his fingers and a second cord to his penis and another time the cords were connected his ear and penis. Other tortures included his tormentors spreading their hands hard against his ear and turning their palms against his head and another time he had to lick the floor clean with his tongoue.

In the middle of the night, he was forced to crawl into the court yard and pull out the grass wiht his teeth, as if grazing. Once he was forced to open his mouth, whereupon one of his torturers spat int it and forced him

[64] See the photocopy of the complaint of Trimoelja D. Soeryadi S.H. as the suspects Yudi Susanto attorney addressed to the National Commission for Human Rights.

to swallow the spittle. On another occasion, he had to chew a rag which he was forced to wash his face with his own vomit.

On another occasion, he and Ayib (Karyono Wongso), another suspect in the sam case, were forced to fight each other. If the soldiers deemed that the two men were not hitting each other hard enough, a soldier demonstrated how it should be properly done by hitting Yudi Susanto as hard as he could. He was forced to "demonstrate" he he had raped Marsinah, in front of others who witnessed this horror. He suffered from countless beatings, kicks and open handed blows

In the end, he was sentenced to seventeen years in jail by the Provincial Level Court of Surabaya. But the appellate high court of East Java released him unconditionally.

Yudi Astono, CO of PT. CPS[65]

Yudi Astono was arrested without a warrant at the factory of PT CPS Porong on 30 September 1993, at approximately 16:15 pm. The men claimed they were from Bakorstanasda and took him to where he was confined for sixteen days –from 30 September to 15 October 1993. On 16 October he was transferred to the East Java Provincial Police Headquarters

During the time he was confined Yudi Astono was abused, mentally as well as phiysically, in their attempt to force him to confess as the murderer of Marsinah. On the first day at the Bakorstanasda, at approximately 19.30 pm, he was beaten and told to strip to his underpants before they electro-shocked him. While still his underwear he was taken back into his cell at around 05.30 a.m. The beatings continued the next day since Yudi Astono had insisted he didn't know a thing about the murder of Marsinah.

On the third day, 2 October 1993, he was put in a room which had a floor that could be heated and a kind of ray that could burn skin (probably an infra red lamp, trans). This instrument was used to burn his genitals, his face and eyes. On October 3, Yudi Astono was given a drug that confused him. He hallucinated and suffered from delusions. In this drugged state he saw his mother with his child in her arm, heard his wife

[65] Yudi Astono tol his story to the National Commision of Human Rights, Sidoarjo, March 11, 1994.

screaming and saw her being tortured, and heard his mother-in-law crying out in pain.

On 4 and 5 October 1993, the beatings and electro-shock continued. Finally, on 6 October, he was not tortured physically but he was not allowed to wear pants. But, on the 7th and 9th of October he was beaten and electro-shocked again. He was told he could get dressed only if he would confess to murdering Marsinah. He went wild and broke the windows with a chair as a result of the mental and physical torture. As a result of his actions, he was confined to his cell, dressed only in underpants. There in that condition, the soldiers urinate on him, causing the skin on his back to fester.

The mental terror did not cease. His tormentors acted out the voices of his wife and children in distress. Yudi Astono gave up resisting and complied on 12 October 1993 when he was forced to stand on one leg on a wet floor. The Provincial Level Court of Sidoarjo sentenced him to four years in prison. He reacted by going into higher appeal. However, the High Court of East Java confirmed the sentences of the Provincial Level Court. Yudi Astono then appealed to the Supreme Court.[66]

The law, however, was not on the side of the suspects. Bambang Wuryantoro, Widayat and AS Prayogi should have released from detention on 1 March 1995, Soewono's and Soeprapto's release should have been on 3 March 1995. However, none of them were released from the Medeang Prison. Against this decision, the attorney in the Marsinah case registered ardent protes with the Supreme Court. But responding to this protest, the Director of the Medeang Prison said that the party who authorized this extra-procedural detention was the Director for Criminal Affairs, of the Supreme Court, Ms. Suyatni Sudarto SH.[67]

An interesting aspect in this controversial decisions is that the Procedural Code which was used as the underpining of the Criminal Code was over-ruled by tthe Ujung Pandang Agreement. According to article 28 Subsection 29 of the Code of Criminal Procedure, a suspect can only be held pending trial up to 170 days. This period can not be extended even in cases where the Supreme Court has not yet made a ruling.[68] But the

[66] December 15, 1993.

[67] *Surya* and *Memorandum*, March 6, 1995

[68] *Jawa Pos*, March 1, 1995.

Ujung Pandang Agreement states that in a case which attract public interest, the suspect can be held longer.[69]***

[69] *Kompas*, March 11, 1995

7. PEACEFUL ACTION MET BY BULLETS: THE MURDER OF NIPAH FARMERS

Introduction

The name Nipah (Nepa) was thrown into the limelight and became a hot media story after a number of resident farmers were shot by security forces because they protested the building of a dam that would flood their farms and destroy their village.[70] Nipah is a coastal village in the subdistrict of Banyuates in the district of Sampang, on the island of Madura

The plan for the dam was conceived in a five years plan for 1977-1982 on the request of the district level parliament of Sampang. But due to budget restrictions, the construction of the dam was delayed in 1986. [71] With a World Bank loan, the plan to build the dam resumed again the early 90's and construction began in 1993.[72] The dam would inundate seven villages: Nagasareh, Tolang, Larlar, East and West Pelanggaran, Tapakan dan Montor. The government formally commenced with construction in the beginning of July 1993.

The owner of the land affected by the dam were not informed nor involved in any deliberations concerning compensation for their land. As a result, in the same month that construction began, twenty-five landowners came to the District Level Parliament of Sampang. They were met by the Chairman, LH Sayuti from the FKP (Government faction) and M. Ismael Basuki form FPP (the Moslem Faction).

The District Officer of Sampang, Bagus Hinayana, responded angrily at the plenary meeting of the District Level Parliament in early August 1993. He said "The law No 5/1974 states that the Parliament is a partner to the government so why is the parliament not supporting the government's program?". He even said to members of Parliament "Who will try to do anything, I arrest. I have an army!"

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[70] *The Tragedy of Nipah: A Problem of Development Policy*. The Bangkalan University Team. November 1993.

[71] *Ibid.*, page *32-33*.

[72] *Ibid.*, page 34

The "Unlawful Shooting"

On 2 August 1993,. three representatives from the villages of Nagasareh, Larlar and west Pelanggaran came to the Sampang district office to lodge a complaint because the land survey continued without informing the poeple. On 9 August 1993, BPN (Land Registration Office) surveyors were guarded by the military and police as they continued to survey the land. ON August 11th 1993, approximately fifty villagers gathered to protest because the poeple's concerns were ignored. On the 8 September 1993, two hundreds fifty villagers demonstrated and prevented the BPN officers (with guard) from measuring the land.[73]

The situation became explosive. The District officer shifted from a persuasive approach to a repressive one. On 15 September 1993, the District Officer held a closed meeting with members of the Muspida of the Sampang district and the Muspika of the Banyuates subdistrict (district and subdistrict level of government officials representing the civilian, military, police and prosecuting branches of government) as well as with officials from the Ministry of Public Works. On 20 September, following the meeting, the District Officer together with the leadership of Muspida and Muspika asked the District Level Parliament members to go to the project site to give "pembinaan" (guidance) to the people at the Village Hall of East Pelanggaran Village.[74]

There these government and parliament representatives were met by approximately 250 community members. However the people whose land was at stake were forbade to enter the Village Hall. It was tightly guarded. Consequently, they reacted with anger when the District Officer explained the government position on the dam project. In his speech, the District Officer said that the people who refused to accept compensation for their land were communist. The District Officer also said that he had troops ready to mobilize against the people who refused compensation.[75] Kiai (a religous title) Jauhari from the FPP spoke after the District Officer,

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[73] *Jakarta-Jakarta* No 378, October 2-8, 1993, page 18.

[74] *Ibid.* page 18-19

[75] From an interview with the witness Makruf. See also *Jakarta-Jakarta*. No. 378, October 2-8, 1993, page 19.

explained the dam project. After Kiai Jauhari's explanation, the District Officer held a dialogue with the people. But many of the land owners left This insulted the District Officer.

Four days latter, on the 24th September 1993 while the community gathered together in the mosques for friday prayer, the BPN officers continued the land survey, guarded by security personnel. But they were ween by the people who came home from the Friday service and stopped their work. But before they proceeded home they threatened the people: "If something happens tomorrow you'll be shot!"[76]

The next day this threat was carrien out. On 25 September 1993 at 13.00 p.m., approximately 300 people from several villages approached the land survey team and asked them to stop. The people waved their arms and pleaded with the officers to come to an agreement first before measuring their land. Three shots were heard. People were heard screaming, "Sir, I want to live, I want to live!" Then a volley of shots were fired even though the vilagers were not threatening or using violence against the government --none of them had any weapon.[77]

Three people were instantly killed on the spot. They were Simuki, age 30, a resident of Nagasareh, Ms. Mutirah, age 55, a resident of Lartar and Nindin, age 15, a resident of Tolang, a forth grade madrasah (Junior High School) student. Other villagers were seriously wounded, among them were Muhammad, age 35, from Lartar, who died later in the Dr. Soetomo hospital in Surabaya; Dairoh, age 40, from Tolang, and Suridah, age 30, from Nagasareh.[78]

Finding the "Mastermind": Covering Up the Perpetrators of the "Unlawful Shooting"

An on location analysis determined that there was sufficient distance between the people and the land registration officers with their guards to guarantee the latter safety from the former. A dry riverbed was between

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[76] *Op.cit.*, page 19

[77] All witnesses said that the people were unarmed. From interviews with witnesess (Hudhori, Makruf, Junaedi an Munti)

[78] *Surya*. September 28th, 1993.

the two parties. When the incident happened, the gunmen were on the west bank and the people on the east bank.

The irony was that in the aftermath the government didn't seem to care that unarmed civilians were shot to death by the military but was more intent on finding scapegoats --who were as usual called "the masterminds behind the demonstration". Among the villagers present three were suspected: Hudhori, from Tolang, Makruf from Nagasareh and Siseh from Larlar.[79]

The worse response was from the troopers who had fired into the unarmed crowd. The soldiers testified that the demonstrators were armed with sharp weapons and had approached them defiantly screaming. At a distance of eighty meters the soldiers had fired warning shots which were unheeded. Apprehensive at a distance of five meters, the soldiers had aimed their fire at the demonstrators. They had aimed at those people thought to be the instigators of the demonstration. Shots had rung out and three people had been killed. After that the demonstrators had run for their lives.80 This version coming from the version was of course markedly different from the story conveyed by the village community. Villagers who had taken part in the demonstrations told that they came only to plead with the BPN officers for their livelihoods (*nyo'on ondi, writer*). This meant that the officers should stop measuring the land since the villagers were not going to sell itu. They were not armed, as claimed by the soldiers. "We came not to make war" said one of the demonstrators, Maati. But when they arrived, they were shot at by soldiers in camouflage fatigues. He said taht the soldiers had "long black weapons which sounded like "det, det, det". Simuki, one of the victims had his hands raised, asking for pardon, at the very moment he was shot.

One journalist told that the shooting was planned beforehand.81 This piece of information was overheard on 25 September 1993, at approximately 23.00 pm. The journalist, together with another journalist, heard the Sampang Police Chief Lieutenant Colonel Siswinarto reporting

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[79] *Surya*, September 27, 1993.

[80] *Surya* September 26, 1993

[81] It is a pity that the report of the resort police head of Sampang written for his superiors in Surabaya as well as the reconstruction of the incident by the Military Police Detachment was never published in the mass media.

the Nipah incident to a general of the Provincial Police Headquarters. The report was conveyed in a clear voice over the phone three meters from where the journalis was situated. It was not clear wether the report was given to the Head of the Provincial Police himself or his deputy Liuetenant Colonel Siswinarto kept repeating "To your orders, General!". When the journalist asked: "To whom are you reporting?" The answer was only : "To the Provincial Police".

The report went as follows:

> A demonstration took place near the village of Eas Pelanggaran, subdistrict of Banyuatas, Sampang, which involved about 200 armed whit sharp weapons and led by Hudhori and Makruf. We're taking aim at this two people because earlier they had incited the masses to demonstrate. But because Hudhori and Makruff were hiding behind women and children, when the shooting started, this women and children were hit. The victims are one women, one adult male and a boy. These three victims died on the spot, and we are still looking for the wounded.[82] Hudhori and Makruf are still sought. According to intelligence reports, the two men have fled on a motorcycle.[83]

From this report it can be concluded that the military was ready to shoot the demonstrators This was confirmed when members of the Military Police Detachment reconstructed the incident on 1 October 1993. Journalist had spied on the group reconstructing the events. In this reenactment at least eight military police personnel in full uniform together with a few officers in civilian dress (identified as military by their hair cut) reconstructed the bloody incident on 25 September 1993. The Military Police asked personnel from the Koramil of Banyuates --dressed in camouflage fatigues-- and the police officers --dressed in brown uniforms -- where the land was surveyors were. First they asked where the land surveyors did their work. Then they asked the way to the actual location of the shooting.

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[82] When he was reporting, the police head never mentioned the names of the victims.

[83] This is odd, since according the residents of East Pelanggaran, only one person in the village has a motorcycle, the village head.

Along the way, the military police officers took measurement, made notes, and looked at foot prints until they had reached the river bed, which was overshadowed by big bamboo stands close to the location of the shooting. It was estimated that the distance between the BPN survey team and the location of the shooting was one kilometer. On arrival to the location, the MP officer asked "What was the formation?" The Danramil (Commander of the Subdistrict military resort) answered: "On ready, here and here and here". While speaking the Danramil pointed otu where his own position was and then pointed left and righ. The MP asked:"Divided in three groups, eh?" Then he asked again" Where was the position of the Danramil?" The Danramil walked a few places to the right until he was under the heavy bamboo stand (*from this position, blocked from view by the bamboo, the demonstrators couldn't have seen him*). "Where were the bodies?" asked the MP. One of the plain clothes officers pointed and said in a clear voice: "There and there and there under the tree!" (*note: Between the place where the MP, the Danramil and Police Chief, stood, close to where the gunmen were positioned during the incident was a dry river bed, 5 meters wide, 2.5 meters deep, its banks having a gradient of 70 degree. The distance between the bank of the river and the nearest body was 50 meters –the position of the three bodies were spread out*).

From the reconstruction, it became clear that the shooting was purposeful and planned. The distance between the BPN personnel and the location of the shooting was one kilometer. The military had ambushed the villager who came to discourage the BPN officers. A few officials form the village had accompanied the demonstrators. These officials wore "janur" (weaving of yellow palm leaves and ilalang grass) around their neck to mark themselves out to the military. Their task was to point out who were Hudhori and Makruf to the gunmen.

The pursuit of Hudhori was not without reason. The security force considered him the mastermind behind the villagers rejecting land compensation and especially after they learned that Hudhori had led the demonstration against measuring land on the 8th September 1993. During that demonstration, some villagers had thrown stones at the battle dress clad soldiers when they came to disperse the crowd. When that happened, the soldiers had fired in the air. But they had chased Hudhori, shooting while they ran all the way to his house. Hudhori had escaped in the direction of the river where he hid among thorny bushes. Based on the type of bullets found in the kitchen of Hudhori's neigbor house (presently

kept at the Legal Aid Institute of Surabaya), it looks as if the gunmen shot at him were both military and police. One bullet seems to be from an assault weapon and one is from a side arm.

After that incident, a number of people were questioned by security personnel. Makruf, a resident of Nagasareh, who also was considered to be an instigator, was summoned three times by the police of Sampang and Surabaya. Also Junaedi, the director of a Madrasah (a religously oriented school) in Tolang, was arrested by Koramil personnel while he was waling outdoors. Makruf was never abused but Junaedi was beaten by a number individuals during the questioning at Sampang Police Office. Both were summoned without summons warrant.[84]

Maati, a neighbor of Makruf, was another villager questioned by security personnel at Sampang about the shooting incident. Maati was called with a letter of summons from the police of Sampang. After that, many villagers became intimidated. For example, twelve soldiers came to the house of Maati four days after the shootings (Wednesday night, September 29). On Saturday the soldiers came back. (October,2). According to Makruf, the villagers were pressured to sell their land. They were told that the land would be taken from them if they would not sell it. This was confirmed by Junaedi. According to Makruf, two villager from Nagasareh were threatened and brought to military police detachment's headquarters. They were Rusdi and Supa'i.[85]

Conclusions, A Retrospect

The situatio in Nipah is explosive. The government continues it land survey in preparation of the dam project and the people keep defending their land. Even after the shooting there are no signs that the government is looking for a solution, altough it has organized a fact finding team. This team includes personnel from the Ministry of Interior, the Parliament and Bakorstanasda. It reportedly has implemented a survey following to the shooting incident, but it is a pity that its finding never have been published and made available to the public.[86]

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[84] From interviews with the witnesses (Makruf, Junaedi and Maati)

[85] From interviews with the witnesses.

[86] *Memorandum* 30 October, 1993.

It also interesting that no legal steps have been taken to punish the soldiers involved in the shooting incident killing civilians. There were never brought to court. The case seems to be closed, although the ulama (religous leaders) from Madura, particularly KH Alawy Muhammad, keep calling upon the government to punish the officer and security personnel responsible or the incindent.[87]•••

[87] *Jawa Pos*. November 8, 1993.

8. THE STIGMA OF PKI AS A JUSTIFICATION FOR OPPRESION: THE CASE OF KEDUNG OMBO

Introduction

In 1994, the name Kedung Ombo became hot news again. In July, the public praised the decision of the Appelate Council of the Supreme Court (MA), chaired by Professor Zaenal Asikin Kusumah Atmadja. This decision met the demands forwarded by thirty-four residents of Kedunggpring village, subdistrict Kemusu, district Boyolali. It also covered compensation for immaterial damages[88]. However, as was widely expected,[89] the Provincial Administration of Central Java filed suit for a reassessment of the case (PK). With a PKI suit filed, execution of the Supreme Court's decision was rendered impossible, inspite of a plea by the Legal Aid Institute of Semarang in their function as attorney to the

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[88] The decision to satisfy the appellate suit of the 34 residents of Kedunggpring was made through the Decision of the Supreme Court No. 2236K/Pdt/1991, but was announced in July 1994. A few speculations circulated about the delay. Some people tought it had to do with the security situation prior to the general elections of 1992. Others thought it had to do with the guarantee asked by the CGI donor countries to underwrite a new loan and who assembled a few days after the announcement was made. The ramifications of the decisions were that the Provincial Administration of Central Java and the Ministry of Public Worksa had to pay the plaintiffs a sum of Rp. 9,1 billion. This decission was surprising because the demands were only for Rp. 10,000/square meter and an additional Rp. 2 milliard (billion) form immaterial compensation.

[89] Many people predicted that the decision of Asikin cs. which was a new chapter in the legal history of Indonesia would be over ruled. See Stanley,"A New Chapter in the Legal History of the Indonesian Republic", *Suara Merdeka*" July 25th, 1994. In August 1994, President Suharto even called the Minister of Public Works and the Chair of The Supreme Court. The president said that the decision made by Asikin cs. was not fair to the thousands of Kedung Ombo residents who were willing to trasmigrate (migrate) or had moved on their own initiative. It is interesting to see the demonstrative "we always win" attitude from the side of government since the beginning of the dam construction. On the 25th of May 1989 after the initiation of three energy plants in Mrica, Banjarnegara, Suharto explicitly judged the Kedung Ombo area as an former PKI base. This statement became the justification of all acts of violence which happened and still are happening in the Kedung Ombo area. see Stanley, *About Kedung Ombo*. Elsam, Jakarta 1994.

people of Kedunggpring which stated that was no reason to delay the execution.

In the end, on the 29th of October 1994 (again a predicted) the Special Team of the PK council led by Purwoto Gandasubrata declared the Supreme Court Decision null and void.[90] As a result, many lost believe in the supremacy of the law.

People remembered the cycle of covert and overt violence which had overtaken Kedung Ombo.[91] The overruling of a Supreme Court decision by the Supreme Court itself implicitly denies all the violence that occured at Kedung Ombo, whereas the calamity is that this denial validates the violence perpetrated by the state against society

The practice of violence in Kedung Ombo started in 1986.[92] It started by enforcing people to put their thumb prints on documents which stigmatized them as ex-PKI members; obliging them to report to the various security agencies for checks, to perform "voluntary duty" (forced labour), undergo arrests, terror, covert blockades, culminating in the inundation of hundreds of houses and their inhabitants. The flooding was done intentionally so as to "isolate" the population suspected of preparing maneuvers to bring their demands in the open again by going to

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[90] The decision of the PK council was made a few days before Purwoto Gandasubrata's tem ended. He was replaced by a member of the special team, Soerjono. Speculation also focussed about the retirement of the Chairman of Supreme Court The decision by Asikin cs. was made shortly before his retirement. Read: "A Gift Before Retirement", *Kompas*, December 6th, 1994.

[91] Memories is underlined here, because the area of Kedung Ombo which included the districts of Boyolali, Sragen and Grobogan do not exist anymore. An area of 6,125 hectares with the house was inundated. Ten villages disappeared and the resident dispersed. It is interesting to contemplate the mission of development so strong that it can accomplish such result by bulldozer.

[92] The definition of "violence" is more broad than "torture". Here I am obliged to John Galtung. He reject the narrow definition of violence, which is destruction of somatic health or killing. According to Galtung, violence is more defined by its effects or its influence on its victims For the victims there is no difference between dying or hunger as the result of protracted military action, or as the result of injustice, unequal distribution, or vertical or asymmetric structures. It make no difference wether somebody is killed by bullet or is killed slowly by a lack of food. Borrowing from Galtung's paradigm an official who allows a person or a group of persons suffer although it could be prevented, is involved in violence. See" I Marsa Windhu: *Power and Violence According to Johan Galtung* . Yogyakarta, Kanisius, 1992.

government offices. In many ways the "violence" in Kedung Ombo can be seen as protracted "torture". "Violence" explains an action, while "torture" defines the helplessness of the population in resisting any form of violence leveled against them by the state.

It Began with Thum Prints

In 1985 the Provincial Administration Officers in the district of Boyolali started to enforce the thumb-print agreements. The people were forced to assemble at the Village Hall. Government officials then explained that there was plan to construct a dam and requested that people sign lists of attendance.[93] Those who could not write had to sign with a thumb print. Because many people refused compensation for their land (at prices set unilaterally by the government) the lists of attendance were used to validate letters of agreement. In this way the people who were against accepting the compensation were manipulated to agree to what they were against using formal legalistic trickery. The same method was applied to "resistors" to sent them overseas (transmigration programs)

When the area was flooded thousands of people stil doggedly remained in their house. In 1988, village administration officials came to people's houses urging them to accept compensation. Because they still refused, the officials used fraud—using people who were willing to accept for others the compensation alloted for those who refused. A number of bonuses were given to these "good" people who wanted to help officials by accepting the compensation which was not theirs to accept.94 Government officers used the villager's signatures and thumbprints to legitimize driving out those residents who refused to leave. These were used as evidence, in black and white, to prove that in fact that the deliberative process was normal, adhered to without exerting external pressure.[95] (*Community* –

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[93] The residents who did not show up or refused to show up where summoned by the police and accused of violation of the Criminal Code article 224 or 335, which are defined as "unsavory deeds". See Stanley. *About Kedung Ombo*. ELSAM. 1994, page 89.

[94] This case surface after a number of people who had become "hirelings" felt guilty and then reported the case to the police. It turned out that this mode of manipulation entailed the collusion of the village administration, higher level administration and security personnel. See *Warwaron*. February 25, 1989. Also, *Prioritas*, June 18, 1987.

[95] It is interesting to study the Decision of the Supreme Court by Asikin Co

based deliberative process to reach consensus is one of the principles of Pancasila -- the state ideology, trans)

Violence is forcing the people of Kedung Ombo --who had lived on their own land in prosperity for generations- to give up everything they have without giving them any chance to participate the decision making process. And, using "rubber regulations" and threats which force people into poverty is form of torture with protracted effects.

Applying the Ex-PKI Stigma

The government personnel in charge of "liberating" (membebaskan) worked extra hard to inundated the area. They faced stiff resistance from the population, many of whom refused to move or those who wanted better compensation than what offered by the government. To overcome this "resistance" officers of the Provincial Government employed a new intimidation method stigmitizing the people as ex-PKI members. The people of Kedung Ombo, like all Indonesian citizen, have to carry an identity card (KTP). Without a KTP a person will experience problems whenever he/she has to deal wiht the bureaucracy. Every three years one's KTP must be renewed, usually done around birthdays. In 1985, all KTP's of the people living int he Kedung Ombo area where the dam expired.

When the people wanted to renew their KTPs, those seen as "resisters" had their KTPs stamped with "ET" without their knowing it. "ET" stands for "ex-political prisoner" and indicates that the bearer of an ET stamped KTP was implicated in the "G-30-S" movement in 1965 which supposedly was a communist plot. Many of those who had their new KTP stamped ET didn't understand the ramifications they had to endure because of it.[96] But soon they learned . Especially because they now had

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[96] Many discovered afterwards what ET was standing for. Together with the Legal Aid Institute of Semarang the people who never had to do anything with the events in 1965 filed suit against the Provincial Administration of Central Java through the provincial Level Court of central Java. To among them were former residents of Ngrakum village. They were Dalimin Reksoprawiro (56) and Tijtro Parwidan Kasan (58), whose cases have reached the Appelate Court of the Supreme Court. See: "I was labelled ET because I refused the compensation" *Forum Keadilan*, No. 19 January 5th, 1995. Also: "The Lawsuit Against is Waiting for the Decision by the Supreme Court". *Suara Pembaruan*, November, 23, 1994. Giving the people the ET label in the Kedung Ombo case was frequent and ludicrous. It meant that some of the people framed as ET's were still in

to report to the Koramil office on a regular basis. This terrorized them to such an extent that twenty-five people from Kemusu village fled to the forest.[97]

Reviving the PKI scare in the area was torture. People who rejected compensation for their land were now in fact classified as demons, the enemies of Pancasila and the State. The people who hid in the forest were not tortured physically but they were convicted without trial. The PKI stigma has serious moral and legal consequences. The ramifications of the label affect one for life and affects the lives of one's children and grandchildren as well. It means civil death.

Forced "Voluntary" Labor[98]

The military was involved in assisting the government to force the people to clear-off the land by harrasment such as enlisting them into "voluntary labor" what they even referd to as political guidance. People who had contacted the legal aid office in Yogyakarta for help were required (voluntary labor) to clean the Koramil office.[99] Some had to sweep, others had to mop. Some were simply punished by forcing them to stand in sun all day.

Summons, Arrest and Torture

Summons, arrest and torture were the other methods of "political guidance" employed by the local administration and security forces were. Covert torture was in the form of summons, based on charges of the theft, fraud or purchase of stolen timber. But whatever the case was, summons ussually ended up with arrests.

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grammar school at the time that the PKI was declared a forbidden organization in 1966. This also meant that they were involved in the failed coup the PKI was held accountable for.

[97] See: *Kompas*, July 18, 1987.

[98] This method of enforced "voluntary labor" was perfected by the Japanese facist occupying forces and was called *kinrohoshi*. It became institutionalized as a system where the people had to work to support for Japanese interests for free. With Sukarno the concept was developed and was called *romusha*.

[99] See Stanley. *Op.cit.*, page. 93

In an effort to obtain help, the oppresed villagers brought money together so they could send their representatives to the cities to find legal assistance. But the police pressed charges against these messengers using several ruses, such as accusing them of fraud [100]

Another method of harrasment by the security forces was patrolling from house to house. When they found people who were keeping timber for building purposes at home, the security forces arrested them on charges of acting as fences for stolen timber, which was property of the Ministry of Forestry.

During questioning or detention, the people were often intimidated, slapped, beaten with fists and kicked, or had their hair pulled. The "lucky" ones only received verbal abuse and threats. For example, they were told that they would be shot or jailed for 13 years.

Sum, a resident from the village of SUmber Agung, Ngrakum, was summoned to the Koramil office in 1987. In the Koramil office, the subdistrict officer, local constable and security personnel from the Agency for Intelligence Coordination (BAKIN) were all waiting for him After being asked a series of questions to corner him he was told that the people who refused to move were PKI (communist). Following that he had his right arm twisted, he was slapped, beaten and whipped. As a result of the whipping, Sum's arm became permanently paralyzed

Sum Recounted:

"I was crying and screaming as hard as I could, but they hurt me more and more. All the officers present beat me. Then my hand was taken and

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100 One of them, Jumadi, was accused of fraud and was brought to court, age 52, a resident of the Hamlet of Klewor. He war sentenced of 5 months in prison. The prosecutor said that Jumadi had extorted his friends. The courts session his friends testified that they had given him and others the money to pay for their journey to the cities. Against this false accusations Jumadi went into higher appeal. Presently his case is being processes at appelate court. Read: "The Story of Those Who Surrendered and Those Who Resisted". Forum Keadilan *No. 17, December 8, 1994.*

my thumb pressed on the agreement for compensation. Only after I almost died they released me from the Koramil."[101]

The police offered their victims clearing from the charges and release from detention if they would sign or thumb print the letters of agreement declaring their willingness to accept compensation for releasing their land to the dam project.

Mental Terar

Government officials also conducted mental torture to drive people of their land where they had been living for most of their lives. The poeple who resisted, particularly community leaders, received visits from security personnel, who put under pressure on the villagers to give up their land or face extra-judicial killing[102] when people were sleeping. They would ask the people, they woke up a number of questions which had to be answered and at the end they requested them to thumb print an agreement to accept compensation money. This angered the people but they were powerless As a result, some suffered from mental disturbances.[103]

After the land was really flooded, security forces released a number of giant pythons which terrorized the women with children. After that, security forces sent in five snake charmers from Solo to "safe the people". But in the end the people understood that their real task was to persuade them to leave.[104]

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[101] The timber used by the people for building was usually brought form "blandong" (workers employed by timber estates). See: Stanley, *op.cit., 93, 423,424.*

[102] See, Dameria Pakpahan, "Myth and Development Ideology, the Study of the Development Case of the Kedung Ombo Dam". Scription *S-1, The Faculty of Literature, University of Gadjah Mada, Yogyakarta, 1994, page 101-103*

[103] One case was Asat Suryastmadja from Klewor, age 42. As a result of the terror he had to be treated at the mental hospital. When he was released, he was brought to court in Solo. Subsequently he became sick again. In the end he suffered a stroke which paralyzed the left part of his body. A similar ordeal befell Wirorejo, aged 60. Also Kartorejo, aged 70, and Mangunrugiyo, aged 65. The latter was lastly seen totally out of his mind and dybag. Read, "The Story of Those Who Surrendered and Those Who Resisted", Forum Keadilan, *No. 17, December 8, 1994.*

[104] In the end, the snake charmers did not dare enter the area, because the people would beat them.

The security forces then stepped up their campaign of terror by started war games in the area to frightened the people. In the combat excercises of June 1988 a substantial number of military personnel took part, involving units from the army, marines and air force in full battle gear. Similar excercises were held again in June 1989, using live ammunition including cannon shells. The craters made the Kedung Ombo area look like a real battle field

Inundation

The inundation that commenced --with thousands of people still remaining in the area-- was the pinnacle of a show of excessive force exercised by the state. The flood also became their ultimate weapon. The people were now in real trouble. They didn't face officials and security people anymore, now their enemy was the water. Their energy was spend trying to save their las possesions [105] The inundation submerged hundreds of houses and cut the people off from society. Children couldn't reach their schools. Markets became unaccessible. Fields were flooded. A number of people drowned.[106]

Blockade

During the nine months since the inundation commenced, the government declared the Kedung Ombo a closed area. At every road military posts were stationed guarded by soldiers with their weapons on ready. Everybody who wanted to pass had to show his ID and had to answer a battery questions. This blockade was coordinated by the commander of the Satgaspam 0724 under command of the military area commander of Boyolali, Lieutenant Colonel Drajat Budi Santoso, and employed all units

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[105] The Task Force for Rescue (Satgaspam) organized to save the lives and property of the people form the flood in fact continued the intimidation and removal by forces excercised by the provincial administration and security forces. Satgaspam members who helped in saving the possesions of the people didn't bring these to where their owners wanted them, but brought them to the trucks waiting outside the inundated area. As a result, the people refused to be helped by the Satgaspam.

[106] A number of people tried to use wooden blocks for stamping rice as boats. As a result, a number of people drowned because these "boats" capsized. Meanwhile, security forces blockaded aid, including boats, coming form outside.

of the army. The Kedung Ombo area was made into a war zone. The settlement was sealed off. The press was forbidden to cover the event. It was as if a contagious epidemic had erupted in Kedung Ombo. People were not allowed to enter or to leave. All aid from the outside was controlled and obstructed.[107]

However, the surrounding of Kedung Ombo showed that the state was using obsolete war tactics.[108] An unarmed population was considered and treated like an enemy, controlled and cut off from its resources with the aim to weaken it into submission. This is the practice of violence and protracted torture, psychologically and physically in character. ***

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107 From 1989 to 1991, the security forces formally declared that the Kedung Ombo area was not closed. But the public knew that what the government says often means the opposite.

108 Sun Tzu and Clausewitz developed the model of total destruction of the enemy through encirclement. See Ir. Indra Widjaja, The Philosophy of War. Sun Tzu . *Jakarta, PT Dunia Pustaka Jaya, 1972.*

9. CLEANSING OPERATION BLOCKED DEMONSTRATION

Introduction: Context of Event

The issue that aroused public outrage, not only at the national level, but at the international level as well is the 1994 press closure. This is the first time under the rule of New Order that a Pres closure has attracted a huge protest against the government, particularly to the Ministry of Information under Minister Harmoko. According to Dhakidae, this is a new episode in history, the fisrt political resistance of the Indonesian society against the government because the press was crushed. This is also the first time that the murder of the press was perceived not only as a crime aginst journalisme but also political and economic crime. The first time since 1952.[109]

The clampdown of three prominent mass media: *Tempo*, *Detik*, and *Editor* on June 21 1994 has stop speculation and expectation of the public on the prospect of democratization and openess in Indonesia. The expectation that emerged for several years was drown by a decisions signed by a director general "The press closure was forcibli done and previously, the three media laready recieved written and verbal warnings for several times", said the diretor general of PPG, Drs. Subrata.[110] The reason given by the government regarding the press ban of the three publication was perceived as baseless. The dream for Openness was shatered and suddenly the people realized that this is the real face of an authoritharian government.

Usually, the issue of a press closure lasts only for short time, it gets lost and it is forgotten, inspite of the fact that victims of a press closure are so numerous it couldnt be counted with the fingers. Since the G 30 S/PKI 1965 event, the government has practically banned at least 85 print

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[109] Daniel Dhakidae, "Membunuh Modal, Membunuh Kebudayaan", in *Bredel 1994*, Aliansi Jurnalis Independen, Jakarta, 1994, p. 61.

[110] Roy Pakpahan, "Dari Realitas, Aksi ke Refleksi: Pembredelan Tiga Media Massa", in Dr. Albert Hasibuan SH, et.al, *Rekonstruksi Peristiwa 1994*, Pustaka Sinar Harapan, Jakarta, 1994, p. 23.

media.[111] A prestige could only for a regime that often speaks about democracy and the principle of deliberation.

In a political situation which is relatively stable the murder of two magazines and one tabloid was certainly send a shock to the Indonesian society. After the shock, the next reaction was anger and opposition againsts the government's arbitrariness. Spontaneously, it produce a sereies of demonstrations participated by thousands of people composed of student activists, NGOs, intellectual, journalists, press employees, etc. In Jakarta the demonstration continued for several days. Aside from the capital city, various forms of protests were staged in different cities, namely, Bandung, Yogyakarta, Semarang, Surabaya, Medan, Ujung Pandang, etc.[112]

In Jakarta, the first demonstration was held on June 22, 1994. It seemed that the press closure news announced at noon the day before was already widely known. That Wednesday, there was a demonstration from two assemble points. The first group of demonstrators departed from the office of Detik in Jl. Gondangdia while the other departed from YLBHI office in Jl. Diponegoro. Both groups has a similar destination. the office of the Ministry of Information (Deppen) located in JL. Medan Merdeka Barat.

Several streamers and posters containing harsh words such as, "Resign Harmoko", "Hang Harmoko", and " My heart is a jounalist my soul is an oppressor", were displayed by the demonstrators. Meanwhile, the anti-riot police armed with sticks and rattan shields were on guard. The demonstrators could not enter the building of Deppen because since morning, the gate was already barricaded by security officers. In this first demonstration, Buyung Nasution, Mulya Lubis, and Princen were present. At 11 am, Buyung together with other activists tried to enter Deppen building. However, they returned shortly because the officials refused to meet them. "As we already know gentlemen, the Minister as well as the Director General refuses to meet us. We shall leave now and return again

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111 Read, *The Press Under Siege: Censorship in Indonesia*, Article XIX, London, 1994, p. 7.

112 With regards to the details of the action, read, among others, Tim Wartawan Tempo, *Bukit Putih Tempo: Pembredelan Itu*, Alumni Wartawan Tempo, Jakarta, 1994, p. 16 - 31.

tomorrow with a bigger number!" shouted Buyung.[113] The demonstration ended without any incident.

On the second day, June 23, 1994, the area of Monas was full of demonstrators again. Some of them are wearing a black shirt. Journalists and employees of Tempo are wearing a uniform blavk shirt with the words, "Yes, I Love Tempo" printed on it. Just like yesterday the demonstration today was prevented from entering the Deppen building. This time, the protesters has formed a delegation that would meet Deppen officials, they were Buyung Nasution, Sri Bintang Pamungkas, Princen, Didi Prambadi, Toriq Hadad, Achmed Kurniya, Yoppie Hidayat, Wahyu Muriadi, Bowo and Dadang. However, the result of the meeting between the delegation and the Director General of PPG Drs. Subrata was fruitless because the Deppen official listened olny to the protest and did not commit anything.

On top of a police truck, Buyung Nasution, surrounded by thousand of demonstrators -- including military, police and intelligence -- announced that they will return again on Monday with a bigger number. This day passed without a significant event except in the night, during a gathering at YLBHI, security officers dismissed the gathering on the grounds that the meeting have no permit from the police.

On the third day, friday, June 24, 1994, the area of Monas was relatively quiet, only several journalists were present waiting for the arrival of the demonstrators. After the friday prayer has ended and there was still no sign of a demonstration, the journalist left the place and headed for Taman Ismail Marjuki (TIM, a cultural center) by foot. Here, a staged was set and several journalists and students took turns in expressing protests against the government. Meanwhile, several police and military men were also present in the area. A unit in green uniform was also "hiding" in the yard across the TIM complex.

On the fourth and fifht day (Saturday and Sunday), they were practically no activities from protesters. On the sixth day, Monday, June 27, 1994, the area of Monas was noisy with the arrival of hundreds of demonstrators. Nobody suspected that on this day the military will take a brutal action to handle demonstrations. Since morning, the area of Moonas was already under tight security with the presence of a bigger number of police and military men. Surprisingly, the military men on duty that day

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[113] *Ibid*, p. 18.

were not wearing the usual military uniform instead, they were wearing the green stripped pants and a black shirt with the words "Ops bersih 1994". Operasi Bersih (cleansing operation) is a military operation under the command of extra-judicial agency Bakorstanas. It was formed particularly to control crime in the capital. With the deployment of such unit, the demonstrators who were actually not criminals were confronted as criminals.

The unit is composed mainly of well-built young men in their twenties, they are armed with a glass helmet, fiber-glass shield and a wooden stick with a diameter of about 5 cm. Some of them are carrying a communication instrument (telephone) usually carried in war areas. Nobody knows where this military unit without identintification originated from, but there presence created a tense atmosphere.[114] Hundreds of journalists and press employees who arrived that morning could only obey the secutiry officers when they were reprimanded. No spreading of streamers and posters. No singing. Everybody could not ignore the tension brought about by the presence of a military unit without identification.

Meanwhile, a more militant group of demontrators usually assembles at Sarinah mall before marching together towards Depper. At around 10 am, when all the participants were already complete the demonstrators marched orderly. The march did not create any traffic jam because the group allowed the flow of traffic. Streamers and posters including a large masterpiece painting by Semsar Siahaan were displayed and patriotic songs reverberated.

However, when they approach the statue of Krasna abd Arjuna near the Budi Kemuliaan circle the group was intercepted by the inidentified military unit. Some leaders of the group marched forward to negotiate with the military. However, it was in vain, there legitimate intention received stern violence. The beating of wood immediately dispersed the demonstration.

The non-violence demonstrators were attacked and treated like criminals. The head of Kacik, an activist of Yayasan Arek, bled profusely after having been hit by a wood as big as a wrist. As he fell, he was

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[114] According to a certain source, Tempo team testified that the unit came from Brigade Infantri I Jaya Sakti (First Infantry Brigade under the Jakarta Military Command), Read, *Ibid*, p. 23.

mobbed, his body was trampled upon by military boots accompanied by hard beatings. The torture ended due to the help of a policeman who had an initiative to help him from the violent rage of the military unit. Efandi Saman, YLBH Nusantara Director, his head was bruised after being hit.

Semsar Siahaan who saved a women demonstrator from the sexual harassment of the military, collapsed, the bone of his leg was shattered by a severe blow of a military wood. Although he was alradey wringing in pain, Semsar – like Kacik_— was repeatedly beaten until a policeman saved him. Bambang Beathor Suryadi, an activist of Yayasan Pijar, who already sustained bruises in his arm and waist was arrested and was never released again.[115]

While the demonstrators were being violently attacked, from the north, a paid demonstration was marching freely without experiencing any harassment from the security officers. From their streamers and posters its obvious that this demonstration is being held by persons who are anti-democracy or in the minimum pro-oppression.[116]

When the wounded demonstrators retreated and the turmoil subsided, at around 11 am, some members of Benkel teater wearing white shirts led by WS Rendra arrived in the Monas area. They sat in circle and meditated. Standing in the middle of the circle, Reendra read "Pamplet" his resistance poem and sang the song "Padumu Negeri".

However, this happening art program did not lasts long. A unit Commander of "Ops bersih" returned and threatened them, "I ask you gentlemen to dispersed. One.. Two.. Three!" At the third count the unidentified unit attacked the members of Bengkel Theater. Beating of wood and kicking of military boots hit helpless bodies. The group was forced to dispersed together with the crowd of spectators in the area. In this incident, a journalist, Esti Adi, was not exempted from the brutal harassment of the military. His head and knee were wounded by beating of wood. Even a small child selling posts cards suffered a broken hand.

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115 Beathor was recently released from prison and his status is still temporary released. With his arrest this time, he was sentenced to 6 months imprisonment

116 Some of the streamers and posters says "Harmoko, Your Decision Is The Best" and "Crush the paid demonstrators from outside which distabilizes Pancasila and the 1945 Constitution". When they continued their rally to the Parliament building, one journalist asked one of the demonstrator what SIUPP stands for. "I don't know exactly what it stands for", answered the "demonstrator" lightly. *Ibid*, p. 27.

Since the members of the Bengkel teater were easily identified they were immediately arrested by officers and brought to Monas police headquarters. At least 15 members of Bengkel Teater were detainained together with 21 more arrested earlier. "I was kicked and beaten. Write it down". Rendra told journalists while being taken away by the officer. The next day, the demonstrators were tried in the Central Jakarta State Court and fined Rp. 2,000 to Rp.2,500. They were charged with illegal demonstration according to Art. 510 Sec. 2 of the criminal code (KHAP).[117]

The bloody Jakarta has obviously wounded the lovers of Democracy and Human Right. International protests has also flooded the offices of the authorities. However, as usual it was only a passing wind for the authorities. Once again, the demands of the civil society collided with the iron wall of power. The journalists who has witnessed the continuation of injustice held a rally at the PWI(Indonesian Journalist Association which is pro- government) Central office in Jl. Kebun Sirih.[118]

Moreover, student activists organized by Solidaritas Mahasiswa Indonesia untuk Demokrasi (SMID) held a hunger strike protest in th ecompuond of YLBHI. However, it was only on its first day, July 7, 1994, the action was already dispersed by security officers. 41 SMID activists were herded in a truck and the next morning, they were fined Rp.2,000 by the Central Jakarta State Court.

Bloody Violence

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[117] One of the accused, a member of Bengkel Teater, Yubert Bonnie Mogot, was released by the court because he is still under age.

[118] As expected, this action did not achieved much, PWI Secretary General, Parni Hadi -- who is also the editor of the Republika newspaper -- only received the demands of the journalists. The journalists were hoping that PWI would make efforts to defend the journalists, but, they waited in vain. On August 4, 1994, the journalists went to the PWI national office again and expressed their distrust to PWI. In a meeting held on August 7, 1994, it produced the Sirnagalih Declaration which contains among others, the establishment of AJI (Alliance of Independent Journalist), a body for professional journalists that would carry the cause of journalism in Indonesia. Two months later, AJI become an associate member of the International Federation of Journalists (IFJ), a status PWI could not obtain.

The following are testimonies of two victims of the June 27, 1994 (bloody Jakarta) incident, the brutal harassment undertaken by the military officer under the guise of "cleansing operation".

Semsar Siahaan, 43, painter

That morning June 27, 1994, 10 am, Semsar joined the assemble in front of Sarinah mall together with other demonstrators. He brought with him his painting paraphernalia, he even brought a propaganda painting with the theme Freedom of Expression and Opinion. From Sarinah together with the group he marched towards the building of Deppen. Actually, Semsar was already feeling uneasy, and he also knows that Paul Keating, the Australian Prime Minister was arriving that day (this means the security will be tight). Yet, he still decided to join.

From the water fountain in front of Bank Indonesia, the tight security was already visible. The group stopped for a while in front of the Arjuna statue. They were yelling and holding the posters while the group leaders arranged the line formation to avoid the flow of traffic. "So they were also helping the police in preventing traffic jam. This is one evidence that the march was peaceful and orderly. This contradicts the accusation of security officers that this action disturbs the flow of traffic. It does not", said the son of the late Maj. Gen. (Ret) Ricardo MJ Siahaan.

From the Arjuna statue the group continued its march. However, marching only as far as 200 meters, the cleansing operations unit arrived. They came not only to blocked the march, rather, the unit continued to approach the demonstrators. The group leaders stopped to negotiate, however, it was useless, the unit suddenly attacked. The situation was in chaos.[119] The group dispersed, several persons were trampled upon by military groups. Some of them were hit by the wooden stick. One of them was Kacik, his head was dripping with blood. The group was totally dispersed because of the military's chase. The group retreted back to Sarinah passing the Arjuna statue again.

Among the last to escaped was a young women named Dini who was shouting for help because she was caught by a military stick. "Semsar help!" she shouted. Semsar, who could actually be unharmed returned to help Dini and reprimanded the military. Until this moment Semsar

[119] When chaos broke, the camera along with Semsar's ID card were confiscated by the police. But after several hours both were given back to him.

remained unharmed. Semsar already thought that it was useless to fight the soldier so he dispersed. Then, from the water fountain Semsar crossed the street. Here, Semsar took his Olimpus camera from his pocket.He saw that the soldier were more furious, they were attacking the demonstrators. Semsar did not thought of running away, he never suspected that the soldier would be so cruel and he was mistaken. When the soldiers approach him, they immediately aimed their stick at Semsar. Thinking the stick would hit his face, Semsar covered his head by his hand. " But the soldier hit my leg. Tak! The leg broke immeditely", he recalled.

Semsar was sure that the stick that hit his leg was not bamboo nor rattan. " A sort of golf stick. it was really hard and the pain was unbearable. Yet, they still continued to beat me. They were merciless". His body was trampled upon, his head was repeatedly hit whil they were cursing. It seemed that not a single part of his body was left unbeaten. Because of this, his body was in bruises. "For more than two months, by body was still bluish". Although the soldier did not bear any identification except the "opsih" shirt, Semsar vividly remembers the faces of the soldiers who attacked him. "Particularly the one who hit my leg".

Fortunately, a policeman arrived and ask the soldier to stop beating him. The policeman who is definitely a stranger to Semsar even covered him with his own body. "Enough, don't hit him again, sir. Enough, enough! ", shouted the police. Only then did the beatings stopped. The police with the help of Esti Adi, a journalist carried Semsar to an empty truck that brought him to the MOnas police headquarters. Since the bone of his leg was broken, Semsar should bend his left leg and hold it with his left hand. As such, a soldier continued to kicked him occasionally.

In the police station, Semsar – who was taught by his army father to uphold the truth — was left in pain for more than an hour. And has to lay on the floor. Before that, it was even worse, Semsar was laid outside the police station beside a street lamp. " At that time, the pain was already unbearable ", he said. So, Semsar asks Police Colonel Dadang Gamida, Central Jakarta Police Chief, to call an ambulance that would bring him to a hospital. Several policemen approach Semsar and asked who actually did the sadist action. "I answered truthfully: the military". When the ambulance arrived, Semsar requested to bring him to the Army Hospital in Gatot Subroto.

In the Army Hospital,Semsar's leg was already swollen. The tragedy of it is that the first docter who attended him was rude. His pants was

ripped off brusquely without considering the pain Semsar was suffering. The bended leg was forcefully streighten without providing an anesthesia. You could only imagine the pain. "It was terrible and I asked for mercy". Fortunately, docter Bondan, the head of the Army Hospital hastily arrive, this made the aother medical team cautios. Semsar was then transferred to a private room.

It was only after the leg was X-rayed that Semsar knew the damaged. One of the bone was broken and two others were fractured. So, 3 bones were damaged. After the X-ray his leg was bended again on a sitting position. The docter said the bone should be re-structured. "He pressed the leg, it was terrible". This lasted for 15 minutes and Semsar was already shouting because of the pain. And then his leg was cemented. According to Semsar, he stayed in that hospital for two days without being given a single drop of medicine. After it was cemented, Semsar was X-rayed again. (129)"It turn out that the pressing done earlier has not conected the bones corectly." Semsar protested, and he does'nt want to stay longer in that hospital.

The day after he arrive at the Army Hospital, an intelligence officer from Kodam came and met with Semsar.[120] At first Semsar thought he was a docter because he is good looking. The main purpose of the officer's visit was to apologize for what happened.[121] (131)From the Army Hospital, Semsar transfer to Siaga Hospital. A docter he knows asks, " What have they done to your leg, Sem?" After completing the examination, the docter asks Semsar to choose: remain with the cement or be operated to installed a pen. Semsar choose the second. On July 5, Semsar's leg underwent surgery, a pen with 11 screws was installed and the stiches were more than 20 cm. After being operated Semsar used crutches for two and five months. However, after 4 months Semsar felt pain again. "It seems that the screws shifted and was displaced", Semsar growled in pain. In docter Hariman Siregar clinic, Semsar obtain clarification, to recover, the leg has to be broken agaian and undergo surgery. Semsar refused because of the painful trauma he has already

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[120] Due to Semsar's request, the identity of this officer was not disclosed

[121] According to the officer this incident happened because there was an information that several soldiers were wounded. This argument was strongly refuted by Semsar because in fact not even one officer was wounded

experienced. Until now, he could still feel the pain caused by the soldier's beatings. [122]

Semsar definitely suffered losses due to the military's brutality. A painting exhibit with the theme "Belantara" (Jungle) which is already being prepared previously was cancelled. Physicaly, until now his leg feels pain when walking. His hobby of strolling around and travelling through public transportations become a difficulty. Actually, from this hobby, he becomes exposed to the real life of the unprivileged people and it is his source of inspiration and strength. Often, he falls while getting off from a bus (metromini) because his left leg is not strong enough to support his body. At present, when he sees a military, Semsar feels terrorized because of the trauma.

Kacik, 30, Leader of Yayasan Arek, Surabaya

Like Semsar, Kacik departed from Sarinah mall at 10 am. Along with approximately 300 participants, he marched towards Monas. At that time, Kacik was also the assistant of Efendi Saman, the field commandant in charge of arranging the line formation and orderly march of the demontrators. The demonstration has 10 assistants for that purpose.

According to Kacik, the incident began when the march reached the Arjunawiwaha statue or the water fountain intersection. Here, " We held a happening art consists of poetry reading and displaying of streamers for 15 minutes". Then, the group continued its march towards the Deppen building. Without even reaching 100 meters, a unit was already seen moving towards the direction of the demonstrators. " They are in military pants and opsih shirts attire and on their rear a police unit follows", he said. The soldiers are armed with a wooden stick, teargas, war instrument (telephone) and a fiber-glass shield.

At that moment three participants: Beathor, Harlan (Bogor) and Bule (Jakarta) marched forward. They will try to lobby with the unit and will explain the purpose of the peaceful demontration. But it seems that their efforts would not received any response. The unit looks as if they are not interested with a negotiation, they countinued to approach forward. "Our commandant asked me to negotiate", said Kacik. But, even before a

[122] According to Semasar, his transfer to Siaga Hospital would not be possible without the help of Goenawan Muhamad, Fikri Jufri, Dolorosa Sinaga, Adila, Astari Rasyid, Toety Heraty, and Pia Alisyahbana. In that hospital Semsar stayed for 10 days

dialogue could occur, an order was already heard from the unit commandant "Strike!". Physical contact was inevitable. "My hand was hit by a shield and was immediately followed by the beating of wooden sticks from different direction. One of the beating hit my forehead until it bleed", he recalled From this brutal mob, Kacik's left forehead sustained a bruise which is 5 cm long and a cut 4 cm in diameter. "I immediately fell unconscious for a few seconds". The fallen Kacik was carried away by his friends.

The situation was in chaos, the unarmed masses took the initiative to retreat and try to obtain a distance. However, the armed soldiers continued to chase them. Several women participants were shouting in fear. Kacik, who was already bleeding retreated towards the park of the water fountain. At this point, the group was still trying to retain the formation. And then, throwing of objects occured alternately Opsih troops were throwing back the bags of the demonstrators while shouting, " Here is your bag dog, monkey!" This words made the group emotional. Some of them responded by throwing anything they could find: stones, grass, etc. Because of this response the commandant of the unit ordered the arrests of the demonstrators.

Another round of chasing occured. The troop continued to beat the demonstrators while running after them. According to Kacik, this was done not only by the Opsih unit but by the police as well. The group were desperately trying to evade their captors. "I saw a woman friend fall and was shouting for help. I want to help her but I myself was being chased and was shouted at: I caught you! I fell and 8 soldiers were beating me, particularly the right side of my body because I fell in the middle of the road on my left side", Kacik recalled.

Kacik could still vividly remember that the soldiers were not only beating him with the wooden stick, they were also kicking him with their military boots until his ATM Niaga cash card was destroyed. Luckily for Kacik, at this critical moment 3 policemen intervened and brought him to the Monas police headquarters. In the police headquarters, Kacik was kept waiting for at least an hour after his ID card was taken. "I was the first to arrive there", he said. Moments later, some of his friends were also arrested, among them: Beathor, Efendi Saman, Herlan, Surya and Semsar, were placed outside the police headquarters. He also saw a woman activist, Dini, unconscious.

The only first aid treatment he received was the application of iodine when his head was really painful and his body was so frail. After this, a Toyota Kijang brought him to the Central Jakarta police station (POLRES) with 5 others. Beathor who is still under a temporary release status was brought in earlier. According to Kacik, all those arrested were also wounded. It seems that the police felt guilty when they saw the condition of their "captives". The question that they kept on asking was, "Is a policeman involved in the beatings? Arriving at POLRES, Kacik was presented to the officer on duty and was questioned for about two hours. "Before going back, I saw the group of Rendra arrived in a gray truck", he said. Then, he undergo the standard operational procedure (SOP) of an investigation However, Kacik was not ask to give a statement, he was only finger printed and photograph.

Before that, because my head was painful, I asked for a medical. But the process took a long time and I was referred from one person to another like a pingpong ball", grieved Kacik. It was only after staying at POLRES for 4 hours that he was brought to CM hospital, that was arounf 5 pm. In this government hospital, he was attended by a young Doctor who moves slowly. The Doctor who examined him stated that his wound should be sewn to avoid infection. "But I was asked to pay the bill". Kacik refused. He argued that the soldiers did the beatings so they should be responsible

The Doctor gave a suggestion, if he refused to be sewn, he should at least be given an injection. Again, he was asked to pay the bill. Kacik remained adamant, "I said no". Because the Doctor got upset, he only compress his wound and gave several tablets. Returning to POLRES escorted by 2 police officers, one in plainclothes and the other in uniform, I was immediately asked to give a statement which started at 8 pm. For about 2 hours the investigation procedure continued. "The funny thing is, I was asked to copy Herdan's statement", he stated. It seems that the police were already tired In the end, Kacik, together with the other arrested demonstrators stayed over night at the POLRES auditorium. They were about 28 other and most of them are Rendra's group.

The next day, at the Central Jakarta State Court, Kacik was charge of violating Art.510 Soc. 2 of KUHP and was fined Rp. 2,000 plus Rp. 500 for the bill cases. " I immediately appealed together with 4 others, but up to now there is still no decision from the Supreme Court". Kacik said. Kacik related that because of the military's brutality he suffered many losses Physically, he was wounded. "For 7 days I had a headache and the

bruises in my head recovered only after 3 days", he recalled. The cut on his head caused by the wooden stick recovered only after one and a half months. Because of these wounds he cannot take a bath for a week. Aside from his head, Kacik also sustained wounds on the right side of his body: hand, buttock, knee, thigh, leg and a sprained foot.

With regards to material loss: clothes were full of blood, ATM niaga cash card was destroyed and he paid Rp. 10,000 to replaced it. " I was not able to attend several seminars when I already confirmed my attendance as a resource person. So, even in terms of finances I also suffered losses. ***

10. ENCOUNTER AS A JUSTIFICATION FOR MURDER

Introduction

The summary execution of six civilians in Liquica, East Timor by ABRI troops has once again attracted public attention, nationally as well as internationally. Since the integration of East Timor to Indonesia in 1976, this former Portuguese colony has not ceased to attract the attention of the international community. With the strict supervision of ABRI and the presence of a people's resistance against integration organized by CNRM, it is inevitable that all forms of gross human right violation (tortures, summary executions, and disapperances) occur, like the recent incident in Liquica. Incidents such as this has always invited international protests.

The following section shall describe the said summary execution. However, before going to the details of this case, a brief background on the political context of the Maubere[123] resistance will be presented, it will be followed by the actions taken by the government of Indonesia in response to the incident and against the persons involved in what was later known as the "Liquica incident". In closing, this paper shall present a conclusion.

Political Context: Resistance

Timor Timor[124](East Timor) was a colony of Portugal for more than 455 years. The decolonization process actually started when MFA(Movimento dos Forces Armada), a leftist group of young military officers in Portugal launched a coup d'etat against the Cayetano

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[123] The term Maubere is more popularly used by the resistance group Maubere in Mambai language is a term for small people which was adopted by Fretelin in their political term, it is similar with the terpo "Marhaen" which is the political term of Indonesia

[124] The term Timur Timor is actually disliked by the resistance group in the island of Timor because for them, the term "Timur Timor" carries an affirmative connotation on the Indonesian occupation of the area. They prefer to use "Timor-Leste", which, according to them shows their historical identity

dictatorship in 1974.[125] However, the process stopped due to the internal political struggle in East Timor and the intervention of the government of Indonesia. The process remained stagnant due to the political competition among the different parties that were established after the coup and because of the geo-political interests of the neighboring countries (Australia and Indonesia) which is in the framework of the cold war. These factors has contributed in denying the independence of the state at the foot of the Ramelau mountain.

After the announcement of the new government of Portugal, 3 political parties which carry different political orientations for the future of East Timor existed, namely, UDT[126](Uniao Democratica de Timor), Fretelin[127](Frente Revolucio de Timor Leste Independento) and Apodeti[128](Associacoa Populer Democratica de Timor). The political manuevers of these 3 political parties to seize political power during the post decolonization of East Timor ended with the arrival of the Indonesian Armed Forces in East Timor on December 7, 1975. The legitimacy of the Indonesian intervention was established by the so called "Balibo Declaration" signed by the leaders of Apodeti, UDT, Kota (Klibur Oan Timor Aswain), and Trabalhista (workers's party). Until finally, on July 17, 1976, East Timor was declared the 27th province of Indonesia.

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[125] This coup known as "Revolucao dos Cravos" (flower revolution) has installed General Spinola as President. One of the most important decision of this new government for its colony is the implementation of the decolonization process in the soonest possible time and with a minimum cost. This isespecially after the replacement of Spinola by General Francisco da Costa Gomes

[126] The political orientation of UDT is that East Timor shall remain under Portugal with a federal status and will be independent after a 20 year period of transition. It rejects integration with other countries. Most of the followers of this party are bureaucrats and chieftains. This party is chaired by Francisco Lopez.

[127] At the start, this party is named ASDT (Associacao Social Democratica de Timor). The political orientation of this party is immediate independence from Portugal. Its president is Francisco Xavier do Amaral, and its vice-president is Nicolau Lobato

[128] Meanwhile, Apodeti is for the integration of East Timor to Indonesia as an autonomous state according to international law. This autonomy is in terms of all aspects except foreign policy and defense which will be under the national government of Indonesia.

The Un never recognized Indonesia's sovereignty over the region Fretelin who has unilaterally declared the independence of the Democratic Republic of East Timor continued the armed struggle against integration under the leadership of Nicolai Lobato. This armed resistance lasted only for 3 years (1976-1979), in its re-emergence in 1981, Fretelin, under the leadership of Kay Ralat Xanana Gusmao was forced to change the strategy of the struggle to guerilla warfare and political diplomacy which was skillfully carried out by Jose Ramos Horta. Aside from this, Xanana also changed the initial political orientation of Fretelin to rally all the groups in East Timor. Later, it suceeded in setting- up the so called "Convergencia Nacional" which re-united UDT and Fretelin abroad to continue the struggle Both parties often work together in negotiating with the government of Portugal and in attending UN forums.

The most radical change in the strategy of the resistance movement happened in 1988 when Xanana resigned from Fretelin and withdraw its armed group, Falintil, from Fretelin. Later, Xanana united all the pro-independence group under the umbrella of CNRM and continued to lead it until he was finally arrested by ABRI. With the resignation of Xanana, it does not mean that Fretelin and Falintil was dissolved, rather, together with the other clandestine (underground) organizations operating in East Timor and in Indonesia, including the other pro- independence groups like UDT(which mostly operates from their bases in Australia, Macao and Portugal) became members of CNRM. On May 1992, through this umbrella organization, Xanana offered a peace proposal for East Timor delivered by CNRM spokesperson, Jose Ramos Horta, to the UN high officials in New York.

At present, after the arrest of Xanana, the top leadership of this umbrella organization was taken over by a triumvirate composed of an armed front (Frente Armada), led by Nino Konis Santana who is based in the mountains of East Timor, a political diplomatic front (Frente Politic Diplomatics), led by Jose Manuel Ramos Horta based in Australia, and a clandestine front whose identity is unknown. Under the umbrella of CNRM, who obtains a broad support from the youth of East Timor (local and abroad), the resistance against integration continues through peaceful(demonstrations) as well as armed struggle.

ABRI Reaction: Liquica incident

In response to the peaceful as well as armed resistance led by CNRM, referred to as GKP by the military, ABRI has never loosen its tight supervision over this area. Since the integration, this area was practically under the control of ABRI. The most controversial ABRI reaction in handling this resistance was its reaction to the November 21, 1991 demonstration launched by East Timorese youth to pay tribute to the death of Sebastio Gomes which was later known as the "Dili incident". As of now, the total number of victims, the process of investigation, the compensation for the families of the victms and the action taken against members of ABRI involved in this case remains a controversy for the international community.[129]

At present, the total number of ABRI deployed in East Timor amounts to 5,315 personnel, composed mainly of 7 territorial battalions and one combat battalion. As such, military operations are continuos In this situation, the development of what George Aditjondro calls "intel culture"[130] is not surprising. This means, a significant number of East Timorese becomes a spy for their own people, they settle the conflict among themselves by reporting -- somtimes inaccurate-- the movements of their rivals to the security officers in East Timor What happened in Liquica, as small town located 45 km West of Dili, was stimulated by this situation aside from the fact that the resistance against integration continues.

Course of the incident: ABRI version[131]

This incident began with the report of a member of Babinsa, Jose Mario dos Santos, to the head of the regent of Liquica. In his report, Dos Santos stated that he saw the movement of several men suspected of being

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129 See, the UN Special Rapporteur report, Bacre Waly Ndiaye, E/CN.4/1995/61/Add.1, 1 November 1994

130 See, George J. Aditjondro, "Dari Memo Ke Tutuala, Suatu Kaleidoskop Permasalah Lingkungan Di Timor Timur", Paper for Lembaga Pengabdian Masyarakat Universitas Kristen Satya Wacana Salatiga, 6 August 1993. p. 5.

131 This presentation was taken from the reports of newspapers and magazines, local and international which includes, *Forum Keadilan*, No. 24. 16 March 1995, *Tiras*, *Kompas*, and *Republika*

involved in the "orang utan" (term coined by the security officers for GPK) group led by Antonio Alves in the vacinity of Kampung Gariana, in the village of Vatuvou, Maubara, Liquica. This report was forwarded by the regent head to the Liquica Kodim Commander, Lt. Col. Tris Suryatman. According to Babinsa Dos Santos, these persons related to the "orang utan" are members of "cellula", logistics supplier for GPK.

The next day, January 10, Lt. Col. Tris Suryatman launch a raiding operation. A military unit of 30 soldiers, named "Parkit", led by First Lt. Jeremias Kase, Sgt. Raymundo Dos Santos and Sgt. Laurindo Ramos was dispatched at 6:30 in the morning and headed for the target area. The team was divided into 3 groups: raiding team, defense team and the sweeping team. The mission of this Parkit team is to implement the order of Kodim Commander, which, according to the report of DKP(Counsel of Honorary Officers) is: to investigate and search for GKP. If they found the GPK unarmed, they must be taken alive. If they resisted and fought, they should be shot.

Arriving at the target area, Kampung Gariana, the Kase team immediately entered the house of the Kampung head, Jose Nunes, 35 years old. Here, 3 more others were present, Abel Nunes(20), Agusto Pinto Nunes(20), and Victor(24). They are the persons referred by Babinsa Dos Santos as "cellula". Jose Nunes, the Kampung head who once received the IDT fund was already being suspected as "cellula" by the officer for quite a time. These four, suspected of being GPK supporters were then taken as captives. They were used as guide to lead the hideout of a guerilla, Antonio Alves. Kase also involved Jhonico, 19, a youth who was once forced to join GPK, in this raiding team.

The whole day this team whose personel were mostly East Timorese failed. The two location pointed out by JOse Nunes were empty. The next day Jauuary 11 in a valley enclosed by two mountains, the Pabo valley in Kampung Vanitou, Leotela village Kase team found 3 huts erected there. The Kase team stormed the hut. In the third hut, one from two ABRI soldiers, First Private Custodio bareto, who rushed to the hut was fallen by a blow of machete and was followed by an outburst of gunfire that ripped the left chest of the fallen soldier. It apperead that ih this hut owned by Osario Suares and Americo Araujo (as dicovered later) Antoni Alves was already waiting for the soldier's raid. The rest of the raiding team rsponded by bombarding the hut with bullets. And an armed encounter ensued.

As this continue, Jose Nunses, Abel Nunes, Agusto Nunes and Victor tried to escape by running to the back of the hut. Unfortunately, the sweeping team who ere situated ther suddendly opened fire in the direction of Jose Nunes and compmany. This sweeping team thought these 3 catives were there legitimate tagret. The same thing happened to Osario Suares and Americo Araujo. However, the last two, according to DKP were killed during the exchange of gunfire. "It should be considered that this happened in the night, it was dark. Our team could not see them clearly", Kase explained later.

Summary Execution: Testimony of Pastor Dos Santos [132]

The ABRI version presented above raises a number of questions which doubts the accuracy of the story. Among other, how could it be that not even one ABRI soldier got shot when it was reported that Parkit team was attacked from 3 directions? Why were the ones shot unarmed? Etc.

Because of this, the testimony of Pastor Raphael Dos Santos should be considered. Pastor Dos Santos the confidant of the villagers with grievances relates that Jose Nunes, together with Abel Nunes, Agusto Pinto and Victor were arrested by security officers in Pavo(a house in the middle of wide garden), Kampung Lepa, Leotela. Maubara on January 11. But two days earlier January 9, JOse just received the IDT fund from the village head. They were taken as captives to pinpoint the hideout of GPK. On that same day, they were led to the hideout of GPK.

Arriving in the hut owned by Osario Suares and Americo Araujo in Pavo valley, an ABRI soldier, First Private Custodio Bareto, suddenly fell The soldier who hails from East Timor was hacked by a a machete and shot by a rifle. When chaos broke, an exchange of gunfire ensued. Antonio Alves, the skilled guerilla, while carrying his rifle ran to the back of the hut passing through the bushes he is already familiar with. The officers chased him on th slopes of the hills but it was futile. The darkness of the night pose a serious obstacle for the Kase unit. Their efforts were fruitless. When they returned, they dragged the 2 members of the group arrested inside the hut, Americo Araujo and Osario Suares and heded for the border of Kali Magatay. Then, together with Jose Nunes, Abel Nunes,

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132 This testimony was constructed from reported news, among others, *Forum Keadilan, Reuter, Tiras, Kompas*, and *Republika*

Agusto Nunes and Victor they summarily executed all of them. Meanwhile, the huts in the valley were razed to the ground.

It appears that the version of Pastor Dos Santos is closer to the truth of the incident because the finding of DKP reveals something similar. "Angry, tired, and emotional because Alves was able to escaped. so, reet, 6 people were shot", explained Army Chief General Hartono[133] when he announced the findings of the DKP team to the mass media.

Accountability of the Government : The forming of DKP

In his birefing to mass media, ABRI Commander, General Faisal Tanjung stated taht the 6 civillian died during an encounter with Parkit team and they belong to the anti-integration group. "All of the victim were shot during the fire contact with the Parkit team of Kodim 1638/Liquisa and they are anti-integration group", said Pangab[134] after a working s3ssion with the Fiosrt Commision of parliament (Komisi I DPR RI) on February 20. This infromation was obtained by the Commander-in-Chief from the report of the Commandant pf Korem 164, Wira Dharma, Col. Kiki Syahnakri. Based on this report, Pangab evaluated the measure taken by Kodim Liquisa as correct. " If GPK is not immediately eradicated, there is a big possibility that liquisa will be a mass base of GPK", added the 4 star general. Likewise, Leonita Martin, head of Liquisa regen, has the same opinion.

Moreover, tho day earlier, Februray 11, Moerdiono during his briefing to foreign and local press in Istana Merdeka (Office of the President) stated that, ABRI Commander, General Faisal Tanjung, has already reported the Liquisa incident to the President Suharto. He said that, Pangab explained to the president that actions of several ABRI soldiers were implemented out of legal procedures which resulted to the death of 6 villagers in East Timor on January 12. "Because of this, an immediate measure will be taken in accordance with ABRI regulations and the possibility of bringing the persons involved in this case to the court martial is open," said Moerdiono.[135] However, 9 day later, why did

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133 See, "Bila Parkit Memutuk Celulla, "*Tiras*, 13 April 1995, p. 63

134 See, "Pangab: Mereka Berenam Tewas Di Daerah Kontak Senjata", *Republika*, 21 February 1995

Pangab gave a different account in front of the Fisrt Commision of Parliament ?

The sattements of thre authorities which precedes the fact findings certainly heightens the controversy of this case. In the end, the security officers, ABRI formed a fact finding team. Fisrt itwas conducted by Mabes ABRI (ABRI headquarters),[136] later, it was followed by the forming of DKP by the Army Chief to find the facts of the incident. "The DKP report will contain whoever is guilty, the kind of misconduct, what was the impact of the misconduct, complete with a recommendation of action ar punishment that are proper for those implicated," explained the Army chief, General R. Hartono to the press while attending a turn-over ceremony in Makodam VI/ Tanjungpura, Balikpapan. While DKP team starts its work, the fact finding team of the Komnas HAM has already completed their investigation. The team which was directly led by Komnas HAM chairperson, Ali Said, has conducted an investigation by frequently returning to the place of the incident.

Based on the result of the investigation, the conclusions obtained by Komnas HAM are as follows: (i) intimidation and torture were applied by the security officers in charge at the time to obtain confessions from the 6 persons; (ii) there was recklessness over the safety of these 6 civilians by placing them in a dangerous situation, an armed encounter, which led to their death; (iii) Komnas HAM obtained findings which needs a more thorough investigation concerning the abnormal death of the victims which resulted from an unlawful shooting; (iv) there is negligence on the right of the family to obtain information regarding the death of the 6 civilian, moreover, there was an inhuman treatment on the corpse of the victims. With these conclusions, Komnas HAM later stated, " We regret the events of the January 12 incident".[137]

During an interview before the press while announcing the conclusion above, the chairman of Komnas HAM reported that the conclusions of

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[135] *Kompas*, 11 February 1995

[136] The fact finding team of Mabes ABRI is led by Inspector of Operation at the ABRI General Inspector, Brig. Gen. T. Sumarna, who started the investigation on February 7, 1995

[137] See, "Kesimpulan Komnas HAM: Kasus Liquica Langgar HAM", *Republika*, March 2, 1995.

Komnas HAM describes the general findings of Komnas HAM. The details of the whole investigation process was not disclosed to the press. Komnas HAM has preferred to present it directly to the government. Udayana REgion Military Commander, Maj. Gen. R. Adang Ruchiatna Puriadirya, the highest officer in charge of this region declined to give any comments on the findings of Komnas HAM. "No comments from me because it is their right to evaluate", he said[138] to "Antara" in Baucau, East Timor, thursday(2/3), when asked to comment on the result of the investigation of Komnas HAM.

The conclusion of Komnas HAM is not far from the conclusions of Mabes ABRI team[139] as well as that of DKP team which has already completed their investigation. They also arrived at a similar conclusion, unlawful shooting was committed by Parkit team Kodim Liquica In the press conference on the findings of DKP, Army Chief, Gen. Hartono disclosed, "it was confirmed that an infringement on the combat procedure was committed by Parkit team from Wiradharma. The misconduct concerns, among others, the implementation of the order of Wiradharma Kodim Commander." Then, the Army Chief read the recommendation of DKP team. "Two ABRI soldiers allegedly implicated in the death of the 6 villagers in Liquica will be handed to the ABRI military police, " said the Army Chief[140] who is accompanied by DKP chairperson, Maj. Gen. Muzani Syukur.

The disparity lies on the identity of the victims. DKP team concluded, based on research documents, interviews, field reconstructions, and investigations on several personnelthat the 6 persons who were shot dead were members of an anti- integration group (GPK). "Two among the victims, Ozario Soares and Americo Araujo, are members of the GPK group of Antonio Alves while 4 others, Jose Nunes, Abel Nunes, Victor and Agusto Nunes are supporters of GPK or a clandestine organization

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138. See, Pengalam IX: Hak Masing-Masing Untuk Menilai Kasus Liquica", *Kompas*, 6 March 1995.

139 Mabes ABRI team disclosed the result of the investigation on friday night, 24 February, which stated that "An infringement on the military procedure was discovered". See,"Tim Pencari Facts Mabes ABRI Temukan Penyimpangan Prosedur Operasi Militer" *Kompas*, 25 February 1995.

140 See, "Dua Orang Akan Diserahkan Ke POM ABRI", *Republika*, 4 April 1995.

and their involvement can be proven," stated the Army Chief before local and foreign press. Meanwhile, according to Komnas HAM, as mentioned earlier, the 6 villagers of Liquica who were killed are civilians and not members of GPK.

This controversy aside, it is clear that two ABRI members were immediately handed to the ABRI military police for further investigation on their involvement in the incident. IT appears that this is the maximum accountability of the government against the violation of the right to life in the January 12, 1995 incident, bringing the implicated soldiers in court, Yet, the unresolved matters are, will the family and dependents of the victims of the summary execution get compensation? Is there a particular mechanism for this objective in the national legal system?

Closing

The summary execution of the 6 villagers in East Timor, namely, Jose Nunes, Abel Nunes, Agusto Nunes, Victor, Ozario Soares, and Americo Araujo, is a clear manifestation of a violation against the right to life and classified as a gross violation. The international principles concerning the Use Of Force And Firearms By Law Enforcers and the international laws concerning the Code Of Conduct For Law Enforcers were simply ignored by the officers in charge of the said operation. In accordance with the Convention Against Torture And Other Cruel, Inhuman or Degrading Treatment Or Punishment, it is only fair that the perpetuators were duly punished.

The fact that a summary execution was carried out was not only disclosed by Komnas HAM but was also admitted by the Mabes ABRI and DKP fact finding teams, although there was a disparity concerning the identity of the victims that were shot. Moreover, with regards to the investigation on the members of the security officers who were responsible for this murder, it seems that the responsibility was placed at the level of the Commandant of the operation and his troops. Aside from the quality and independence of each investigating teams, other concerns which are necessary for us to consider are, what will be the fate of the family and dependents of the victims? Are they entitled to received compensation? And, does our legal system provide a particular mechanism for this objective?***

III IN SEARCH OF AN EXPLANATION FOR TORTURE

In Karangto Village, Cilangok, Banyumas, the village officer acted as a police. When one of his villager, Rusito, pedicab driver, was suspected of frequent stealing, the village officer easily arrested and brought him to the police headquarters. He did this without a warrant of arrest. This story in late 1994 ended as such. When Rusito was found dead inside a well on December 29, 1994, he was still under police custody. And when Rusito's corpse was bathe, several strange marks appeared, his body was full of wounds. As such, his body was buried.[141]

Introduction

The presented series of violence and torture cases has showed the weak position of the civil society when confronted with the coercion apparatus protected by state authorities. The victims of torture are almost left without any legal defense. The essence of humanity becomes absurd when power dominates. In all aspects, the act of torture is always in the context of relations with power. Unfortunately, power, as described here, appears in its most primitive form. In other words, violence (and torture) is a manifestation of a sort of power which destroys the humane relationship existing among men. This is the typical form of homo homini lupus[142] in its most literal meaning.

In reference to the December 10, 1984 UN Convention, torture was defined as: "... any by which severe pain or suffering, whether physically or mentally, is intentionally inflicted on a person for such purposes as

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[141] See, "Rusito Mati di Sumur", *Sinar*, 28 January 1995

[142] (Latin) Man is a wolf to his fellowmen.

obtaining from him or a third person information or confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidation or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity.[143]

Based on this definition, violence is an intentional act committed by a government official whose vested power is formal. And who among the government apparatus is most capable of committing torture? As revealed by the cases presented earlier, security officers -- the police as well as the military – are liable for torture. Meanwhile, the victims are civilians perceived and suspected as a treat to national security and political stability.

Furthermore, the various cases reveals that acts of violence and torture are often performed without due process that ends up in the courtroom. Some of the cases does not even experienced any court proceedings because "street justice" are applied. Just a mere suspicion is enough to lead a person to a violent experience which he has never even imagined before in his lifetime.

With regards to the political context, torture is particularly used as a mechanism to suppress political and ideological conflicts. Torture, according to Antonio Cassese, is gradually becoming the most inhumane form of struggle against political enemies. It is used to oppose persons who are against the ideology of the ruling party, to obtain information or confess/admit involvement, betray a friend or a colleague, or to spread fear by displaying strength to deter political opposition. Categorically, torture is the most abnormal and most cruel face of autocracy, the fastest and the best way to handle "dissidents". Through torture, autocracy takes off its mask and shows its resistance against "dissidents". Torture becomes an aspect of pathology in its rejection of democracy.[144]

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143 Scott Davidson, *Hak Asasi Manusia*, Pustaka Utama Grafiti, Jakarta, 1994, pp. 133 - 134. The complete version of the said convention can be read in, Konvensi PBB Tentang Penyiksaan dan Perlakuan atau Hukuman Lain Yang Kejam: Tidak Manusiawi dan Merendahkan Manusia, ELSAM, Jakarta, 1994.

144 Antonio Cassese, *Hak Asasi Manusia Di Dunia Yang Berubah*, Yayasan Obor Indonesia, Jakarta, 1994 pp. 131 - 132.

Standard Patterns and Techniques

Although torture is extensively practice in many countries, historically, torture per se is not a unique phenomenon. If in the past, the use of torture was supervised and rigidly regulated, at modern times, torture was used as an instrument of a regime that implements a "reign of terror". Furthermore, not even a single regime shall admit the use of torture. In general, torture is applied secretly and unregulated.[145]

Technically, the pattern of torture is changing in every period of history. If in the past, torture was carried out in a brutal manner to physically inflict an excruciating pain to the victim, along with the civilization of man – which is suppose to make man more civilized -- torture became more sophisticated. Richard Tanter has pointed out new and various techniques of inflicting gross pain which are often applied scientifically and its use was improved by many governments. Here, medics and psychologists were involved in finding, recommending and facilitating ways to apply torture.[146]

In this context, efforts were made to erase signs that could lead to the discovery of the use of torture in the future. With the progress of science and technology, torture without any sign of its use is not difficult. Thus, torture was transformed to become more of a psychological terror.[147] However, this does not mean that physical torture which is harsh and brutal was totally abandoned. In a certain situation -- when technical instruments for the use of torture are not available – primitive techniques are applied

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145 See, Matthew Lippman, "Perlindungan Hak-Hak Asasi Manusia Universal: Masalah Penguasaan" in T Mulya Lubis (editor), *Hak-Hak Asasi Manusia Dalam Masyarakat Dunia*, Yayasan Obor Indonesia, Jakarta, 1993, pp. 45 -46.

146 Richard Tanter, *Intelligence Agencies and Third World Militarization: A Case Study of Indonesia, 1966 - 1989*, doctoral thesis at the Department of Politics, Faculty of Economics and Politics, Monash University, 1991, p. 131

147 In his study, Matthew Lippman mentioned 5 forms of torture applied in North Ireland, namely: for a long period of time the victim is denied of food and water, or sleep, forced to stand erect for several hours; head is wrapped in the duration of the interrogation; the use of a high pitch sound which produces severe headache. op. cit., p. 134.

Besides the application of sophisticated technology, historical factors has also contributed in explaining the new role of torture at present. The first and most conspicuos is to spread the ideology of a model autocratic state. In this state model, ideological and political conflicts were never tolerated. Aside from this, another factor is the transformation of the modern state into a large bureaucratic social structure. According to F. Newmann, political scientist from Germany, a nameless bureacratic apparatus is consolidated (wherein every activity is divided, individual responsiblity is distributed, lessen or totally removed, and a prominent leader is responsible for all duties and responsibilities) to easily spread torture. With such separation of duty the role of each individual – in the police headquarters or in the armed forces – are again distributed: some are responsible for abduction or cause the "disappearance" of the accused; some are responsible for detention; others give orders for torture; some are responsible for interrogation to extract information or confession from the victim; some are in charge of procuring the instruments for torture; some are in charge of getting rid of the corpse of the victim by throwing it in the sea from an airplane, burying it in an unknown cemetary or by destroying it one thousand and one ways as enabled by the modern technology for torture.[148]

In Indonesia, the general pattern applied before using torture is arresting people suspected of being involved in criminal acts (political as well as criminal). Often the arrests were implemented without a warrant which, according to KUHAP is a requirement. As such, the system applied is not different from mere "kidnapping". Without any preparation, not even to get an extra clothing, the victim is immediately taken away – if necessary by force – and brought to a certain place. Many of the victims under this circumstances were not even given an opportunity to say goodbye to their family, such was the case of the murder of Marsinah and the case of Aceh

The usual technique of torture during interrogation is intimidation accompanied by beating or kicking. The victim is being force to admit everything that is being accused of, and if the reply is not in accordance with the desired response, then the interrogator shall easily resort to the use of violence. Moreover, this standard operation entails danger that could lead to unconventional action such as summary execution without

148 *Ibid*. p. 134-135

due process. The following table describes the standard patterns and techniques of torture applied by law enforcers.

PATTERN OF TORTURE APPLIED BY PUBLIC OFFICIALS

CASE	TECHNIQUE	REMARK
ACEH	Being stripped naked, being blindfolder, beting with bare fists. beating with piece of wood, burning of the hair, being burned with a cigarette, electric shock treatment, being thrown down forcefully, being trampled upon, pouring of water in the mouth and nostrils, being force to drink urine. threatening the use of firearm, summarily executed and systematic intimidation	almost all of the accused that were tried in court were convicted and sentenced to jail.

SRI LEPAN	Intimidation, beating with bare fists, beting with a piece of wood, hitting with rifle butt, being placed under the sun for period of time, being labelled PKI, being beaten with a rattan, being forced to duck-walk, being burned with a cigarette, being forced to squat-jump under a starvising condition, being forced to wrestle a fellow detainee, being forced to performed dog-Style intercourse, being forced to mutually brush the teeth of fellow detainee with the use of own finger, being forced to eat broken pieces of glass, being submerge in sewage, being forced to drink dirty water, being forced to hit the all until the flesh is bruised, plucking of moustached and being forced to swallow it, thumb being pinned down/crushed with the leg f a table, being forced to stand on one leg for a long period of time.	The accused that were tried in court were sentenced to jail.
HKPB	Inditimation, beating with bare fists, beating with a piece of wood, being lebelled a communist, being spit upon, being forced to squat-jump, being kicked with military boots on, being threatened of rape, being submerge with dirty water being hit with the handle of weapon,	

MEDAN WORKERS	Intimidation, beating with bare fists being hit with the handle of a weapon, pouring of hot coffe, beating with a piece of wood, being hit with a bottle, being kicked with military boots on, being threatened to be shot, being forced to push-up and squat-jump and being whipped.	In court the worker were sentenced to 3 moonths to 2 years imprisonment.
WORK DISMISSAL BY KODIM	Intimidation , PKI labelling, being forced to resign, being forced to revoke charges filed.	13 workers were unilaterally dismissed by Kodim officers
MARSINAH TRIAL	Intimidation, being stripped naked, being hit with a handle of a gun, being burned with a cigarette, electric shock treatment, feet being pinned down/crushed with a table, being kicked with military boots on, prison cell being splashed with urine, being hit with a handle of sickle, forced to lick the drink urine, being forced to lick the floor, being forced to plucked grass using the mouth, being forced to swallow the saliva of an officer, being forced to wrestle fellow detainee, being forced to chew a cloth used to clean a kerosene stove, placed in a room directly hit by sunlight, forced to drink a liquid that produces drowsiness.	All of the accused civilians were finally acquitted by the Supreme Court.
NIPAH	Intimidation, communist labelling, shooting and beatings	4 villagers died, hit by the bullets of the officer

KEDUNG OMBO	Intimidation, terrorized, PKI labelling, forced to thumb print, slappings, pulling of hair, beatings, kickings, threatened to be summarily executed, twisting of arm, illegal intimidation.	On July 1994, the Supreme Court granted the claim of the Villagers, however, in the judicial review, the Supreme Court annulled the decision.
BREDEL		
LIQUICA	Intimidation, arrests, torture and summary execution.	6 civilians were shot by officers during an encounter was the given reason.

What was been recorded here is only a part of the many tchniques of physical torture. Yet, this is enough to confirm the fact that torture really exists and occurs in the land of Pancasila. Torture and the technique used represent "the tip of the iceberg" reality because what was been revealed here does not include other cases – big or small-- which already occur or occuring at the moment.

It is worth noting that the effort to minimize signs of torture from the body of the victim (although it is unavoidable since signs are still apparent) -- to avoid "trouble" which most likely will be faced by the torturer – is usually accompanied by an effort to erase any form of identification. Meaning, the torturer, as much as possible tries to hide his identity from the victim by wearing civilian clothes instead of his uniform, by removing his rank and unit label, by tearing his emblem name which is usually pinned on his chest, or by blindfolding the victim while performing his or their "duty".

The effort to minimize signs of torture and the effort to erase traces of identification implicitly indicates that this method of coercion through the use of torture is illegal and should be lawfully punished. In this context, the call of members of Komnas HAM and members of parliament on the government to immediately take actions against the torturers of the suspect in the Marsinah case sholud be appreciated.[149] The decision of the Supreme Court to aquit the 8 suspects after being proven not guilty is

149 See, "Kasus Perkara Pembunuhan Marsinah: Pelaku Penyiksaan Terhadap Terdakwa Harus Ditindak " *Kompas*, 8 May 1995

a logical consequence after being forced to bear unspeakable physical sufferings and after being incarcerted in jail and after losing their rights.

The pattern of abduction, arrests and detention which is not in accordance with legal procedures has become a chronic disease that destroys the foundation of law and democracy. The principle of justice, "it is better to free a person who is guilty than to punished a person who is innocent" is often ignored to catch the target in achieving the "truth". This is the reason why an investigation process is being conducted even without proper evidences. Another reason is political pressure and the intervention of power holders which makes the investigator (police) helpless. In certain cases, the show of force -- due to certain political interests-- is so obvious that it gives the impression that law enforcers only function as an instrument of power.

The Position of the Military

The involvment of the military in the various aspects of public life is the product of the "Dual function" of ABRI: a political concept which makes ABRI a defense and security force and a social political force as well, both in terms of supra and infra political structure.[150] The historical and political reality under the New Order government is that it is indeed difficult to find a public place, a place where civil life is undisturbed and unreached by the power of the military.[151] Because from the macro political life, such as, general elections until the social relations in the neighborhood, the role of the military is present. This is in relation with the particular role of ABRI as "stabilisator".

With regards to historical legitimacy, the impact of the military in the civilian life is profound indeed [152] It should be recognized that the active

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150 Soebijono et al, *DwiFungsi ABRI: Perkembangan dan Peranannya dalam Kehidupan politik di Indonesia*, Gadjahmada University Press, Yogyakarta, 1992, p. 1.

151 The official acknowledgement of the involvement of the military in politics according to Leo Suryadinata, happen when President Sukarno formed the National Council on May 6, 1957, after the role of political parties (with the exception of PKI) were severely crippled and martial law was declared. The objective in forming the National Council is under the pretext of assisting the cabinet in implementing its program, but, in actual, it seize the role of political parties. Read, Leo Suryadinata. *GOLKAR dan Militer: Studi Tentang Budaya Politik*. LP3ES, Jakarta, 1992, p.10.

role of the military has been significant in terms of its contribution to the attainment of political stability and to the high economic growth.[153] However, the attainment of political stability and the impressive high economic growth has a price, and, the various sacrifices of the people has paid dearly for it.

Civil conflicts which could either be settled through dialogue or through legal ways are often dealt with through violence. The right to know, the right to express opinion and the right to organized which are all guaranteed by the 1945 Constitution are often denied because it is also perceived as a threat to political stability. The law which is suppose to fuction as a protector of the citizens is often used as an instrument of suppression, suppressing even the innocent people.[154] Morover, there are also agencies or individuals, due to their political position, act as if they are above the law in spite of the many criticisms they received.

The establishment on September 1988 of an extra-judicial agency, Bakorstanas, which directly ended the 23 years operation of Kopkamtib, has been very effective in suppressing various conflicts in the socity. The scope of this non-structural agency which is directly under the President is so wide and often surpass the authority of other agencies, particularly the authority of the police over the problems of the civil society. At the national level, Bakorstanas is headed by the Commander of ABRI while at the regional level, it is headed by the Regional Military Commander.[155]

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[152] Based on the historical genesis of ABRI during the war of independence, one of the popular jargon which became the foundation for the role of ABRI in social politics is, "every ABRI soldier firstly is a freedom fighter and then later a soldier for the freedom fighter." Soebijono, op cit., p. 7.

[153] According to Fred R Von Der Mehden, the involvement of the military in politices -- in many developing countries -- is due to the belief that the strenght of the independence movement was betrayed by civilian politicians whose search for self-interests and material benefits has resulted to conflict which brought about disorder and anarchy. Because the issue is reform and not independence, the military usually express that only under a stable government, like the one the military can ensure, that the desired level of economic and social progress can be acheived. Fred R Von Der Mehden, *Politik Negara- Negara Berkembang*, Elma Akasra, Jakarta, 1987, p. 141

[154] Julie Southwood and Patrick Flanagan, *Indonesia: Law, Propaganda and Terror*, Zed Press, London, 1983, p. 97.

[155] A short description regarding Bakorstanas can be read in Richard Tanter, op. cit., pp. 281 - 284

This agency has been very active in handling various conflicts such as, labor and land conflicts which occupies a dominant position in the present political arena.

Because if its encompassing power,[156] Bakorstanas/ Bakorstanasda is capable of implementing an investigation process – from arresting until interrogation – which is actually the responsibility of the police force, being the sole investigator in the legal structure of Indonesia. In this situation, the posibbility of using various methods in implementing an investigation process – including the method of torture is indeed big. The pragmatic ideology of development is not really relevant in this situation because what matters most is their objective, the immediate attainment of national stability 17 Unfortunately, only few legal experts are prepared to raise this issue openly.

Structural Violence

It cannot be denied that psychological elements are always involved in an act of torture, both on the part of the victim and the torturer. Meaning, there is a possibility that the torturer is suffering from a kind of psychological complex that gives him satisfaction in performing torture. However, is this really a fact? This is indeed an interesting subject for psychologists or psychoanalysts.

Stanley Milgram, an American psychologists has conducted a study regarding the obedience to authority. In his study, he arrived at an important conclusion that persons who inflict pain to the "victims" has done so not as an agressive impulse (if they were given a choice not to give the electric shock treatment to the victim, they would choose not to do so). According to Milgram, if they actually give the electric shock treatment, basically, they did it to obey the orders given to them.[157]

Milgram's conclusion maybe correct because it is really hard to imagine that all security officers are cruel by nature. The doctrine "loyalty

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156 In the name of security and order, this agency is capable of doing anything, anywhere, anytime Read, Todung Mulya Lubis, *In Search of Human Rights: Legal Political Dilemmas of Indonesia's New Order, 1966 -1990*. Gramedia Pustaka Utama dan SPES Foundation, Jakarta, 1993, p. 106.

157 Antonio Cassese, op. cit., pp, 128 - 129

without reserve" could be a determining factor in explaining the torture phenomenon which plague the legal process in Indonesia. Therefore, torture is not a case of individual psychology, rather, it is an endemic symptom which has also become an epidemic[158] -- the most brutal violation of human right -- which should be ended. Because, as long as torture ia allowed without any legal consequence against the torturer, the ideals of Democracy in a "civilized society "[159] shall only remain a dream. Experience has shown that once torture has began, such an action can become a living symptom that is difficult to control.[160]

If torture is considered a part of violence, then torture -- including all its dimension -- can be classified as personal violence as well as structural violence. Acoording to Johan Galtung, violence occurs when men is influence in such a way that his physical and mental realization is under the realization of his potential.[161] Galtung stated that violence should not be understood only as a physical and psychological action whuch is intentional, concrete, and directed to the victim (personal violence), rather, it should also be understood in a wider dimension (structural violence).

Torture which deeply plague the process of investigation, this includes the category of personal violence, is differentiated between the one who concentrates on the anatomy and the one who concentrates on the physiology (see table). The distuction lies on its purpose, while the purose

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[158]Richard Tanter, op. cit., p.129.

[159] Alfred Stephan has defined a civilized society as an " arena where numerous social movements (like associations based on kinships or ethnic group, woman organizations, religious organizations and intellectual organizations) and civil organizations from different groups and professional association (like lawyers association, journalists associations, trade unions, business association, etc.) tries to form themselves in order so they can express themselves and channel their interests". See, Larry Diamond, *Revolusi Demokrasi: Perjuangan untuk Kebebasan dan Pluralisme di Negara Sedang Berkembang*, Yayasan Obor Indonesia, Jakarta, 1994, p. 9.

[160] Matthew Lippman, op. cit., p. 37.

[161] I Marsana Windhu, *Kekerasan dan Kekerasan Menurut Johan Galtung*, Penerbit Kanisius, Yogyakarta, 1992, p. 64.

of the first is to destroy the human machine (body), the purpose of the second is to prevent the machine from functioning.[162]

TYPOLOGY OF PERSONAL VIOLENCE ACCORDING TO JOHAN GALTUNG

Directed to Anatomy	Directed to Physiology
Smashing (punch, slingshot)	Denial of air (strangle, constriction)
Ripping (hanging, pulling cutting)	Denial of water (dehydration)
Stabbing (knife, spear bullet)	Denial of food
Burning (ignition, flames)	Denial of movements: -body restriction (chain, gas); -space restriction (jail detention); -brain restriction (weaken sanity, brain washing)
Poisoning (by water, food, gas)	

Source: I Marsana Windhu (1992) p. 74.

The impact of personal violence, although not all, is directed to the physical condition of the victim. But how about other forms of actions like communist labelling or even "ET" (Eks-Tapol - Ex-political Prisoner) labelling on the ID card which indirectly causes "death" to the victim?[163]

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[162] *Ibid*, p 74.

[163] Labelling most of them is directed to the workers or peasants that fight for their basic right. Ariel Heryanto, *Discourse and State-Terrorism: A case study of political trials in New Order Indonesia 1989-1990*, doctoral theses at the Department of Anthropology, Monash University, 1993, p 31. The issue of political prisoners and political detainees are raise in the seminar in Jakarta in 1993 the result of it appeared in

By putting the "ET" label on a person's ID, like in the case of the Kedung Ombo villagers, a sense of fear spreads. Because in practice, a person who has that particular mark on his ID card will experience difficulty in his social-political life. This is the manifestation of structural violence in the words of Galtung, which, although it is indirect and covert, the impact on the victim is no less deadlier than personal violence.[164] Both, the personal and structural violence are often over-lapping and occurs simultaneously. Always, most of the victims are the weak and powerless

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a book. Read, *Masalah Tapol and Napol dari Perspektif Konstitusi*, a joint publication of LBH Jakarta, PIAR, IKADIN Jakarta, Pokja JK-LPK, ELSAM, Jakarta, 1994.

[64] According to Galtung, in case of structural violence, inequality of a social system occur in a way that the perpetuator from the most lower group of the society unable to realized their potentials, but indeed they are on the minimum level of subsistency. The structure has unabled them to develop their power, to organize and realized their power vis a viz the powerful group, op. cit.

CHAPTER IV: CONCLUSION AND RECOMMENDATION

> *Approximately 100 men and women from Parbuluhan Village I and II, Parbuluhan, Dairi (Sumut), has deserted their homes since last week. This resulted from the unresolved land dispute since 1992 which entails intimidation, beatings, and arrests carried out by men in uniform.*[165]

Conclusion

The series of cases presented in the previous chapter has explicitly implicated the state apparatus, particularly the military. The extent of the military's involvement, from conflicts concerning the public (Sei Lepan, Nipah and Kedung Ombu cases), industrial disputes (mass PHK and Marsinah case), conflict concerning a member religious institution (HKBP case), suppression of demonstrations (the case of Medan workers and demonstrations against the press ban), up to conflicts concerning security (Aceh and Liquica Case) establishes the authority of the military. The dominant role of the military in handling various social unrest paves the way towards acts of violence and torture.

The military intervention on social issues which are under the jurisdiction of the police and judiciary bodies distorts the process of law.[166] This military intervention has taken its form through the establishment -- at the national level down to the sub-district level -- of extra-judicial institution such as Bakorstanas. The involvement of this institution is clearly indicated in the cases presented above. Rasion d 'etre of this military involvement is "national security" which takes the form of security approach. With this approach, the military plays a significant role

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165 According to Galtung, in case of structural violence, inequality of a social system occur in a way that the perpetuator from the most lower group of the society unable to realized their potentials, but indeed they are on the minimum level of subsistency. The structure has enabled them to develop their power, to organize and realized their power vis a viz the powerful group, op. cit.

166 See, " Akibat Diintimidasi dan Dipaksuli. Sekitar 100 warga tinggalkan kampung", *Kompas*, 14 February 1995

in supervising political matters which includes the enforcement of the law.[167] The authority of Bakorstanas -- as stipulated in the Presidential Decree -- definitely excludes the execution of arrests, detention, and the like.[168] However, in actual, this institution has performed functions such as arrests, interrogations and detentions which is similar to that of Kopkamtib.

In this context, the security officers -- either military or police (which is under the military hierarchy) -- were given the right to monopolized weapons of coercion and are exempted from the scrutiny of other state institutions when this tools of violence are utilized. This situation is worsen by the shortcomings of the national legal system in anticipating gross violations against the right to life committed by law enforcers. Even KUHAP which is being boasted as a masterpiece has failed to impose sanctions against gross violation of rights. Likewise, the instrument of the law has failed to provide just compensation for the victim (Family or dependents) of human right violations.

At the international level, monitoring gross human right violations, particularly the right to life, is not at the optimum either because Indonesia has not ratified the International Convention Against Torture. Therefore, Indonesia is not binded by the agreements stipulated in the said convention. At present, international monitoring is limited only in sending Special Rapporteur to the UN when violations against the right to life are committed and classified as gross violation. This is implemented without the supervision of a certain committee such as the UN Committee Against Torture. Again, This situation worsens because the government of

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167 See, Abdul Hakim G. Nusantara, Security Approach dan Prospect Penegakkan Hukum, paper presented on the seminar "Demokratisasi: Menegakkan Rule of Law", organized by the Center for the Study of Development and Democracy, Jakarta, 29 April, pp. 47 -50.

168 The Presidential Decree concerning the tasks and fuctions of Bakorstanas states, among others: (1) Bakorstanas should coordinate the effort of each department and agency for the restoration, maintenance, and establishment of national stability against obstacles, challenges, threat, and disturbances in accordance with the respective tasks and functions; (2) Bakorstanas should recommend policy proposal and necessary action to the President that would serve as a bases in decision making or in issuing guidelines needed to carry out efforts for the restoration, maintenance and establishment of national stability and so on. See, Keppres No. 29/1988 concerning Bakorstanas.

Indonesia tends to reject the internationalization/universality of human right.

In the main, the description above has indicated the incompetent and unconclusive situation in Indonesia for the protection of the right to life (free from torture, arbitrary arrests, disappearances, and summary executions) due to the existing political situation and shortcomings of the instruments of the law in protecting the right mentioned.

Recommendation

A. Regarding Free the society from a state of fear.

As indicated by the findings, the use of torture and the implementation of summary executions without due process has created a state of fear within the society which is in connection with the application of the security approach. As such, the following steps should be taken:

1. Review the security approach that sustains political stability. Since the result of this stability has caused fear within the socity, this stability is fake. It is not genuine stability. As a state based on Pancasila, it is not a taboo to consider the interests of the society.

2. Retrieve the National Police Force and place it under the jurisdiction of a civilian department. Re -define the duty and the role of the military to restore its proper authority. This is to avoid confusion and the over-lapping of duties and authority of the police and the military.

3. Extend the authority of KOMNASHAM in monitoring gross human right violations by giving the commission the authority to interrogate and summon law enforcers allegedly accused of committing gross human right violations.

4. The government of Indonesia should provide an open access to independent institutions at the national as well as international level, in monitoring legal processes and human right practices in Indonesia. After 50 years of independence, it is time for Indonesia to assume a more democratic stance.

5. To include the human right component in the training of security officers (police, judiciary and military) in order to enhance the importance of human rights. To provide other alternatives than the use of violence and firearms. The objective is to limit the use of violence and firearms through peaceful resolutions, negotiations, mediations, and other forms of persuasions.

Regarding improve the provisions of the legal system.

Aside from implementing the steps mention earlier, the government of Indonsesia should also take concrete steps to prevent, stop, and eradicate all forms of violations against the right to life by:

1. Immediately ratifying the 1984 UN Convention Against Torture And Other Cruel, Inhuman or Degrading Treatment Or Punishment without reservations.

2. Immediately adopting the December 17, 1979 UN General Resolution 34/169 concerning the Code of Conduct of Law Enforcers.

3. Immediately adopting international laws concerning the Basic Principles on the Use of Force and Firearms by Law Enforcers.

4. Immediately adopting the international Declaration on the Basic Principles Of Justice For Victims Of Crime And Abuse Of Power.

5. Immediately adopting international principles concerning Effective Prevention and Investigation of Extra-Legal and Arbitrary Summary Execution.

6. Revising KUHAP to include a provision regarding the imposition of proper sanctions against law enforcers (police, judiciary and military) who use torture or force during an interrogation process.

7. Systematically improving the method of interrogation, instructions, and regulations regarding detention and treatment of persons being

detained, arrested or imprisoned in order to nirumuze the possibility of torture.

8. Destroying all instruments, means, or things use to perform torture. The government should prohibit the abuse of technological discoveries as instruments or means of torture.

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