INDONESIA
Grave human rights violations in Wasior, Papua

1. Introduction

The following document is a summary of human rights violations, including extrajudicial executions, torture and arbitrary detentions, which took place during the course of an operation by members of the Police Mobile Brigade (*Brigade Mobil*, Brimob) in Wasior Sub-district, Manokwari District, Papua Province (formerly known as Irian Jaya) from April to October 2001.

The 2001 Brimob operation in Wasior Sub-district was one of the largest operations by the Indonesian security forces seen in Papua in recent years. Local human rights organizations estimate that over 140 people were detained, tortured or otherwise ill-treated during the course of the operation. One person died in custody as a result of torture while at least seven people are believed to have been extrajudicially executed. Twenty-seven people were sentenced to terms of imprisonment after unfair trials. Hundreds of people from villages in the area were internally displaced as a result of the operation and dozens of houses destroyed.

The last operation in Papua by the security forces on such a scale took place in 1996 in Mapnduma District in the Central Highlands after a group of international and Indonesian researchers were taken hostage by the armed opposition group, the Free Papua Movement (*Organisasi Papua Merdeka*, OPM). The military led operations which followed the rescue of most of the hostages lasted for two years and were reported to have resulted in serious human rights violations including extrajudicial executions, torture, arbitrary detention and destruction of private and community property.[1]

The Wasior operation in 2001 was led by troops from Brimob - a paramilitary unit of the Police of the Republic of Indonesia (*Kepolisian Republik Indonesia*, Polri). Brimob is frequently used in counter-insurgency operations, including in Aceh, and in East Timor in the past. Its members also provide security to some logging, mining and other commercial enterprises. In these and other contexts, Brimob has a notoriously poor human rights record.

The Brimob operation in Wasior was prompted by the killing of nine people, including five members of Brimob, in two attacks by an unidentified armed group on logging companies

[1] For further information see: *Human Rights Violations and Disaster in Bela, Alama, Jila and Mapnduma, Irian Jaya* by the Indonesian Evangelical, Catholic and Mimika Christian Evangelical Churches, May 1998, and *Rape and Other Human Rights Abuses by the Indonesian Military in Irian Jaya (West Papua)* by the Robert F. Kennedy Memorial Centre for Human Rights and the Institute for Human Rights Study and Advocacy (Elsham), May 1999.

in the sub-district in March and June 2001. The subsequent Brimob operation was launched to capture those responsible, but appears to have turned into a campaign of revenge against the immediate community and beyond.

There has as yet been no investigation by the Indonesian authorities into the allegations of grave human rights violations and no one has been brought to justice for them. Requests by local non-governmental organizations (NGOs) to the National Commission on Human Rights (*Komisi Nasional Hak Asasi Manusia*, Komnas HAM) to investigate the events in Wasior have so far met with no response.

The events of Wasior during the latter half of 2001 are not unique, but they have a particular resonance for political and economic development in Papua because of their timing and location. In October 2001, as the operation was concluding, legislation granting Papua special autonomy was adopted by the Indonesian parliament. The legislation, which provides for a greater degree of local control over economic and political affairs, is intended to address local grievances and counter demands for independence. The Law on Special Autonomy for Papua specifically recognizes the failures of the administration thus far to respect human rights and uphold justice - which has contributed to Papuan demands for independence. The Law includes a clause making protection and respect for human rights an obligation for the provincial government.[2]

The granting of special autonomy has met with mixed reactions in Papua. Some regard it as an opportunity to establish a greater level of influence over the political and economic development of the province, while others see it as a transition phase before full independence. However, many Papuans reject the initiative believing that it does not adequately address their grievances, that it undermines demands for independence, or both. Mistrust of the government's intentions has been further reinforced by the failure of the Indonesian authorities, both national and local, to act decisively and effectively in bringing to justice those responsible for human rights violations, including those committed in Wasior in 2001.

The events also raise more general concerns about the protection of human rights in the context of the commercial exploitation of natural resources. This problem is not confined to Papua. For example, in the Kaolak Sub-district of South Sulawesi Province, 30 people were

[2] Paragraph f of the preamble to Law 21/2001 on Special Autonomy for Papua Province notes: "*That the running of the government administration and the implementation of development in the Province of Papua thus far has not engendered a feeling of justice,... has not yet fully supported the upholding of justice and has not yet fully demonstrated respect for human rights in the Province of Papua, particularly in respect of the indigenous peoples of Papua*". Article 45 of Law 21/2001 states that: "*The Government, the Provincial Government and the inhabitants of the Province of Papua are obligated to uphold, further, protect and respect human rights in the Province of Papua*".

reported to have been injured in March 2002 when members of Brimob and local police fired into a crowd of local farmers and indigenous people who were occupying land taken over by a cocoa plantation company. Protests over land rights or other rights which may have been contravened by logging, mining or other commercial operations in Papua take on an additional dimension because those involved in such disputes are often branded as separatists or rebels, against whom the Indonesian security forces have waged counter insurgency operations for many years.

Employees and others associated with logging, mining and other companies operating in Papua are also at some risk as highlighted by the killing of one Indonesian and two United States's (US) citizens in an attack by an unidentified armed group close to the US owned PT Freeport Indonesia gold and copper mine in Mimika District on 31 August 2002. Amnesty International condemned the attack, as it condemns the targeting of any civilians by armed groups or members of state security forces.[3] However, this latest incident and other past attacks on Freeport employees and facilities, together with allegations that members of the Indonesian military responsible for providing security to the operation have been responsible for committing human rights violations, show the difficulty of providing security for such operations, while ensuring that the human rights of those living around them are fully respected and protected.

Events in Wasior in 2001 intensified concerns about the development of a vast liquified natural gas operation in the Bintuni Bay area which, although some 200 or 300 kilometres from Wasior, is in the same district of Manokwari. In addition to concerns about the possible impact of such a project on the environment and indigenous peoples, there are as yet many unanswered questions about how the security of this new project can be guaranteed while at the same time guaranteeing that those providing the security will not commit human rights violations.[4]

Amnesty International does not take a position on the political status of Papua, neither supporting Indonesia's claims to the territory or demands for independence by Papuans. Nor does it support or oppose the existence of commercial operations. The organization is concerned only that the human rights of all those living in the province should be protected and respected

[3] See: Amnesty International Public Statement: *Indonesia: Attacks in Papua cannot justify violations of human rights*, AI Index: ASA 21/122/2002, 2 September 2002.

[4] The project is operated by British Petroleum (BP), under a production sharing contract with the Indonesian state oil company, Pertamina. The production start up date for the Tangguh Liquified Natural Gas Project (LNG), which includes three gas fields in Bintuni/Berau Bay, is 2006, and the expected life of the project is over 30 years. BP has expressed its desire to keep the presence of the Indonesian security forces to a minimum. Following the attack near Freeport on 31 August 2002, a spokesperson for BP reiterated their commitment to a community-based security plan and pointed out that there were currently no military or police presence on the site (Reuters, *BP says committed to Papua despite Freeport attack*, 4 September 2002).

and that these rights should not be ignored for the achievement of political goals or put in jeopardy for the sake of economic development. Amnesty International considers it to be the primary responsibility of the Government of Indonesia to ensure the protection of human rights, but also believes that other actors, including national and transnational companies, have a responsibility to ensure that human rights are upheld in the areas in which they are operating. The organization also calls on armed groups operating in Papua not to commit human rights abuses.

1.1 Summary of recommendations

To the Government of Indonesia with regard to police operations in Wasior:

- To establish, without further delay, an effective, independent investigation into allegations of grave human rights violations in Wasior during 2001 and ensure that individuals found to be responsible, including those with command responsibility, are brought to justice;
- To provide reparations, including compensation, restitution and rehabilitation, to victims of human rights violations in Wasior and their families;
- To undertake a prompt and independent review of all cases of individuals who were convicted in relation to events of Wasior in trials which did not meet with international standards for fair trial.

To the Government of Indonesia in reference to the human rights situation in Papua:

- To undertake comprehensive, effective and independent investigations into all past allegations of human rights violations in Papua and establish mechanisms by which every allegation of human rights violations can be independently and impartially investigated and perpetrators brought to justice in a manner which is consistent with international standards for fair trial;
- To take measures to bring an end to the widespread practice of torture and prevent extrajudicial executions;
- To carry out detailed, practical training for all security forces personnel, including those involved in providing security to commercial operations, and other relevant officials, in international human rights standards including those related to the treatment of detainees and the use of force and firearms;

- To extend invitations to visit Papua to the UN Special Rapporteurs on torture and on extrajudicial, summary or arbitrary executions and the UN Special Representative on human rights defenders.

To armed opposition groups operating in Papua:

- To take measures to ensure that members do not commit abuses of human rights, including deliberate and arbitrary killings of civilians.

To national and international companies operating in Papua:

- To ensure that their operations do not have any negative impact on the human rights and fundamental freedoms of the local population, including by not engaging security forces against which there exist credible allegations of human rights violations and ensuring that all individuals providing security receive training in the practical implementation of relevant human rights standards;

- To record and report any credible allegations of human rights abuses by the Indonesian security forces in their areas of operation to the relevant government authorities and to the National Commission on Human Rights. Companies should actively monitor the status of investigations and press for their proper resolution.

2. Background

The Indonesian province of Papua forms the western half of the island of New Guinea. It has a population of just over two million people which includes some 250 indigenous groups and some 800,000 non-Papuan settlers from elsewhere in Indonesia.[5] Indigenous Papuans are Melanesian and therefore ethnically distinct from the majority of Indonesians who are Malay. Christianity is the dominant religion in Papua in contrast to most Indonesians who follow Islam.

Papua is Indonesia's largest province and amongst the richest in natural resources. Its mineral wealth and tropical forests which, together with those of the adjoining Papua New Guinea, represent the third largest remaining rainforest on the planet, have attracted both national and transnational mining and timber companies. Vast tracts of forest have been granted as concessions to mainly Indonesian timber companies.[6] The PT Freeport Indonesia copper and

[5] Official 2000 census figures.

[6] According to WWF Indonesia, Papua's forests cover around 34.6 million hectares of which 27.6 million hectares have been designated as production forest. See WWF Indonesia: Critical Threats

gold mine in Mimika District in the south of the province is one of the largest in the world. Major transnational oil companies also operate there.

The exploitation of natural resources has long been a source of tension between Papuans and the central government. Mining and logging have caused environmental damage in Papua and have encroached upon the rights of indigenous people, their livelihoods, traditions and customs. These have had severe social, economic and cultural consequences, including displacement and loss of livelihoods. Security forces assigned to protect the industries have been responsible for human rights violations which have aggravated existing tensions and fuelled demands for independence from Indonesia.

The massive PT Freeport mining operation has been particularly controversial. Local community groups, national and international non-governmental organizations (NGOs) have accused the US-owned company of violating rights to subsistence and livelihood; ignoring the cultural rights of indigenous peoples; forcing the resettlement of communities; and destroying of the environment.[7] Evidence also emerged in the mid-1990s that the Indonesia security forces operating around the mine, and in some cases using the mine's facilities, had carried out extrajudicial executions, "disappearances", torture, arbitrary arrests and other human rights violations.[8]

The political status of Papua had been contested before the arrival of the commercial operations. The region had remained a Dutch colony after Indonesia became independent in 1949. In 1962, under an agreement brokered by the United States of America, authority for the territory was briefly transferred to the United Nations (UN) Temporary Executive Authority before being handed to Indonesia on 1 May 1963. The agreement provided for a UN-supervised referendum to take place on whether or not Papua would remain under Indonesian rule. The Act of Free Choice, as the referendum is known, took place in 1969, confirming Indonesian rule over Papua. However, it is considered to have been fraudulent by most Papuans who were

to Irian Jaya Environment, 2000.

[7] See for example: *Development Aggression: Observations on Human Rights Conditions in the PT Freeport Indonesia Contract of Work Areas* by the Robert F Kennedy Memorial Centre for Human Rights, July 2002.

[8] See, AI documents: Indonesia: *Irian Jaya: National Commission on Human Rights confirms violations*, AI Index: ASA 21/47/94; *Indonesia: Full justice? - Military trials in Irian Jaya*. AI Index: ASA 21/17/96. See also: *Trouble at Freeport: Eyewitness accounts of West Papuan resistance to the Freeport McMoRan mine in Irian Jaya, Indonesian and Indonesian military repression: June 1994-February 1995*, ACFOA, 5 April 1995, and *Violations of Human Rights in the Timika Area of Irian Jaya, Indonesia* - A Report by the Catholic Church of Jayapura, August 1995.

represented in the ballot by 1,025 individuals who were for the most part handpicked by the Indonesian government.

An independence movement has been in existence since the late 1960s. The Free Papua Movement (*Organisasi Papua Merdeka*, OPM) is the broad umbrella group. It's armed wing, the National Liberation Army (*Tentara Pembebasan Nasional*, TPN) mainly consists of small groups of fighters armed with bows and arrows and other simple weapons. Over the years it has carried out sporadic attacks mainly on military and police targets, although civilians have also on occasions been targeted and suffered human rights abuses, including unlawful killings and being taken hostage. Counter insurgency operations by the Indonesian security forces against the movement have resulted in gross human rights violations, including extrajudicial executions, "disappearances", torture and arbitrary detentions.

Following the resignation of former President Suharto in May 1998 and the subsequent relaxation of restrictions on freedom of expression and association throughout Indonesia, a broad based civilian movement has emerged in Papua with formal structures and an identifiable leadership. The central government's policy in response to the movement has been inconsistent. Both former Presidents Habibie and Wahid made some effort to engage in a dialogue with the civilian independence activists. However, repression of the movement has continued, sometimes simultaneously, with such political approaches.

Recently, in July 2002, the Chief of Police for Papua (*Kepala Kepolisian Daerah*, Kapolda), announced a new operation which appears to target pro-independence activists. According to information sent by local observers and coverage in media reports, members of both peaceful and armed pro-independence organizations will be investigated and, where the activities are found to be unlawful, will be arrested during the 60 day police led operation named *Operasi Adil Matoa*. Local human rights organizations fear that the operation risks provoking violent reactions from more radical Papuan groups and will undermine their efforts to bring all sides together in a dialogue on non-violent approaches to resolving the problems of Papua, including on creating a "zone of peace" in the province.

The military have also made statements threatening to crackdown on separatist movements, including those in Papua. The Commander of the Trikora Military Command (Kodam VIII Trikora) that covers Papua, was recently quoted in the media as encouraging his troops to quell separatism in Papua and to *"...kill as many of our enemies as possible"*. He went on to add that *"human rights are something we must not worry about but must consider*".[9]

[9] Jakarta Post, 16 August 2002. *Ex-inmates from Papua demand freedom.*

Pro-independence activists, both armed and peaceful, have been subjected to human rights violations. Recent examples include the extrajudicial execution on 10 November 2001 of Theys H. Eluay, the head of the civilian pro-independence umbrella group, the Papua Presidium Council (*Presidium Dewan Papua*, PDP). He was abducted and murdered on the outskirts of the provincial capital of Jayapura. The commander of a Special Forces Command (Kopassus) detachment and 11 of his subordinates have been named as suspects. None had been charged or brought to trial at the time of writing. Theys H. Eluay was among a group of five PDP leaders who were arrested in 2001 and charged with rebellion and "spreading hatred against the government", charges which have frequently been used to detain or imprison peaceful political activists in Indonesia. The trials of three of the leaders continued after Theys H. Eluay's murder and they were eventually acquitted.[10]

3. Brimob Operations in Wasior

3.1 The lead up to and response to the first attack on a logging company

Wasior Sub-district is located in an area known as the Bird's Head Region in the north west of Papua. Logging companies first arrived in the area in the early 1990s. As was the case elsewhere in Papua and indeed throughout Indonesia, concessions were negotiated between the companies and the central government without any meaningful participation by members of the local population affected by the operations. Compensation for loss of land and livelihoods was low. Inadequate compensation, together with the impact of the logging on the environment, livelihoods and local traditions has been the source of disputes between local people and the logging companies in the area.

The claims of local people in Wasior against the timber companies have been represented by the Wondama Tribal Council (*Dewan Persekutuan Masyarakat Adat Wondama*, DPMA). Among the disputes in which DPMA was involved was one with the logging company PT Darma Mukti Persada (PT DMP) based in Wombu village, Wasior Sub-district. The dispute, which spanned several years, had reached an impasse in early 2001 and on 28 March 2001 a protest by local people was staged in which the road leading to the PT DMP base camp was blocked. Three days later, on 31 March 2001, the PT DMP base was attacked by an unidentified armed group leaving three local employees dead.

It remains unclear whether there is any direct link between the attack of 31 March 2001 and the protest. However, local Indonesian authorities were quick to accuse the independence

[10] For further details see Amnesty International report: *Indonesia: Impunity and human rights in Papua*. AI Index: ASA 21/015/2002, April 2002.

movement, the OPM and its armed wing, the TPN, of responsibility. Members of the DPMA were accused of associating with them to plan, if not actually carry out the killings. Over the next days Brimob began operations in Wombu and the surrounding villages. Information collected by local human rights activists indicates that the security forces carried out indiscriminate shootings and other acts which terrified the local population causing many of them to flee into the forest. Leading members of the DPMA went into hiding to avoid capture.

3.2 The second attack on a logging company and subsequent Brimob operations

On 13 June 2001, while operations to capture those responsible for the killings of the PT DMP employees continued, another attack by an unidentified armed group took place in Wondiboi village, Wasior Sub-district, at the base camp of the CV Vatika Papuana Perkasa (CV VPP) timber company. Five members of Brimob, who were part of a unit providing security for the company but who were reportedly off-duty at the time, and one CV VPP employee, were killed in the attack. Five SS1 assault rifles and other weapons and ammunition were stolen during the attack.

The identity of the attackers is not clear. The OPM/TPN did not claim responsibility and well informed local observers believe that if they were involved it was not members of the TPN command local to Wasior. There is some evidence that the attack may have been carried out by an armed group, possibly with links to the OPM/TPN from another district, but with military backing. Although difficult to prove, it would not be the first time that provocation by the military is suspected to have been behind armed attacks or other disturbances in Indonesia in recent years.[11]

[11] There were rumours of the involvement by members of Special Forces Command (Kopassus) in the kidnapping of 16 employees of a Korean timber company in January 2001. Willem Onde, the OPM leader responsible for carrying out the kidnapping was known to have close links to Kopassus. He was killed himself in September 2001. Local human rights monitors believe that Kopassus may have been responsible for his death. See: *Mengapa pembunuhan terhadap Willem Onde dan John Tumin Kandam belum diinvestigasi*, by the Justice and Peace Commission of Merauke Diocese, June 2002.

Both the Indonesian military and police have been accused of taking part in communal violence in Maluku which is reported to have claimed over 5,000 lives since it first broke out in 1999. Particularly disturbing have been the numerous reports of security forces' involvement in Laskar Jihad, an armed radical Muslim group, whose arrival in Maluku in April 2000 resulted in a dramatic increase in levels of violence.

In Lhokseumawe, Aceh Province, a ceremony in August 1998 to mark the withdrawal of troops from Aceh where they had been engaged in counter insurgency operations for the previous eight years ended in riots. It was later reported that the riots were provoked by a Kopassus trained

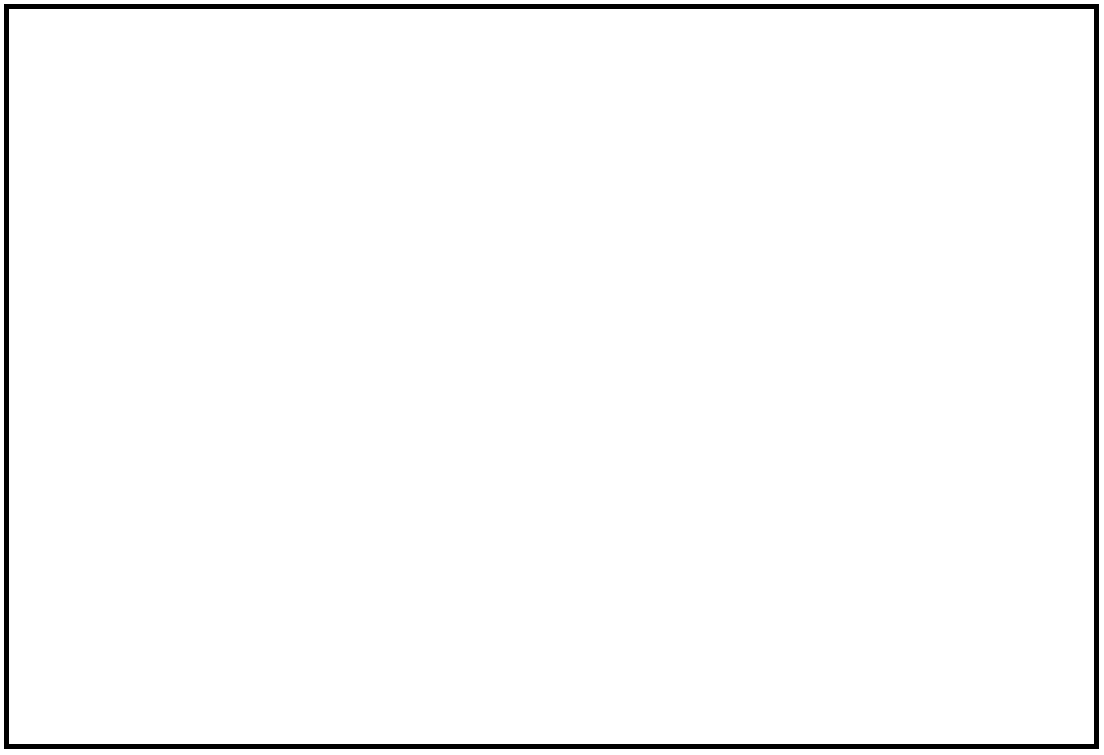
After the second attack the operations intensified and spread beyond Wasior Sub-district to Windesi Sub-district (also in Manokwari District) and to parts of Nabire Sub-district to the east. Wasior itself was partially sealed off. Security checks were imposed on local inhabitants trying to leave the area and access to outsiders was restricted for a period of several weeks. Among those who were forbidden access to Wasior were human rights activists. Representatives of some local human rights groups were unable to travel to Wasior for many weeks. When representatives from several Manokwari based NGOs travelled to Wasior in October 2001 they were subjected to intimidation by Brimob members who were positioned on the shore and fired into the air as their boat arrived.[12]

On the day of the Wondiboi attack, 16 Papuan men, most of them employees of CV VPP and another logging company, PT Prima Jaya Sukses Lestari, were arrested by Brimob and taken to Manokwari where they were briefly detained before being released on the condition that they reported to the police daily. They were beaten with rifle butts and kicked as they were arrested and ordered to confess to the killings. One of the 16, Murai Viktor Yoweni, was detained again on 30 June 2001. During the following days he was interrogated several times about his involvement in the Wondiboi attack. He was tortured on each occasion and eventually confessed to having been involved in the killings. He was brought to trial and sentenced to one year and three months' imprisonment. Amnesty International is concerned that his trial did meet international standards for fair trial. The 15 other men are now free and no longer have to report to the police. However, it is reported that they are too afraid to return to their homes and livelihoods in Wondiboi. Murai Viktor Yoweni was released from prison in August 2002 having completed his sentence.

vigilante youth organization. See: *Rawan Is as Rawan Does* by Geoffrey Robinson, Indonesia, Number 66, October 1998.

[12] See Amnesty International report: *Indonesia, Impunity and human rights violations in Papua*. AI Index: 21/015/2002, April 2002.

Despite the arrest of this group of alleged suspects on the day of the Wondiboi attack, Brimob continued to detain and torture others, targeting specific individuals as well as carrying out what appear to be indiscriminate arrests. Members of the DPMA, village heads and school teachers were publicly blamed for participating in or instigating the attack and arrested. Others, including members of their immediate families and clans, neighbours and associates, were also detained. Many of those held were reported to have been subjected to torture and other forms



Officers from the Police Mobile Brigade (Brimob) march during a parade in Jakarta on 1 July 2002. © AP.

of ill-treatment to extract confessions, information about other suspects, or apparently simply to punish.

Forms of collective punishment, including burning of houses and means of livelihood, were carried out against the local community. Local human rights monitors estimate that 55 houses were destroyed during the operations. Churches and community houses were also damaged or destroyed. Several hundred people are believed to have been internally displaced as a result of the operations. The majority fled to the forest, and some left the area altogether. Many did not return to their homes until late 2001 or early 2002. During this time they were

unable to tend their gardens or harvest crops. Schools were not operating and health facilities, which are basic at the best of times, were not available at all in many villages.

Amnesty International condemns the killings of the logging company employees, who were civilians and therefore were taking no active part in the hostilities, and recognizes the responsibility of the Indonesian authorities to identify and bring to justice those suspected of carrying out the killings. The international standards defined in Common Article 3 of the Geneva Conventions are regarded as the minimum standards of human behaviour to which armed groups should adhere, applying whatever the level of fighting or violent confrontations with the government. Common Article 3 explicitly forbids acts of violence, including killing, torture or hostage taking, of persons, including members of the armed forces, who are not taking active part in the hostilities.

At the same time, Amnesty International is also seriously concerned that measures taken by Brimob in response to the armed attacks in Wasior in March and April 2001were entirely disproportionate and arbitrary. The information available suggests that these actions took the form of reprisals against the whole community rather than answering the need to identify and to bring to justice individuals responsible for the killings.

4. The Government Response

To date there has been no formal investigation of the allegations of human rights violations in Wasior and elsewhere in Manokwari District. Official interest has been limited to a one day visit by representatives of the provincial level government, police and military in July 2001 and a follow up visit, in February 2002, by an official team to discuss the rebuilding of houses that had been destroyed during the operations.

Official delegates involved in the first visit on 29 July 2001 included the Chief of Police for Papua, the Commander of the Trikora Military Command which covers Papua, the Governor of the province and a member of the local parliament. The purpose of the visit was reportedly for the delegation to see for themselves the destruction and condition of the local population as a result of the operations. However, six or so hours spent in Wasior town were insufficient to making a comprehensive assessment of the situation even within the town itself, let alone in the many other villages effected by the operations. It is also unlikely that many Papuans had the confidence to speak openly about the situation to senior police and other officials who had command responsibility for the Brimob troops who were engaged in operations in the area.

During the second official visit on 12 February 2002, officials from the Area Development Planning Committee (*Badan Perencana Pembangunan Daerah*, BAPEDA) met with members of various villages in the sub-district to discuss plans for rebuilding homes

destroyed during the operations. Reparations, including compensation, has not been made available to victims for injuries suffered or to families of those killed during the operation.

The National Human Rights Commission (*Komisi Nasional Hak Asasi Manusia*, Komnas HAM), which in the past has initiated investigations into a number of important cases, has not acted in this case despite having been sent reports by local human rights groups.

Komnas HAM activity in Papua has been limited despite the many allegations of human rights violations in the province. In the few cases that it has investigated, the authorities have been slow, or failed entirely, to follow up its recommendations. To its credit Komnas HAM did establish a Commission of Inquiry into Human Rights Violations in Papua/Irian Jaya (*Komisi Penyelidik Pelanggaran Hak Asasi Manusia Papua/Irian Jaya*, KPP HAM Papua/Irian Jaya) in early 2001 to investigate human rights violations, including arbitrary detentions and torture leading to deaths in custody which took place in Abepura in December 2000. The KPP HAM Papua/Irian Jaya completed its investigation in May 2001 and concluded that gross violations of human rights had been committed. It recommended that further criminal investigations were required. Not until eleven months later did the Attorney General's Office send an investigation team to Abepura, Jayapura District to follow up on the recommendations of the KPP HAM Papua/Irian Jaya. The results of this investigation have not yet been made public and no one has been charged or brought to trial.[13]

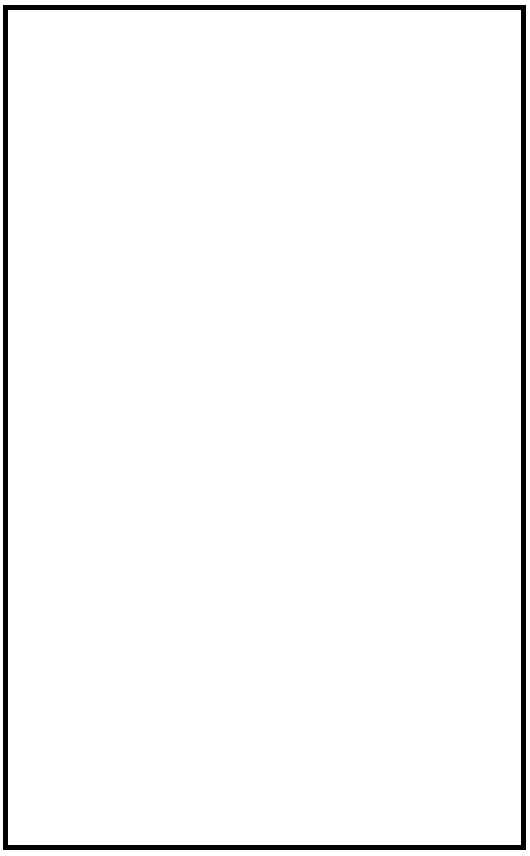
5. Individual cases of victims

5.1 Death in custody of Daniel Yairus Ramar

Daniel Yairus Ramar, a 51 year old school teacher at the Wondamawi village school and the deputy head of the Wondama Tribal Council (DPMA) died in police custody in Manokwari on 20 or 21 July 2001. He had been arrested around 10 days previously in Serui in Yapen Waropen District where he, his wife and other family members fled after being pursued by members of Brimob after the attack in Wondiboi on 13 June 2001. According to local human rights groups the police insisted that Daniel Yairus Ramar was ill when he was taken by the police to Manokwari and had died of natural causes. However, medical personnel at the Manokwari General Hospital reportedly claimed that his body was covered in lacerations and bruises. No autopsy was performed and his family were only permitted to take his body for burial on the condition that they did not request an autopsy.

[13] See: *Indonesia: Impunity and human rights violations in Papua*. AI Index: ASA 21/015/2002, April 2002.

As a prominent member of the DPMA, Daniel Yairus Ramar was among those suspected by the local and provincial authorities of being behind the two attacks on the logging companies. His membership of the Papuan Taskforce (*Satuan Tugas Papua*, Satgas Papua), a security group set up in early 2000 to protect leading pro-independence figures may also have been a factor in the suspicions against him.[14]



Daniel Yairus Ramar, a school teacher, died in custody in Manokwari Police Resort on 20 or 21 July 2001, apparently as a result of torture © Private

Daniel Yairus Ramar and family members left their home village of Wondamawi I by boat on 18 June 2001. Initially the party stopped at the home of Daniel Yairus Ramar's brother-in-law, Yotam Aronggear, in Sanoba village in Nabire Sub-district, Paniai District where they heard that Daniel Yairus Ramar's house and other houses in Wondamawi village had been burnt down during Brimob operations to capture him. The operations had also already extended to neighbouring villages. In one case, between 10 and 15 members of Brimob arrived in Yopanggar village on 27 June 2001 and burnt down the house of a man who they accused of having given food to Daniel Yairus Ramar. Other inhabitants were reportedly

[14] The Papuan Taskforce (Satgas Papua) was first set up in early 2000 to provide security to pro-independence leaders. It initially operated as a form of parallel police force, in some cases with the support of local police commanders. Some of its members used their position for criminal activities such as extortion, but generally they provided security around meetings or other independence activities. Its member were often armed with simple weapons such as bows and arrows. Papuan Taskforce members have been the victims of human rights violations during operations by the security forces against pro-independence protests. For further information see Amnesty International document: *Indonesia: Impunity and human rights violations in Papua*, AI Index ASA 21/015/2002, April 2002.

rounded up and beaten and a 15-year-old girl was hit by gunshots in the hand and foot as she fled the raid.[15]

5.2 Attack on Sanoba village, Nabire

On 9 July 2001, around 30 members of Brimob are reported to have arrived in Sanoba village in search of Daniel Yairus Ramar. He was not in the village at the time, but Marthinus Daisiwa, his 21-year-old son-in-law, and two other men, Gasper Aronggear and Willem Koromat, were arrested. The house of Yotam Aronggear, where the family had been staying, was burnt down and outboard motors, fishing nets and other equipment destroyed. Musa Fairnab, a member of Brimob, was shot and killed during the operation. According to the police version he was killed by TPN/OPM who had attacked the village. However, local non-governmental organizations (NGO) have reported that inhabitants of Sanoba claim that he was killed accidentally by another member of Brimob.

Gasper Aronggear and Willem Koromat were released the next day. According to the reports received at the time, both were bruised and Gasper Aronggear's ear was torn and one of his teeth had been knocked out. Marthinus Daisiwa remained in detention. Two days later, on 11 July 2001, he was taken back to Sanoba village by members of Brimob and ordered to lead them to the place where weapons stolen in Wondiboi had allegedly been hidden. As he walked ahead of the Brimob members, Marthinus Daisiwa was shot in the left leg.

After the news of the attack on Sanoba village reached Daniel Yairus Ramar and his family, they continued their journey, together with Yotam Aronggear and his family, to Yapen Island. On 11 July 2001, almost immediately after arriving, they were handed over by local officials to the Sub-district Military Commander (Danramil) for Waren. Daniel Yairus Ramar, together with Yotam Aronggear and Marthinus Daisiwa, was transferred by boat to the Police Resort (Polres) in Manokwari on 18 July 2001. Little is known about what happened to them in the following days. No lawyers, family members or others had access to Daniel Yairus Ramar during this time. According to one report, another detainee at Polres Manokwari claimed to have seen Daniel Yairus Ramar being dragged, unable to walk, back to his cell after an interrogation session. He died on 20 or 21 July 2001, apparently as a result of torture.

In the meantime, the wives and children of Daniel Yairus Ramar, Yotam Aronggear and Marthinus Daisiwa were detained at Polres Serui on Yapen island. The three women and seven children were held in a single cell in conditions amounting to cruel and degrading treatment. Food was only provided once a day and they were forced to drink from the toilet. Armed police

[15] See *Indonesia: Impunity and human rights violations in Papua*. AI Index: ASA 21/015/2002, April 2002.

officers outside the cell threatened them and on one occasion shots were fired into the air apparently to intimidate them.

All were taken to Manokwari town on 21 July 2001 on board a boat in which they were kept confined to a small cell for the duration of the journey. They were released after arriving in Manokwari town, but Daniel Yairus Ramar's wife Amelia was detained again in August 2001 and taken to Polres Nabire with Daniel Yairus Ramar's brother-in-law, Yotam Aronggear, where they were reportedly held for approximately seven weeks. They were said to have taken from Polres on several occasions by members of Brimob to look for weapons which Daniel Yairus Ramar was accused of having stolen and hidden. Both Amelia and Yotam Aronggear were later released without charge.

5.3 Arbitrary detention, torture and ill-treatment of Marthinus Daisiwa

Marthinus Daisiwa, Daniel Yairus Ramar's son-in-law, initially received treatment for the gun shot wound in his leg at Nabire General Hospital where he was handcuffed to the bed and closely guarded. He is reported to have been beaten in Polres Manokwari after he was transferred there, together with Daniel Yairus Ramar and Yotam Aronggear on 18 July 2001. In October 2001, local human rights groups in Manokwari reported that Marthinus Daisiwa and two other detainees who also had gunshot wounds [see below] were not receiving adequate medical care.

His trial began on 23 October 2001. He was charged with a variety of articles under the Criminal Code (KUHP) which are known collectively as rebellion or *makar*. The primary charges included: separatism which is punishable by up to 20 years' imprisonment (KUHP Article 106); rebellion punishable by a maximum of 15 years' imprisonment (KUHP Article 108); conspiracy to commit the crimes of separatism and rebellion, punishable by six years (KUHP Article 110); and participation in an association which has the intent of committing crimes (KUHP Article 169). In addition he was charged with murder (KUHP Article 340), manslaughter (KUHP Article 338) and maltreatment (KUHP Article 351).

Marthinus Daisiwa was accused by the prosecution of being involved, with Daniel Yairus Ramar and two others, in the attack on the Brimob post in Wondiboi on 13 June 2001. He was also accused of involvement in the TPN/OPM; of training members of the Papuan Taskforce in Wasior; of taking part in armed resistence in Wasior; and of participating in security operations in Wasior with the intention of achieving Papua's independence from Indonesia. According to his lawyers Marthinus Daisiwa has denied any involvement in the attack. Witnesses for the defence, who his lawyers believe would have been able to substantiate his claims, refused to appear because they were afraid for their safety. There is no victim and witness protection program in Indonesia and it is not uncommon for witnesses in political trials to be subjected to harassment or intimidation.

Marthinus Daisiwa was found guilty and sentenced to one year and 10 months' imprisonment. The sentence was increased to seven years by Jayapura High Court. His lawyers have lodged an appeal with the Attorney General. Amnesty International believes that his trial did not conform to international standards for fair trial and should be promptly and independently reviewed. Among the alleged irregularities in the trial are that Marthinus Daisiwa did not have access to legal representation while being interrogated; his claim that his confession was extracted from him under torture was not investigated; and witnesses who may have been able to provide evidence to support Marthinus Daisiwa's claim that he was not involved in the Wondiboi attack refused to testify for fear of retaliations against them.

5.4 Arbitrary detention and torture of school teachers

The widespread use of torture was a feature of the Brimob operations in Wasior. Among those reported to have been detained and tortured or ill-treated were nine junior school teachers, including Daniel Yairus Ramar, and one school guard.

According to reports in the local media, teachers had been identified as being among those suspected of carrying out the attacks and were targeted for arrest. The police chief for Papua province (Kapolda) was quoted in a local newspaper on 5 July 2001 as saying that "*according to preliminary investigations, it appears that those involved in the attack included village heads and teachers so we are hunting them down*".[16]

It is not clear why teachers should have been singled out, but it may result from the fact that they tend to be regarded as local figures of authority. Of the teachers that were detained, two, Natanial Yoweni and Tonche (or Hengki) Baransano, were subsequently charged and brought to trial. Their lawyers reported that the prosecution failed to present credible evidence of their involvement in the armed attacks, but they were nevertheless found guilty of "separatism" under Article 106 of the Criminal Code and sentenced to 15 months' imprisonment each. The basis for the guilty verdict is reported to be because they attended TPN training in Bonggo, Jayapura District in June 2000, a year before the events in Wasior. The other teachers detained were released without charge.

First case[17] **-** A 42-year-old teacher from a village close to Wondiboi, fled with a number of his colleagues to Manokwari town soon after news of the 13 June 2001 attack in Wondiboi and subsequent Brimob operations reached them. He returned to Wasior Sub-district on several occasions as part of a team delivering humanitarian assistance. On one occasion, on

[16] See local newspaper, Cenderawasih Pos, 5 July 2001.

[17] Names of individuals who were detained and subsequently released have been withheld to protect their security.

25 October 2001, in addition to delivering food he had also taken the opportunity to return to his home village and pick up some of the belongings he had left when he fled. As he was unloading the belongings from a truck in Wasior town, he was grabbed by the collar, beaten and thumped on the head by a member of Brimob who then ordered him to perform somersaults along the road - ten forwards and ten back. He was then taken to the police station in Wasior (Polsek Wasior) where five other members of Brimob joined in beating him with rifle butts and kicking him including on his head and face. The beatings lasted from around 7 to 9 pm, after which he was taken to a second police post where he was questioned for approximately half-an-hour before being released.

Second case - A 60 year-old principal of a primary school, was detained by members of Brimob on 17 June 2001 as he was making his way to the harbour in Wasior to flee the area, together with his wife and daughter. He was taken to Polsek Wasior where he recounted seeing three men, two employees of CV VPP and a local farmer, being punched, kicked and sliced with a bayonet in front of him. The teacher was then beaten himself. He said that he counted 21 blows to his head and was kicked on his chest and hit with the butt of a rifle on his shoulders. He described feeling dizzy and holding on to the side of his chair for support.

After the beatings stopped, the teacher reported overhearing a conversation among Brimob members in which one of them said that they had made a mistake in detaining him. One of the officers approached him, apologised and asked to be forgiven. He was released later the same day. However, two days later, while recovering from his injuries in Wasior town, he was summoned to return to Polsek Wasior. As he entered the building he said that he was grabbed by the arms and pulled into a room where he was beaten from 2 pm to 4 pm before once again being released.

He remains unclear about why he was detained, but believes it may be because he belongs to the same clan as someone who had been arrested in connection with the Wondiboi attack. He also speculated that it may be because he has been demanding compensation for land taken by a logging company in the mid-1980s. He left Wasior on 7 July 2001 and was meant to return for the beginning of the school term in November 2001, but has decided not to return to his home or his job because he fears for his safety.

Third case - Members of Brimob detained Tonche (or Hengki) Baransano from his home in a village in Wasior Sub-district on 20 July 2001. He and three other men from his village were taken to Polsek Wasior where they were held for two days during which time they were beaten both with fists and with rifles. The four were then taken by boat to Polres Manokwari where they were held in a cell with some 25 other detainees.

Tonche Baransano was handcuffed to another prisoner for a week. On the third day in Polres Manokwari, members of Brimob entered the cell and beat the handcuffed detainees,

including him. The following day he underwent interrogation during which he was hit with ratan sticks and rifle butts - one person would ask the questions while another police officer stood behind him and hit him if he did not respond quickly enough. Tonche Baransano was accused of providing food to Daniel Awom, who is widely believed to have led the attack in Wondiboi. The teacher claimed to have no connection with the attack, but eventually confessed to it in detention to stop the beatings. Despite having confessed, beatings continued to take place intermittently for the three months that he was held at Polres Manokwari.

He was released in early November 2001, but was still required to report to the police in Manokwari daily. In the meantime, he was unable to return to his village and his job. His wages were not being paid and he feared that any future prospects for promotion had been destroyed by the arrest. He was eventually brought to trial and, according to information from his lawyers was sentenced to one year and three months in prison for participating in TPN training in June 2000. Amnesty International is concerned that his trial did not meet internationals standards for fair trials. Tonche Baransano was released at the end of August 2002 having served his sentence.

5.5 Possible extrajudicial executions of Willem Korwam and Johan Calvin Werianggi

The dismembered remains of Willem Korwam, a health worker and father of three children who was around 30 years old and from Wasior II village, were discovered in a plastic sack floating in the sea close to Wasior harbour on 10 September 2001. He had been missing since the night of 6 September 2001 when he been ordered to accompany members of Brimob who had come to his home. According to one witness, he was seen walking along the beach with armed members of Brimob, some of whom were masked. A piece of cloth had been tied around Willem Korwam's mouth to gag him.

Willem Korwam had returned to Wasior on 5 September 2001 from Manokwari where he had gone to seek medical treatment. In the early evening of 6 September 2001 he had gone fishing. Later that evening three members of Brimob are said to have come to his house and asked for some fish. They were invited in and given food and drink. They then asked for cigarettes, but because Willem Korwam did not have any they ordered him to give them the money to buy them and to accompany them. According to the reports received by Amnesty International, he was last seen alive, gagged and accompanied by members of Brimob, at around midnight on 6 September 2001.

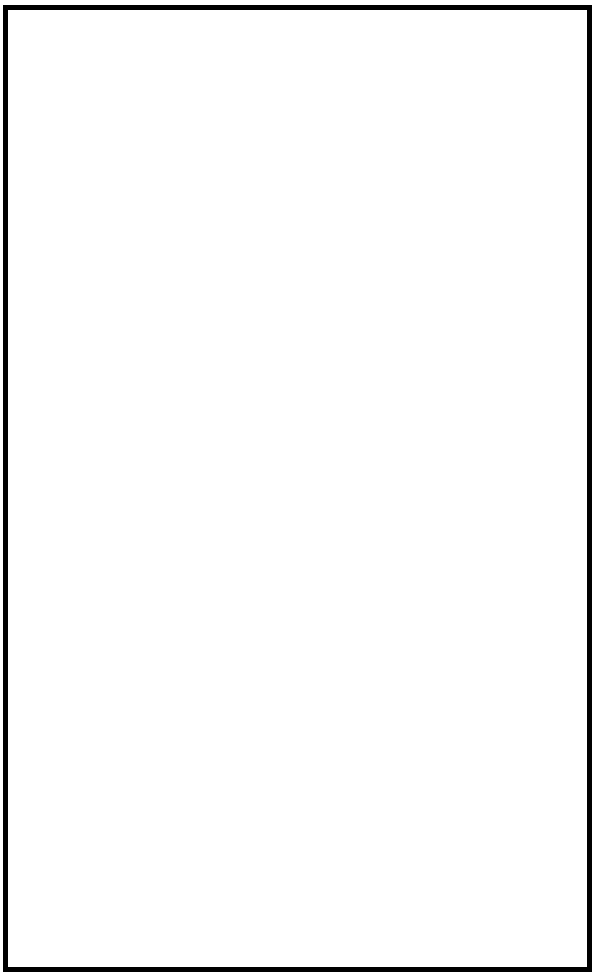
It is not known precisely how or when Willem Korwam was killed. The brutality of his murder - his head and limbs had been cut off his body - is unusual even within the context of the violent operations which were taking place in Wasior at the time. Local officials are said to have claimed that he was a member of the TPN/OPM and that he supplied medicines to the armed

group. Whatever the truth of these accusations they are no justification for his killing which, in view of the circumstances in which he was last seen leaving his house, requires a thorough investigation.

Johan Calvin Werianggi, the head of Werianggi village in Windesi Sub-district, is also thought to have been extrajudicially executed in September 2001 after being arrested by members of Brimob. Witnesses claim to have seen him being tortured before being taken to a boat which left the port in Windesi and returned several hours later without him. He has not been seen since.

Johan Calvin Werianggi was detained on 4 September 2001 soon after he had arrived by boat from Wasior to Windesi which is on the opposite shore of Wandamen Bay from Wasior. His house was reportedly surrounded by members of Brimob who claimed that they were searching for weapons. Failing to find any weapons they took Johan Calvin Werianggi to Polsek Windesi. Witnesses claim that, during the short journey of several hundred metres, Johan Calvin Werianggi was punched, kicked and beaten with the butt of a gun. According to one unverified report he was tied to a flagpole in front of Polsek and beaten before being taken inside the Polsek building where the torture continued. Local people are said to have heard him screaming "*Please help me God, I want to be dead*" ("*Tuhan tolong, saya sudah mau mati*"). At 2 am in the morning Johan Cavlin Werianggi was apparently seen being taken, reportedly by members of Brimob, to a boat that was moored on the beach. He was apparently moving, but did not say anything. His fate remains unknown.

Again, it is unclear precisely why Johan Calvin Werianggi was detained. However, he was a strong advocate of independence for Papua and local human rights activists have speculated that he may have been detained because he participated in Papuan Taskforce and TPN training in Wondiboi in late 2000 and early 2001. They also believe that he may have been regarded as suspicious because, as the representative of the local community, he had persuaded local government, police and military officials to allow the Morning Star flag - a symbol of Papuan independence - to be raised in Windesi in the past. At least four other men from Windesi, who had taken part in Papuan Taskforce and TPN training, or had been active in the pro-independence movement, were also detained on or around 4 September 2001. According to testimonies from witnesses and reports from local human rights groups they were all beaten by members of Brimob. Two had their nostrils burnt with cigarette lighters and one was forced to drink dirty water from the river. They were all released without charge.



Funeral of Willem Korwam, whose dismembered body was found 10 September 2001. He was last seen alive gagged and accompanied by members of Brimob (Police Mobile Brigade) on 6 September 2001 © Elsham

6. Torture and unfair trials

Twenty-seven people who were detained during the Brimob operation were brought to trial in relation to the armed attacks on the timber companies in Wasior (see Appendix I for a complete list). Amnesty International is concerned that the trials did not meet international standards for fair trial. The defendants were denied access to legal representation, were tortured and otherwise ill-treated, and subjected to intimidation in court. In addition, some who had suffered gun shot wounds and others who had been tortured did not receive adequate medical attention.

6.1 Arrest and torture of group from Puncak Jaya

Among those who were brought to trial were 16 men from Puncak Jaya District. They were part of a group of people who had travelled to Rasiei, a village close to Wondiboi, in late April 2001. According to their version of events they had made the journey in order to attend a traditional ceremony at Gunung Nabi, a sacred site in the area. There are other reports that they were in the area to attend TPN or Papuan Taskforce training, but the training had already taken place so they did not participate. As they were preparing to return to their homes on 3 May 2001, their boat was ambushed at Rasiei by around 30 members of Brimob. Two men, Musa Kulla and Mandinus Jikwa, were shot in their right legs, allegedly at point blank range. Stevanus Tabuni is reported to have received a bullet wound to the shoulder. Six others were initially thought to have been shot dead or drowned. However, recent reports indicate that at least some of them may have survived and gone into hiding.

The 16 who were detained, including those with gunshot wounds, are reported to have beaten and kicked before being thrown into to a boat and transported to Wondiboi and then on to Manokwari the same day. All but Musa Kulla and Mandinus Jikwa were taken to Polres Manokwari. Conditions in the Polres were poor. The men were held in a cell already crowded with other detainees. Because there was no door on the cell they were guarded during the day by members of Brimob and overnight were put in a metal plated prison vehicle. Even at night temperatures in Manokwari are high and would have been almost unbearable in a metal vehicle. While in the Polres they were forced to assist in the building of a new cell block.

The detainees first had access to members of their appointed team of lawyers on 12 June 2001, over six weeks after their arrest. In the meantime, they had been interrogated and forced to make and sign confessions extracted under torture. A police appointed lawyer cross-signed their statements, but according to their own lawyers, the detainees had never met with the police lawyer and he was not present while they were being questioned.

For a short period the team of lawyers had relatively free access to their clients. However, in late June 2001 there was an incident in which a member of the legal team was threatened by members of the police and Brimob after writing a letter of complaint about the torture of other detainees in Polres Manokwari.[18] Following this, the lawyers' access to the Puncak Jaya and other detainees was restricted for a period of several weeks.

6.2 Inadequate medical attention for Musa Kulla and Mandinus Jikwa

[18] See: *Indonesia: Impunity and human rights violations in Papua.*

Musa Kulla and Mandinus Jikwa, who had been shot during the ambush by Brimob on 3 May 2001, were taken to Manokwari General Hospital where they remained for around ten days but did not receive adequate medical treatment. On 11 May 2001, they were transferred to the better equipped General Hospital in Jayapura, the capital of Papua Province. They were taken back to Manokwari in late June 2001 where they were held with their 14 colleagues from Puncak Jaya at the Polres. Medical assistance at the Polres was inadequate and their wounds became infected. The two were permitted to visit the local general hospital for treatment once on 15 July 2001, but their condition remained poor and, when the whole group was to be transferred to the local prison on 3 August 2001, the head of the prison at first refused to accept Musa Kulla and Mandinus Jikwa because of their injuries.

A medical examination performed once they had been admitted to the prison found that



Marthinus Daisiwa, Mandinus Jikwa and Musa Kulla at Manokwari Prison, shot by members of Brimob and sentenced to terms of imprisonment after unfair trials in connection with operations in Wasior, © Amnesty International.

Musa Kulla still had metal splinters in his wound and that it was badly infected. Despite this the

only medical treatment available to them was from a nurse who visited the prison. By mid-September 2001 the condition of the two had deteriorated further and their families applied to the local prosecutor and judge for them to be transferred to hospital. Eventually, on 15 November 2001, Musa Kulla whose condition was the worse of the two, was permitted to visit the Manokwari General Hospital where he was given physiotherapy.

Despite this limited progress, Musa Kulla and Mandinus Jikwa's condition remains an issue of concern. It is likely that Musa Kulla will be partially crippled as a result of inadequate medical care for his injuries while in detention. Failure to provide necessary medical assistance contravenes the rights of detainees contained in the UN Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment (Body of Principles). Principle 24 states that "*A proper medical examination shall be offered to a detained or imprisoned person as promptly as possible after his admission to the place of detention or imprisonment, and thereafter medical care and treatment shall be provided whenever necessary. The care and treatment shall be provided free of charge*".

6.3 The trials

The trials of the 16 men from Puncak Jaya District began in October 2001. They were split into four separate cases but were all charged with the same offences: separatism; rebellion; conspiracy to commit the crimes of separatism and rebellion; and participation in a group which has the intent of committing crimes. Three were additionally charged with possessing weapons under the Emergency Law Number 12, 1951.

The Prosecution argued that the 16 had come to Wasior to lend support to the local OPM/TPN in attacking government or military facilities in the area and to take part in OPM/TPN training activities. The prosecution case appears to have been based primarily on the defendants' confessions. Their legal representatives complained to the panel of judges that the information in the defendants' statements was false; that the defendants had been tortured; the confessions extracted under pressure; and that most of the 16 defendants could not read the statements that they had signed because they could not read or fully understand Bahasa Indonesia. The judge dismissed the complaint and only queried why the defendants signed the statements if they could not understand them. The defendants did not have official interpreters at any point during the proceedings, including during the trial. Those who had a better command of Bahasa Indonesia were asked by both the police and the judges to interpret for those who did not.

The 16 defendants from Puncak Jaya were all found guilty and sentenced to terms of imprisonment of between 14 and 15 months. Their lawyers advised them that they had a strong case to appeal the verdicts, but none of the 16 chose to exercise their right to appeal apparently because they feared they might be subjected to further torture or ill-treatment. Soon after the

convictions they were transferred to Nabire to serve out their sentences closer to their home villages. All have now been released, after serving their sentences.

Two other men, Piet Thorey and Yukinus Kiwo, who had been in Rasiei village to receive the 16 from Puncak Jaya were also arrested and put on trial. They were sentenced to terms of imprisonment of one year three months and one year nine months respectively. Yekinus Kiwo, who originates from Puncak Jaya was transferred to Nabire with the other 16 from the same district. His sentence is due to expire in early 2003.

Nine others, including the two teachers Natanial Yoweni and Tonche Baransano, who were arrested in connection with the armed attacks were sentenced to one year and three months in prison. According to their lawyers there was no evidence that they were connected with the attacks in Wasior in 2001, but they were found guilty of participating in TPN training in Jayapura District the previous year. Although less information is available on their trials, Amnesty International fears that they may not have been conducted in a manner which is consistent with international standards for fair trial.

The right to fair trial is a basic human right. It is one of the universally applicable principles recognized in the Universal Declaration of Human Rights (UDHR). It has been reaffirmed and elaborated in international treaties and non-treaty standards adopted by the UN and by regional intergovernmental bodies including the International Covenant on Civil and Political Rights (ICCPR)[19], the UN Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment (Body of Principles) and the Standard Minimum Rules for the Treatment of Prisoners (Standard Minimum Rules). There is clear evidence that the minimum guarantees contained in these and other standards were not applied in these cases.

Amnesty International is concerned about several aspects of the trial process in the Puncak Jaya and other cases which are inconsistent with the right to fair trial, including the use of statements reportedly extracted under torture as evidence in court and the fact that complaints by the lawyers about torture were dismissed by the judges without any further investigation. Torture is forbidden under the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Convention against Torture) to which Indonesia is a state party. Under the Convention any statement which is made as result of torture cannot be invoked as evidence in any proceedings. The Convention further provides for prompt and impartial investigations, wherever there is reasonable ground to believe that an act of torture has been committed.[20]

[19] Indonesia has committed in its Five Year National Action Plan on Human Rights to ratify the ICCPR in 2003.

[20] Articles 12 and 15 of the Convention against Torture.

Concerns about frequent allegations of torture and ill-treatment committed by members of the Indonesian security forces, including Brimob, were raised by the United Nations Committee against Torture during its examination of Indonesia's first periodic report under the Convention against Torture in November 2001. The Committee against Torture was also critical of the excessive use of force, including for purposes of investigations, and about the failure of the authorities to provide prompt, impartial and full investigations into the many allegations of torture or to bring perpetrators to justice.[21]

The defendants from Puncak Jaya were denied the right to the assistance of their chosen legal counsel during the first six weeks of their detention. When legal counsel was granted, it was restricted. Under international standards, including the Basic Principles on the Role of Lawyers and the Body of Principles, all persons are entitled to the assistance of a lawyer of their choice during all stages of criminal proceedings, including during interrogations.[22] Legal representation is an important element in ensuring the protection of rights while in detention and also preparing a defence. In Indonesia, prompt access to lawyers is particularly crucial to preventing torture and other forms of ill-treatment, which are widespread.

Understanding the accusations, charges and proceedings is also essential to ensuring the fairness of the proceedings, including allowing the accused to adequately defend themselves. The right to receive the assistance of a competent interpreter subsequent to arrest is recognized in international standards relating to fair trials.[23] In Papua, some 250 languages are spoken and only those who have been formally educated to a sufficiently high level understand and speak the national language of Bahasa Indonesia. The need for interpreters is therefore common. Relying on interpretation by other defendants, who may not speak the language fluently and may not be familiar with legal terms and process cannot be regarded as an acceptable solution.

[21] CAT/C/XXXVii/Concl.3, 22 November 2001.

[22] Principle 1 of the Basic Principles on the Role of Lawyers states that "*All person are entitled to call upon the assistance of a lawyer of their choice to protect and establish their rights and to defend them in all stages of criminal proceedings*". Principle 17 of the Body of Principles of All Persons under Any Form of Detention or Imprisonment (Body of Principles) states that "*A detained person shall be entitled to have the assistance of a legal counsel. He shall be informed of his right by the competent authority promptly after arrest and shall be provided with reasonable facilities for exercising it.* "

[23] Principle 14 of the Body of Principles "*A person who does not adequately understand or speak the language used by the authorities responsible for his arrest, detention or imprisonment is entitled to receive promptly in a language which he understands the information referred to in principle 10, principle 11, paragraph 2, principle 12, paragraph 1, and principle 12 and to have assistance, free of charge, if necessary, of an interpreter in connection with legal proceedings subsequent to his arrest*."

In view of the irregularities in these trials of the group from Puncak Jaya and of similar irregularities in the cases of the other individuals who were brought to trial in relation to the attacks in Wasior, Amnesty International believes that their cases should be promptly and independently reviewed.

7. Conclusion

While the situation in Wasior Sub-district has improved since October 2001, the impact of the operations for those living in the area is still felt. Many people have lost their homes and some schools were still said to be closed in early 2002 because teachers have not returned to the area. Although a number of the weapons stolen during the armed attack on 13 June 2001 in Wondiboi have been returned following negotiations, the local population remains fearful that operations will be resumed to retrieve the remaining weapons. Indeed, renewed operations were threatened in May 2002. The operation is not thought to have been carried out, but local human rights monitors reported that travel restrictions were imposed again.

In the meantime, impunity has been further entrenched by the failure of the relevant authorities to conduct investigations into events in Wasior Sub-district and the surrounding area. Most of the Brimob troops have now left the area. They have not been held accountable for their actions in Wasior raising fear that they will commit similar abuses when redeployed elsewhere.

The pattern is a familiar one in Papua. Over the past 40 years are estimated to have been thousands, of cases of extrajudicial executions, "disappearance", arbitrary detention, torture and other human rights violations perpetrated by the Indonesian security forces. Grave human rights violations, lack of justice and pervasive discrimination against Papuans in the political, economic and social spheres continues to fuel tensions.

Tensions are also exacerbated by the destruction of the environment, local culture and traditions by mining, logging and other commercial operations. Demands for local control of such development, including of economic and other benefits deriving from them, have become linked to demands for independence and those involved in asserting such demands are regarded by the authorities at best as trouble makers and at worst as "separatists" and thereby legitimate targets of counter-insurgency operations. In this context the risks entailed to individuals and communities wishing to express their disquiet about or opposition to commercial operations can be considerable.

The Indonesian government has taken various initiatives aimed at trying to resolve the problems in Papua, but its policies have been inconsistent and are often contradictory. The Special Autonomy initiative was intended to stabilise the situation by addressing some of the

economic and other grievances of the Papuans and thereby defuse demands for independence. However, it has not been fully implemented and the prospect of successful implementation and acceptance of the initiative among large numbers of Papuans is undermined by the actions of the security forces and lack of justice for past human rights violations.

The government's own commitment to a political solution in Papua is brought into question by increasingly frequent public statements from government and military officials threatening to crack down on separatist movements and by operations such as the current *Operasi Adil Matoa* in which both peaceful pro-independence activists as well as members of the armed opposition are apparently the targets. Military statements indicate their preference for a security approach against the Papuan independence movement. The experience of such an approach by the security forces against the armed opposition group, the Free Aceh Movement (*Gerakan Aceh Merdeka*, GAM), in Aceh Province has shown that it risks inflaming the situation further.

Amnesty International believes the chances of achieving durable solutions to complex political, economic, cultural and other issues in Papua will be greatly enhanced if conditions existed, including full enjoyment of the rights to freedom of expression and association, which would allow full and safe participation of the Papuan people in defining those solutions. In order to achieve such conditions, far greater emphasis must be placed on resolving human rights problems in the province.

8. Recommendations

In relation to events in Wasior during 2001 Amnesty International calls upon the Government of Indonesia to:

- Establish, without further delay, effective and independent investigations into allegations of widespread human rights violations in Wasior during 2001. In order for the investigation to be credible and effective, it should be provided with adequate resources and should carried out by a body offering the requisite guarantees of independence and impartiality with the necessary skills and experience. Where such skills and experience may not be available within Indonesia, international experts should be called upon to assist;

- Suspend individuals suspected of committing human rights violations in Wasior from positions of responsibility pending the outcome of investigations;

- Ensure that all those alleged to have been responsible for committing human rights violations in Wasior, including those with command responsibility, are brought to justice.

Trials should take place in civilian courts in a manner which is consistent with international standards for fair trial;

- Provide effective protection for witnesses and victims so that they can assist the investigation and trials without fear of threats, intimidation or other human rights violations;

- Conduct a prompt and independent review of all cases where political prisoners have been convicted in trials which did not meet international standards for fair trial, including in cases where confessions were obtained through use of torture;

- Ensure that the right of victims and their families to reparations, including compensation, restitution and rehabilitation, are fulfilled.

In order to improve the overall human rights situation in Papua, Amnesty International calls upon the Indonesian government to:

- Undertake comprehensive, effective and independent investigations into the many allegations of human rights violations in the past in Papua. The results of such investigations should be made public and individuals against whom there is sufficient evidence should be brought to trial;

- Take measures to bring to an end to the widespread practice of torture by implementing, without delay the recommendations of the UN Committee against Torture (see Appendix II) and by immediately introducing the following practical safeguards:
  - - detainees should be given access to independent lawyers and doctors of their choice as soon as they are detained;
  - - all detentions should be recorded and monitored;
  - - detainees should be brought before a judge promptly, interpretation of international standards suggests that 48 hours would be the maximum acceptable time limit;
  - - all detained persons should be able to challenge the lawfulness of the detention;
  - - serious consideration should be given to introducing audio-taping, or even video-taping, proceedings in interrogation rooms;
  - - judges should take steps to ensure that detainees have not been tortured or ill-treated, and should institute criminal investigations where torture or ill-treatment are alleged to have taken place;
  - - a pre-trial procedure should be introduced for assessing whether evidence has been secured through the use of torture or ill-treatment, so that evidence which has been obtained illegally does not come before the trial court. Such procedure

should place the onus is on the prosecution to prove that the evidence was obtained legally;

- C - institute a system of regular, independent, unannounced and unrestricted visits of inspection to all places of detention. This could be carried out by independent non-governmental organizations who should be authorized have full access to all places of detention.

C Take measures to prevent extrajudicial executions in accordance with the UN Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions. Measures should include:

- C - explicitly prohibit such offences in law and ensuring that they are punishable by appropriate penalties which take into account the seriousness of the offences;
- C - ensure that those in charge of the security forces maintain strict chain-of-command control to ensure that officers under their command do not commit extrajudicial executions;
- C - ensure that law enforcement officials use force only when strictly necessary and only to the minimum extent required under the circumstances. Lethal force should not be used except when strictly unavoidable in order to protect life.

C Establish effective mechanisms by which every allegation of human rights violations, including extrajudicial executions, “disappearances” and torture can be immediately, independently and impartially investigated, and by which perpetrators, including those with command responsibility, are brought to justice in civilian courts in a manner which is consistent with international standards for fair trial;

C Establish a victim and witness protection program which can provide effective protection during investigations and during and after trials, until any threat to personal safety ends. In order to be effective, such a program must be provided with adequate resources, including professional personnel with specialised training in the field of witness protection;

C Ensure that the training of all members of the police, Brimob and military serving in Papua and elsewhere in Indonesia, including those providing security to commercial enterprises, includes the prohibition of torture, extrajudicial executions and other human rights violations. Such training should be based on international standards relating to the treatment of detainees and the use of force and firearms by law enforcement officials including: the UN Code of Conduct for Law Enforcement Officials; UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials; the UN Principles on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and

Summary Executions; and the UN Standard Minimum Rules for the Treatment of Prisoners;

- Extend invitations to the UN Special Rapporteur on torture, the Special Rapporteur on extrajudicial, summary or arbitrary executions and the Special Representative on human rights defenders to visit Papua.

Amnesty International also urges armed opposition groups operating in Papua to:

- Abide by international humanitarian law as defined in Common Article 3 of the Geneva Conventions, in particular that those taking no active part in hostilities must be treated humanely and must not be subjected to acts of violence such as killing or hostage taking.

Amnesty International also calls upon national and international companies operating in Papua to:

- Ensure that their operations do not have any negative impact on the human rights and fundamental freedoms of the local population, including by not engaging security forces against which there exist credible allegations of human rights violations;

- Ensure that security arrangements are consistent with the protection and promotion of human rights. In particular, all individuals engaged in providing security should receive training in the practical implementation of international human rights standards, including the UN Code of Conduct for Law Enforcement Officials and the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials;

- Monitor the use of any facilities which may be provided by the company to local authorities or members of the security forces to ensure that they are not used, or linked in any way, to the carrying carry out of human rights violations;

- Record and report any credible allegations of human rights abuses by the Indonesian security forces in their areas of operation to the relevant government authorities and to the National Commission on Human Rights. Companies should actively monitor the status of investigations and press for their proper resolution.

APPENDIX I - List of Individuals brought to trial in connection with Wasior

Name	**Age**	**Home and Occupation**	**Date & Place of Arrest**	**Charges**	**Sentence**
Puncak Jaya Cases					
Emi Elenggeng (or Telenggeng)	25	Kali Susu village, Nabire Farmer	3 May 2001 Rasiei, Wasior	Primary Charge: KUHP Article 106 (separatism); Subsidiary charges KUHP Articles 108 (rebellion), 110 (conspiracy to commit rebellion and separatism) & 169 (participation in group intending to commit crimes)	1 year 2 months
Pekiles Enumbi	23	Kali Susu village Nabire Farmer	3 May 2001 Rasiei, Wasior	Primary Charge: KUHP Article 106, Subsidiary charges: KUHP Articles 108, 110 & 169	1 year 2 months

Mandinus Jikwa	27	Kali Susu village, Nabire Farmer	3 May 2001 Rasiei, Wasior	Primary Charge: KUHP Article 106, Subsidiary charges KUHP Article 108, 110 & 169. Emergency Law 12/1951 (possessing weapons illegally)	1 year 3 months
Marthen Kogoya	37	Kali Susu village, Nabire Farmer	3 May 2001 Rasiei, Wasior	Primary Charge: KUHP Article 106, Subsidiary charges KUHP Articles 108, 110 & 169	1 year 2 months
Musa Kulla	37	Kali Susu village, Nabire Farmer	3 May 2001 Rasiei, Wasior	Primary Charge: KUHP Article 106, Subsidiary charges: KUHP Articles 108, 110 & 169 KUHP	1 year 2 months
Temi Murib	23	Kali Susu village, Nabire Farmer	3 May 2001 Rasiei, Wasior	Primary Charge: KUHP Articles 106, Subsidiary charges: KUHP Article 108, 110 & 169 KUHP	1 year 2 months
Tangkis Nimianggeng (or Telenggeng)	29	Kali Susu village, Nabire Farmer	3 May 2001 Rasiei, Wasior	Primary Charge: KUHP Article 106, Subsidiary charges: KUHP Article 108, 110 & 169. Emergency Law 12/1951	1 year 3 months

Ngawu (or Kwamo) Tabuni	23	Kali Susu village, Nabire Farmer	3 May 2001 Rasiei, Wasior	Primary Charge: KUHP Article 106, Subsidiary charges: KUHP Article 108, 110 & 169	1 year 2 months
Stefanus Tabuni	43	Kali Susu village, Nabire Farmer	3 May 2001 Rasiei, Wasior	Primary Charge: KUHP Article 106, Subsidiary charges KUHP Article 108, 110 & 169	1 year 3 months
Tinus Tabuni	39	Kali Susu village, Nabire Farmer	3 May 2001 Rasiei, Wasior	Primary Charge: KUHP Article 106, Subsidiary charges: KUHP Article 108, 110 & 169. Emergency Law 12/1951	1 year 3 months
Delinus Telenggen	23	Kali Susu village, Nabire Farmer	3 May 2001 Rasiei, Wasior	Primary Charge: KUHP Article 106, Subsidiary charges: KUHP Article 108, 110 & 169	1 year 2 months
Philipus Waker	36	Kali Susu village, Nabire Farmer	3 May 2001 Rasiei, Wasior	Primary Charge: KUHP Article 106, Subsidiary charges: KUHP Article 108, 110 & 169	1 year 3 months

Wetimus (or Wekimas) Walia	27	Kali Susu village, Nabire Farmer	3 May 2001 Rasiei, Wasior	Primary Charge: KUHP Article 106, Subsidiary charges: KUHP Article 108, 110 & 169	1 year 2 months
Penore (or Penorak) Wonda	20	Kali Susu village, Nabire Farmer	3 May 2001 Rasiei, Wasior	Primary Charge: KUHP Article 106, Subsidiary charges: KUHP Article 108, 110 & 169	1 year 3 months
Teka Wonda	40	Kali Susu village, Nabire Farmer	3 May 2001 Rasiei, Wasior	Primary Charge: KUHP Article 106, Subsidiary charges: KUHP Article 108, 110 & 169	1 year 2 months
Mani Yoman	24	Kali Susu village, Nabire Farmer	3 May 2001 Rasiei, Wasior	Primary Charge: KUHP Article 106, Subsidiary charges: KUHP Article 108, 110 & 169	1 year 3 months
Others					

Yulius Ayomi		Wasior II village, Wasior Farmer	20 July 2001	Primary Charge: KUHP Article 106. Subsidiary Charges: KUHP Articles 108, 110, and 169	1 year 3 months
Tonche (or Hengki) Baransano	53	Sobei village, Wasior. Teacher	20 July 2001 (or possibly 7 July 2001)	Primary Charge: KUHP Article 106. Subsidiary Charges: KUHP Articles 108, 110 and 169.	1 year 3 months
Marthinus Septinus Dasiwo	21	Sanoba village, Nabire	9 July 2001	Primary Charge: KUHP Articles 106, 108, 110 and 169. Subsidiary charges: KUHP Articles 340 (murder) and 338 (manslaugher)	1 year 10 months increased to 7 years
Yukinus Kiwo		Kali Susu village, Nabire Farmer	3 May 2001	Primary Charge: KUHP Article 106, Subsidiary charges KUHP Articles 108, 110 & 169	1 year 9 months
Yosias Manupapami		Wasior II village, Wasior. Farmer	20 July 2001	Primary Charge: KUHP Article 106, Subsidiary charges KUHP Articles 108, 110 & 169	1 year 3 months

Frans Saba		Wondamawi I Village, Wasior. Farmer		Found guilty under KUHP Article 106	1 year 3 months
Metuzalem Saba	22	Wondamawi village, Wasior. Farmer	24 July 2001	Primary Charge: KUHP Article 106, Subsidiary charges KUHP Articles 108, 110 & 169. Further primary charge: KUHP Article 338. Further subsidiary charge: KUHP Article 351.	1 year 3 months
Hermanus Sawaki	37	Amban, Manokwari. Civil Servant	20 July 2001	Primary Charge: KUHP Article 106, Subsidiary charges KUHP Articles 108, 110 & 169	1 year 3 months
Piet Thorey	43	Rasiei village, Wasior, Farmer	3 May 2001	Primary Charge: KUHP Article 106, Subsidiary charges: KUHP Articles 108, 110 & 169	1 year 3 months

Murai Viktor Yoweni	22	Kabouw Village, Wasior. Logging company employee	13 June 2001	Primary Charge: KUHP Article 106, Subsidiary charges: KUHP Article 108, 110, 169.	1 year 3 months
Nataniel Yoweni	49	Kabouw Village, Wasior. Teacher	13 June 2001	Primary Charge: KUHP Article 106, Subsidiary charges KUHP Articles 108, 110 & 169	1 year 3 months

APPENDIX II

Conclusions and Recommendations of the Committee against Torture: Indonesia. 22/11/2001.
CAT/C/XXVII/Concl.3. (Concluding Observations/Comments)

Convention Abbreviation: CAT
COMMITTEE AGAINST TORTURE
Twenty-seventh session
12 – 23 November 2001

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 19 OF THE CONVENTION

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E. Recommendations

10. The Committee recommends that the State party:

(a) Amend the penal legislation so that torture and other cruel, inhuman or degrading treatment or punishment are offences strictly prohibited under criminal law, in terms fully consistent with the definition contained in article 1 of the Convention. Adequate penalties, reflecting the seriousness of the crime, should be adopted.

(b) Establish an effective, reliable and independent complaint system to undertake prompt, impartial and effective investigations into allegations of ill treatment and torture by police and other officials and, where the findings so warrant, to prosecute and punish perpetrators, including senior officials.

(c) Ensure that all persons, including senior officials, who have sponsored, planned, incited, financed or participated in paramilitary operations using torture, will be appropriately prosecuted.

(d) Take immediate measures to strengthen the independence, objectivity, effectiveness and public accountability of the National Commission on Human Rights (Komnas-HAM), and ensure that its reports to the Attorney General are published in a timely fashion.

(e) Ensure that the proposed ad hoc human rights court for East-Timor will have the capacity to consider the many human rights abuses, which were alleged to have occurred there during the period between 1 January and 25 October 1999.

(f) Ensure that crimes under international law such as torture and crimes against humanity committed in the past may be investigated and, where appropriate, prosecuted in Indonesian courts.

(g) Continue measures of police reform to strengthen the independence of the police from the military, as an independent civilian law enforcement agency.

(h) Reduce the length of pre-trial detention, ensure adequate protection for witnesses and victims of torture and exclude any statement made under torture from consideration in any proceedings, except against the torturer.

(i) Ensure that no person can be expelled, returned, or extradited to another State where there are substantial grounds for believing that person would be in danger of being subjected to torture, in accordance with article 3.

(j) Ensure that human rights defenders are protected from harassments, threats, and other attacks.

(k) Reinforce human rights education to provide guidelines and training regarding, in particular, the prohibition of torture, for law-enforcement officials, judges, and medical personnel.

(l) Invite the Special Rapporteur on Torture to visit its territories.

(m) Fully cooperate with UNTAET, in particular by providing mutual assistance in investigations or court proceedings in accordance with the Memorandum of Understanding signed in April 2000, including affording the members of its serious crimes unit full access to relevant files, authorizing mutual visits to Indonesia and East-Timor, and transferring suspects for trials in East-Timor.

(n) Take immediate steps to address the urgent need for rehabilitation of the large number of victims of torture and ill-treatment in the country.

(o) Make the declarations provided for in articles 21 and 22 of the Convention.

(p) Include, in its next periodic report, statistical data regarding torture and other forms of cruel, inhuman or degrading treatment or punishment, disaggregated by, *inter alia*, gender, ethnic group, geographical region, and type and location of detention. In addition, information should be provided the consequence for the victims in terms of redress and compensation.
regarding complaints and cases heard by domestic bodies, including the results of investigations made and

(q) Widely disseminate the Committee's conclusions and recommendations throughout the country, in all appropriate languages.