

Position paper, May 2008

Torture and impunity in West Papua

Case description

- the Abepura II case -

Months of peaceful protest, in which the closing of the Freeport mine in the highlands of Papua was demanded, escalated on 16 March 2006. Four police men and one member of the airforce were killed in a clash between the demonstrators and the police in Abepura, a college town about ten kilometers from the provincial capital, Jayapura. After the clash, Mobile Brigade police forces (BRIMOB) conducted house-to-house searches in Abepura and its surrounding suburbs. The 24 detainees were reportedly intimidated and ill-treated during police interrogation in order to force them to 'confess' their involvement in the violence. One of them reported that a senior police officer threatened to shoot him if he did not disclose certain information. The defendants also reported that, two hours before their trial in May, they were kicked by police officers, who also beat them around the head and body with rifle butts and rubber batons in order to compel them to admit that they were guilty before the court. Those who refused to acknowledge the charges of which they were accused were allegedly beaten and kicked by police when they returned to detention¹.

The above Abepura II case is just one of the many incidents of torture that disrupts the stability of West Papua. SKP Jayapura and GKI Papua have documented 242 cases of torture in the past nine years². Of these cases, only one has been brought to trial, the suspects were acquitted. The victims of torture are deprived of justice and continue to live in fear, because perpetrators are not punished and continue their behaviour. In Indonesia, only mistreatment leading to physical injuries is a crime in the penal law; torture is not. The *EU guidelines on torture* clearly state that torture should be prohibited. This was also emphasised by UN Special Rapporteur on Torture, Manfred Nowak, in March this year³. Nowak made several recommendations to Indonesia to combat torture and the impunity of torture.

Facts

- 242 cases of torture in the last nine years were documented, only one has been brought to trial, the suspects were acquitted.
- UN Special Rapporteur on Torture, Manfred Nowak, visited Papua and made explicit recommendations.

¹ For more details on victims and proceedings, refer to: The practice of torture in Aceh and Papua 1998-2007, Jayapura, July 2007, p. 122-125

² The practice of torture in Aceh and Papua 1998-2007, Jayapura, July 2007

³ Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment of punishment, Manfred Nowak, A/HRC/7/3/Add.7, 10 March 2008

Facilitated by:

- Indonesia's progress was recently evaluated by the Committee Against Torture (CAT). SKP and GKI state that the Convention Against Torture is not yet effective in becoming part of the legal system in Indonesia, because it is not implemented by the government.
- Torture is not defined as a crime in Indonesia's Penal Code.
- The impact of torture does not only affect the victims but also their social life as many of the victims became isolated. Moreover, the practice of torture also ruins social capital at the village level because the atmosphere of fear becomes embedded in the collective memory of the people, thus creating serious obstacles in the further development of their lives (p. 126).
- Impunity causes a conducive environment for human rights violations.

How can the EU contribute?

- The EU could support and provide practical assistance to the follow up of the recommendations of UN Special Rapporteur on Torture, Nowak, specifically by supporting the establishment of a National Preventive Mechanism to carry out visits to all places of detention (rec. 84), and the establishment of independent preventive mechanisms in compliance with international standards (rec. 92);
- The European Commission could increase visibility by instructing the EC delegation to:
 - Attend court cases (in accordance with the EU guidelines on torture and human rights defenders);
 - Visit prisons (in accordance with the EU guidelines on torture and human rights defenders);
 - Report on the situation of impunity and torture and share these reports with the European Parliament;
- The European Council could contribute by organising annual meetings between Member States (or Member States embassies), discussing how different MS assess the situation on torture and impunity in Indonesia and to develop joint strategies to address this;
- The European Commission could fund projects for rehabilitation of victims of torture from the EIDHR budget line;
- The European Commission would contribute by adopting a conflict sensitive approach in its development policies, stated in the Country Strategy Paper and Annual Plans. A conflict sensitive approach will allow a more holistic view of society, where security of all citizens and democratic checks and balances are a precondition for development.
- We recommend the EU to translate the EU guidelines on torture and human rights defenders into Bahasa Indonesia.

--0--

Facilitated by: