



amnesty international australia

**Joint Standing Committee on Foreign Affairs and Defence.  
Inquiry into Australia's Relations with Indonesia.**

**Submission by Amnesty International Australia**

**Introduction**

The terms of reference for this inquiry refer to a relationship between Australia and Indonesia that is "positive and mutually beneficial".

Amnesty International sees a clear link between respect for human rights, good governance and national and international security. An Indonesian state with an independent judiciary, a well-trained and democratic police service able to implement law and order in a manner consistent with international human rights standards and armed forces that are fully accountable to the civil government and civil courts will be a more stable state with fewer internal grievances. This would contribute to a more secure, predictable and prosperous region and serve the interests of both the Indonesian and Australian people.

Thus Amnesty International believes that the Australian Government should give a high priority to the promotion of human rights in Indonesia. There are already programs funded by AusAID (through Australian Legal Resources International) or by the Centre for Democratic Institutions and the Australia Indonesia Institute (involving Indonesian NGOs) . Here we make some other suggestions for actions that the Australian Government could take to assist the improvement of human rights in Indonesia.

In this submission Amnesty International is concerned with human rights violations including arbitrary arrest, torture and imprisonment for peaceful political activities. The organizations takes no position on the political future of Indonesia or on the political status of any of its regions. However, we do support the right of all people to express political views peacefully.

The submission includes:

1. Summary of recommendations.
2. Developments in human rights since 1998
3. Legal reform
4. Military and police relations
5. Amnesty International concerns in Aceh (more formally called Nanggroe Aceh Darussalam)
6. Amnesty International concerns in Papua

## **1. Summary of Recommendations**

Here we summarize the recommendations that Amnesty International would like to put before the Committee. **At the end of each recommendation we have noted sections of the submission where relevant details can be found.**

### **Support for human rights reform:**

- (i) That the Australian Government continue its support for legal and judicial reform in Indonesia and that strengthening human rights protection and promotion should have a high priority within the overall aid program.

In particular Amnesty International recommends that attention is paid to the following areas:

- providing technical assistance for the drafting of new legislation and review of existing laws, including the Criminal Code, the Criminal Procedure Code and the Law on Human Rights Courts, to ensure their consistency with international human rights standards; [3.1]
  - supporting the establishment of an effective victim and witness protection program, including by providing training to relevant officials [3.3]
  - supporting the establishment of an effective, independent prison and detention centre monitoring mechanism. Such a body should have adequate powers and resources to carry out its work effectively, including unannounced, immediate and unhindered access to all places where people may be held in acknowledged or unacknowledged detention. [3.5]
  - provide training to judges, prosecutors and other relevant officials in the practical implementation of international human rights law and standards. [3.2]
- (ii) Support the work of human rights defenders, including through providing funding and training for organisations documenting human rights violations and providing assistance to victims of human rights violations; [5.2, 6.3]
- (iii) Supporting the inclusion of such programs in bilateral and multi-lateral discussions of aid with Indonesia.

### **Diplomatic actions**

- (i) Extend visits by Australian diplomats to regions such as Papua and Aceh and ensure that visits to local humanitarian and human rights NGOs are made more frequent. These visits confirm the legitimacy of human rights work in areas where it is often suspect by officials. High level visits also offer a degree of personal protection to the leaders of these organisations. [5.2, 6.3]
- (ii) Work with other governments to encourage the Government of Indonesia to invite as a priority, the Special Rapporteurs on torture and on extrajudicial, summary or arbitrary executions and the Special Representative on Human Rights Defenders. [2]
- (iii) Urge the Indonesian government to release all prisoners of conscience. [3.1]
- (iv) Ensure that justice for crimes against humanity and other serious crimes committed in East Timor during 1999 is achieved in a manner which is consistent with international standards for fair trial. If this cannot be achieved in Indonesia, serious consideration must be given to alternatives including the possibility of an international criminal tribunal, or prosecutions in third countries. [3.2]

## **Military and police relations**

- (i) Training and technical support to the Indonesian military and police should focus strictly on the practical implementation of international human rights standards and the establishment of effective systems of oversight and accountability. In view of widespread and persistent violations of fundamental human rights operational training should be excluded. [4, 4.1]
- (ii) Amnesty International opposes the transfer of arms to Indonesia while the Indonesian military and police continue to commit grave human rights violations and until Indonesia fulfils its commitment to bring those responsible for committing serious crimes, including crimes against humanity in East Timor in 1999. [3.2, 5, 6]
- (iii) The cessation of arms transfers should also cover brokering, licensed production and co-production arrangements and government-to-government contracts. It should remain in force until the Indonesian government can demonstrate that such transfers will not be used to commit human rights violations

## **2 Developments in human rights since 1998**

The 'reformasi movement' of 1998 bought the prospect of institutional and legal reform. Some positive steps have been taken but Amnesty International continues to document a pattern of grave human rights violations in Indonesia for which perpetrators are only rarely held to account.

Among the positive steps that have been taken are:

- A number of repressive laws were repealed, including the Anti-subversion Law under which thousands of people had been arbitrarily detained before 1998.
- The separation of the police from the army in 1999.
- Restrictions on freedom of expression and association were relaxed and have resulted in the establishment of a wide range of political parties and a flourishing media.
- In 1998 Indonesia ratified the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and in 2001 submitted its first periodic report to the Committee against Torture. The Convention on the Elimination of All Forms of Racial Discrimination was ratified in 1999. Indonesia has also committed itself to ratify other human rights treaties, including the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights under a five year National Action Plan on Human Rights (1998-2003).
- Some UN human rights experts and working groups have visited Indonesia. They are the Special Rapporteur on violence against women (1998); the Working Group on Arbitrary Detention (1999); the Special Rapporteur on independence of judges and lawyers (2002); and the Special Rapporteur on the right to education (2002).
- Some steps have been taken towards reforming the judiciary. Law No. 35 of 1999 made provision for the administrative control of the courts to be transferred from the Ministry of Justice and Human Rights to the Supreme Court over a five year period.
- Legislation to establish human rights courts with jurisdiction over crimes against humanity and genocide was adopted in November 2000.

However, essential fundamental legal and institutional reforms to the courts, police and armed forces have not been made. The human rights situation has not improved and Amnesty International continues to document a pattern of grave human rights violations in Indonesia for which perpetrators are only rarely held to account.

**Some of the fundamental reforms still to made are:**

- Human rights treaties have not been implemented and the detailed recommendations of the Committee against Torture following the submission of Indonesia's first periodic report have not yet been implemented. **These include amending Indonesian law so that torture is strictly prohibited and establishing an independent complaints system to investigate allegations of ill-treatment.**
- The majority of recommendations made by UN human rights experts and thematic mechanisms have not been implemented and , to date, no UN human rights mechanism has been granted permission to visit either Aceh or Papua.
- Requests for invitations to visit Indonesia by the Special Rapporteur on torture and the Special Representative on human rights defenders are outstanding.
- The judicial sector remains weak and is generally acknowledged to be corrupt and vulnerable to political interference. The majority of allegations of human rights violations are never investigated. In those that are investigations have been hampered by legal and institutional weaknesses as well as by political resistance.
- Impunity has been further entrenched by the failure to adequately resolve cases of serious crimes, including crimes against humanity, committed in East Timor during 1999. The four permanent human rights courts provided for under the Law 26/2000 on Human Rights Courts have not yet been established.

The high level of human rights violations and failure to bring those responsible to justice has contributed to the intensification of conflicts in Aceh and Papua where mistrust in the government and the actions of the security forces continues to undermine efforts to find political solutions to the problems. In Maluku, Kalimantan and Central Sulawesi civil conflict has been intensified by the inability of the police and armed forces to maintain peace and impartially deal with all ethnic and religious communities.

### **3 Legal reform**

In this section we look in more detail at some of the important reforms that need to be taken to improve the human rights situation in Indonesia. **Actions that the Australian Government could take to support these reforms are listed above in section 1.**

As already noted political prisoners and prisoners of conscience detained under the government of former President Suharto were released in 1998 and 1999. The Anti-Subversion law, which had been widely used to detain political opponents and other peaceful activists under the Suharto regime was repealed in July 1999.

However, the far reaching legal and judicial reform which is required has not been undertaken.

#### **3.1 Continuing use of repressive laws and political trials**

Since the beginning of 2001 at least 24 people have been sentenced to terms of imprisonment for the peaceful expression of their views. Among them have been peaceful independence activists in Aceh and Papua, as well as labour and land activists.

Even though the Anti-Subversion law has been repealed, there are several articles of the Criminal Code that can be used to detain and imprison prisoners of conscience. These include the so-called "Hate-sowing Articles" (Articles 154, 155,160) which punish the "spreading of hatred" against the government with up to seven year's imprisonment.

Articles 134, 136 and 137, which punish the "spreading of hatred" against the President or Vice-President, have recently been applied for the first time since the resignation of President Suharto in May 1998. Amnesty International has consistently called for these articles to be repealed because they are inconsistent with the right to freedom of expression.

Cases include:

- Raihana Diany (f, 22), the head of the Acehnese Democratic Women's Organisation (ORPAD) was detained while leading a peaceful demonstration protesting the policies of President Megawati Sukarnoputri and Vice President Hamzah Haz and against human rights violations in Aceh on 16 July. She has been charged with "defamation" (KUHP 134 and 137). If convicted, Raihana faces up to six years in prison. She is considered a prisoner of conscience:
- Muzakkir and Nanang Mamija, were sentenced to a prison term of one year each in October 2002 for insulting the President during a demonstration organised by the Popular Youth Movement (GPK) in Jakarta in June 2002. Ricky Tamba, the Secretary General of the GPK and Frederik, a GPK activist, have also been charged in connection with the June demonstration and have been released on bail to await trial.

#### **3.2 Human Rights Courts**

Although permanent Human Rights Courts were provided for under Law 26/2000 the courts have not yet been established.

An ad-hoc Human Rights Court on East Timor was convened in March 2002 to consider cases against 18 suspects accused of crimes in relation to four separate events. The court is working with limited terms of reference – it has been restricted to crimes committed in just two months of 1999 and in just 3 of the 13 districts of East Timor thereby greatly diminishing the possibility of demonstrating the widespread and systematic nature of the crimes committed in East Timor throughout 1999.



At the time of writing the former Governor of East Timor, Abilio Jose Osorio Soares, and the militia leader, Eurico Guterres had been found guilty of charges of crimes against humanity and sentenced to three and ten years' imprisonment respectively. Ten other Indonesian military, police and government officials have so far been acquitted.

Amnesty International considers the trials held so far to have been seriously flawed. A succession of procedural and other failures meant that these trials did not deliver justice or reveal the truth about the extent of involvement of the Indonesian security forces and civilian authorities in perpetrating crimes against humanity and other serious crimes in East Timor.

Among Amnesty International's specific concerns about the trials were:

- The indictments presented a version of events which did not reflect the widespread and systematic nature of the crimes which took place in East Timor in 1999 and also failed to address the role of the Indonesian security forces in setting up and supporting the militia.
- Key evidence regarding the direct involvement of the Indonesian security forces in committing serious crimes was not presented to the court. Such evidence has been well attested in expert investigations including by Indonesia's own Commission of Inquiry on Human Rights Violations in East Timor, the UN International Commission of Inquiry and in investigations carried out by the UN Serious Crimes Unit in East Timor.
- A lack of experience among key officials, including judges and prosecutors, was reflected in poorly drafted indictments and questions and cross-examinations which failed to address the evidence effectively.
- Victims and witnesses summoned to testify at the trial were not provided with adequate protection.

Indonesia has also refused to cooperate with the investigations and trials being carried in East Timor by the UN Serious Crimes Unit. In particular Indonesia has refused to transfer suspects for trial against whom arrest warrants have been issued.

### **3.3 Victim and Witness Protection Program**

A Government Decree establishing a victim and witness protection program in cases which come before the Human Rights Courts was issued on 13 March 2002, one day before the first trial in the ad hoc Human Rights Court on East Timor commenced. The program is not functioning effectively and the security of witnesses, including those who have travelled from East Timor to testify in the trials has not been adequate and they have been subjected to intimidation and unnecessary humiliation.

Witnesses of human rights violations are frequently subjected to intimidation by members of the security forces. **Two cases from Papua illustrate this. In the Abepura case referred to in section 6.2(d), witnesses were threatened by the police with arrest if they provided evidence to the investigation team established by the National Commission on Human Rights. In the trial of Marthinus Daisiwa witnesses for the defence refused to appear because they were afraid for their safety. Marthinus Daisiwa's lawyers believe these defence witnesses would have been able to substantiate his claims that he was not involved in the attacks on the logging companies. Daisiwa is one of 27 people sentenced to terms of imprisonment after an unfair trial in relation to events in Wasior in 2001 (see section 6.2(e)),**

In addition no victim and witness protection program exists for ordinary crimes - that is crimes which are not crimes against humanity or genocide over which the Human Rights Courts have jurisdiction.

### 3.4 Security legislation

Amnesty International recognises the duties of states under international human rights law to protect their population from violent criminal acts and the need for abuses by both state and non-state actors to be investigated and punished. The organisation condemned the bombing of two locations in Bali on 12 October 2002 in which some 190 people lost their lives and recognises the duty of the Indonesian state to carry out investigations into the act and to bring those responsible to justice in a manner which is consistent with international standards for fair trial.

**Shortly after the bombing the Indonesian Government issued Regulation 1/2002 in Lieu of legislation on the Elimination of Terrorism. Amnesty International is concerned that the regulation is not consistent with international human rights law and standards and that the rights to a fair trial are not adequately guaranteed under it.**

Amnesty International also believes that the adoption of security legislation cannot enhance the capacity of the Indonesian authorities to protect the civilian population without simultaneous efforts to strengthen law enforcement and justice institutions. Efforts to establish an independent and effective judiciary and a democratic and transparent police service must be prioritised if rule of law and security are to be successfully established.

With regard to Government Regulation 1/2002 Amnesty International concerns include:

- The inclusion of the death penalty as a punishment for a number of crimes under the legislation;
- The vague and broad definition of “terrorism” which risks inconsistent application or possible misapplication;
- The absence of adequate safeguards to protect the rights of suspects, including the right to judicial review of detention; right to confidential communication between suspects and their legal counsel; the right to presumption of innocence; protection against torture; and the right to be present during the trial;
- The absence of a functioning witness/victim protection program in Indonesia.

### 3.5 Action against torture

The Indonesian Government ratified the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Convention Against Torture) in 1998 and made its first periodic report to the Committee Against Torture in November 2001. The Committee expressed its disappointment at the lack of detail in the report – particularly in the lack of response to reported cases of torture.

Amnesty International is concerned that Indonesia has not yet taken effective steps to implement the Convention against Torture and the specific recommendations made by the Committee against Torture. The organization believes that the following steps must be taken as a matter of priority.

- Reform of the law - torture and other cruel or inhuman or degrading treatment or punishment should be explicitly prohibited in law.
- Implementing existing legal procedures to protect detainees - ensure that arrests and detentions are only carried out by officials who are authorized to do so and that detainees are held in officially recognized places of detention. Detainees should immediately be informed of the reason for their arrest and of their rights to legal counsel, to medical attention and to see members of their family.

- Training - provide regular, detailed, practical training for law enforcement officials on the rights of detainees both under national law and under international standards.
- Establish an effective, independent monitoring mechanism to ensure the implementation of safeguards. This should include regular visits to places of detention by independent persons with the necessary qualifications and experience.
- Prompt, independent investigations of all allegations of torture should be mandatory.
- Anyone suspected of involvement of acts of torture, including military personnel should be brought to trial in civilian courts in a process which meets international standards for fair trial.
- An effective complaints procedure should be established to provide victims of human rights violations, including those held under detention, **with a way** to register complaints without fear or reprisals.



## **4 Military and police relations**

The Indonesian armed forces are responsible for committing grave human rights violations. In both Aceh and Papua, extrajudicial killings, "disappearances", arbitrary detentions and torture, including rape, has taken place in the context of counter-insurgency operations against armed independence groups.

In East Timor there is well attested evidence of the military's involvement in establishing, equipping and training pro-Indonesian militia groups and of supporting them, or directly participating in, violence during 1999 in which some 1,500 people are believed to have been killed and over quarter of a million people were forced to flee or were forcibly expelled to Indonesia.

The human rights record of the Special Forces Command (Kopassus) has been particularly poor. Its involvement in the "disappearance" of 22 political activists in 1997 and 1998 was revealed following the discharge from the military of the former Kopassus Commander, Lieutenant-General Prabowo Subianto and the conviction of 11 junior-ranking officers were sentenced to up to 22 months' imprisonment.

More recently, nine of its members have been named as suspects in the extrajudicial execution in November 2001 of Theys Eluay, a pro-independence leader in Papua. There are also indications that the military, and possibly Kopassus, may have been involved in the killing of one Indonesian and two US citizens in August 2002 close to the Freeport mine in Papua.

Members of the military are rarely held to account for human rights violations. In the few cases where military suspects have been brought to trial, the cases are generally considered by military or joint military/civilian courts, with the exception of cases that have come before the ad hoc Human Rights Court on East Timor. Amnesty International does not consider that such trials have fully addressed the issue of accountability or adequately delivered justice or truth. Among the concerns are: the failure to address command responsibility of **senior officers**; allegations of intimidation of witnesses; and the passing of sentences which in some cases do not appear to reflect the seriousness of the crimes found to have been committed.

### **4.1 The Indonesian National Police (POLRI)**

The separation of the police from the military is regarded as a positive step. However, the Indonesian police lack the training, oversight and accountability mechanisms to ensure that they are an effective police service able to protect and respect human rights.

Members of the Indonesian police, including the paramilitary Police Mobile Brigade (Brimob), have been responsible for committing serious human rights violations.

Torture and ill-treatment of detainees in police custody is thought to be widespread. Excessive use of force is commonly employed against peaceful protests and has resulted in deaths and injuries. Brimob has also been in the forefront of counter-insurgency operations in both Aceh and Papua and its members have been responsible for extrajudicial executions, unlawful detentions, torture and other human rights violations.

## 5 Amnesty International concerns in Aceh (Nanggroe Aceh Darussalam)

### 5.1 Overview

The situation in Aceh (more formally known as Nanggroe Aceh Darussalam) has deteriorated over the last two years, after a brief period of relative calm in late 1998.

During this period, grave human rights violations committed between 1989 to 1998 came to public attention inside Indonesia for the first time and several fact finding teams were established. A parliamentary fact finding team received 1,700 reports including 426 'disappearances' and 320 unlawful killings by the police and army. The Indonesian Human Rights Commission, KOMNAS HAM, found evidence for 781 deaths, 163 'disappearances', 368 cases of torture and 102 rapes committed between 1988 and the Independent Commission for Investigation of Violence in Aceh, established by Presidential Decree in July 1999 collected information on 5,000 cases of human rights violations in Aceh and recommended that five cases be brought to trial immediately [see below]

However, since 1999 the human rights situation has continuously declined. The military, the police and the Free Aceh Movement (GAM) have all been responsible for committing human rights abuses. Local human rights organisations estimate that more than 1,200 people, the majority of them civilians, were killed by the security forces and GAM between January and October this year, while over 1,500 people were reportedly killed during 2001. Arrest of civilians by both the military and police during operations against members of GAM are widely reported. Many of those detained are tortured, others have "disappeared". The risk of "disappearance" is particularly high for detainees in military detention.

GAM itself has also been responsible for killing or threatening people, particularly government officials or people suspected of supplying information to the police or army.

Efforts by Acehnese non-governmental organisations or other civilian groups to promote peaceful resolution of the conflict, including through a referendum, have been prevented by restrictions on freedom of expression and association. Peaceful political activists have been detained and several have been sentenced to terms of imprisonment.

Efforts to mediate a ceasefire by the Centre for Humanitarian Dialogue have continued, but have not, so far, brought about any improvement in the situation. Amnesty International believes that a successful, sustainable resolution to the conflict can only be achieved with the full participation of Acehnese civil society and if fundamental grievances, including justice for past human rights violations and protection against further human rights violations, are addressed in any agreement.

### 5.2 Human rights violations against humanitarian and human rights workers in Aceh

From May 1998 to July 2002, Amnesty International recorded repeated serious cases of human rights abuse against humanitarian and human rights workers by the military or police. **Sixty such cases of were recorded in 1999 and 2000 alone.** Such cases continue.

The following are some individual cases:

- February 7, 1999 - Anwar Yusuf, a human rights volunteer, was investigating the killing of civilians by the military in East Aceh. He was arrested by men who identified themselves as belonging to Idi Rayeuk Sub-district Military Command (Koramil), interrogated about his activities and tortured. During the time that Anwar Yusuf was in detention, both police and Koramil officials denied any knowledge of his whereabouts.

- January 6, 2000 - Fachrurazzi, a volunteer humanitarian worker, was detained by police in Bireun District. He has never been seen again even though his parents have visited many police and military posts.
- January 24, 2000 - Nashiruddin Daud, a member of the Indonesian Parliament from Aceh and vice-chairman of a parliamentary inquiry into human rights violations in Aceh, disappeared in Medan. His body was found the next day and although a civilian and a member of the military police were accused of his murder they were never charged. His case is under review by the Inter-Parliamentary Union (IPU).
- January 26, 2000 - Munir, a worker at the Forum for Attention to Human Rights, has not been seen since his detention in Pidie District by members of Brimob.
- August 5, 2000 - an Achenese human rights lawyer, who was living in the USA, Jafar Siddiq Hamzah, was abducted and murdered during a visit to Medan, North Sumatra in August 2000. His tortured body (with four unidentified others) was found in a ravine three weeks later. His killers were never identified.
- August 27, 2000 - three Acehnese employees of Oxfam were detained and severely beaten. One was burnt with cigarettes and had a fingernail pulled out.
- September 5, 2000 - Amrisaldin, a volunteer with a humanitarian organization, was detained and tortured by Brimob for one day. He was carrying documents giving details of internally displaced people in Aceh.
- December 6, 2000 - three workers with RATA (Rehabilitation Action for Torture Victims in Aceh ) were abducted and killed in North Aceh. Idris Yusuf, Bakhtiar, Nazurridin Gani and Ernita Wahib (a nurse) set out in a RATA minivan to visit and treat torture victims. They were intercepted by armed men and accused of reporting information about human rights violations in Aceh and of being members of GAM. Nazaruddin managed to escape later that day but witnessed his colleagues being executed. He later left Indonesia and gave a detailed account of his experiences.

A police investigation led to the arrest of eight military and civilian suspects. However, in March 2001 the four civilian members escaped from detention. The four military suspects were later released because their detention orders had expired. The Indonesian authorities have informed Amnesty International members that the inquiry is continuing, but that there is currently insufficient evidence for the legal process to be pursued.

- March 2001 - human rights worker, Teungku Al-Kamal, his lawyer Sufrin Sulaiman and driver Amiruddin were shot dead in South Aceh. Teungku Al-Kamal had been pressing for an investigation into the alleged rape of five women in South Aceh by members of Brimob.
- February to March 2002 – five members of the group ‘Solidarity for Victims of Human Rights Abuse’ were detained at various times in this period. One, Jailani bin Yahya, was shot dead.
- July 2002 – Zikrillah, a volunteer human rights monitor in Pidie, was detained by the army and tortured and beaten until he admitted that he was a member of GAM. He was then transferred to a Kostrad unit and reportedly forced to accompany them during their operations. He was also threatened because the advocacy carried out on his behalf by the Indonesian NGO Kontras. He was released in September 2002.

### 5.3 Accountability for human rights abuses in Aceh

As elsewhere in Indonesia, police and military officers in Aceh are very rarely prosecuted for human rights violations and thousands of human rights violations remain unresolved.

Impunity is demonstrated by the failure to follow through on the five serious cases recommended for prosecution the Independent Commission for the Investigation of Violence in Aceh. The five cases that it recommended should be immediately brought to trial were:

- the killing of a Muslim teacher Teungku Bantaqiah and some 50 of his students at an Islamic boarding school in July 1999. One civilian and 24 low ranking members of the military were brought to trial in a joint military-civil court and sentenced to between eight-and-a-half and 10 years in prison. The issue of command responsibility was not addressed by the court and no senior officers have been charged in relation to the case.
- the rape of Sumiati Binti Hamzah in 1996 – the disabled owner of a small kiosk, she was raped by a local soldier and became pregnant. She allegedly was offered money if she did not report the rape. In March 2000, a military court in Medan ordered the soldier to pay her 50,000 rupiah per month. The case was never brought to trial.
- cases of torture and ‘disappearances’ at a military facility in Pidie. The case was never brought to trial.
- the unlawful killings of seven civilians in Idi Cut, East Aceh in February 1999. The case was never brought to trial.
- The unlawful killing of 35 civilians in North Aceh in May 1999. The case was never brought to trial.

Only one other trial of perpetrators of human rights violations for abuses in Aceh is known to have taken place. In February 1999, five soldiers were sentenced to between two and six-and-a-half years’ imprisonment for beating to death five detainees in Lhoksumawe, North Aceh.

## 6 Amnesty International concerns in Papua

*'The Papuan reform movement has removed the lid and released a lot of smoke. The problem now is that many people are still too preoccupied with the smoke. They forget that the smoke is there because there is a fire - the fire is injustice'.*

Barnabas Suebu (a former Governor of Irian Jaya and currently Indonesian ambassador to Mexico), October 23, 2000.

*"We must kill as many of our enemies as possible. Human rights are something we must not worry about but must consider," he told a group of soldiers returning to North Sumatra from Papua.*"

Statement by Maj. Gen. Mahidin Simbolon, chief of the Trikora Military Command overseeing Papua (Irian Jaya) – from Jakarta Post, August 16, 2002.

### 6.1 Overview

As in Aceh, the fall of President Suharto created space for political discussion in Papua (formerly known as Irian Jaya).

Although an independence movement has existed in Papua since the mid-1960s, since the fall of former President Suharto in May 1998 a broad based civilian independence movement emerged with formal structures and an identifiable leadership. **The response by successive Indonesian governments over the past four years to the challenge posed by this movement has been inconsistent. The Government has oscillated between dialogue and repression. In late 2002 government policy on Papua is best described as repressive.**

Leading members of the civilian pro-independence movement have been the target of human rights violations:

- Theys Eluay, the chairman of the umbrella independence group, the Papua Presidium Council (PDP), who was abducted and killed in November 2001. Nine members of the Special Forces Command (Kopassus) have been named as suspects, but have not yet been formally charged.
- Three other senior members of the PDP were brought to trial on charges of rebellion and "spreading hatred against the government" in connection with their peaceful political activities. They were acquitted in March 2002, but the activities of the PDP are severely restricted by ongoing intimidation and harassment.

Grave human rights violations have also taken place in the context of both peaceful and violent protests in support of independence and in the context of the commercial exploitation of natural resources.

Legislation granting special autonomy to Papua was adopted by the Indonesian parliament in October 2001. It provides for a greater degree of local control over economic and political affairs and is intended to address local grievances and counter demands for independence. This law recognises the government's failure thus far to respect human rights and uphold justice and **notes** this has contributed to Papuan demands for independence. It includes a clause making protection and respect for human rights an obligation for the provincial government.



Special autonomy has met with mixed reactions in Papua. For some it is regarded as an opportunity to establish greater influence over the political and economic development of the province. However, many do not believe that it adequately addresses their grievances and that it undermines demands for independence. Mistrust of the government's intentions has been reinforced by the failure of the Indonesian authorities, both national and local, to bring to justice those responsible for human rights violations.

## **6.2 Details of particular events.**

### **a Flag-raising ceremonies during 1998 and 1999**

Flag raisings are widely used as a form of political protest in Papua. In these ceremonies, the Morning Star flag is raised. Prayers, hymns, traditional songs and speeches on the political history of Papua are often included. Levels of toleration by the authorities to flag raising ceremonies have been mixed and in many cases such ceremonies have been forcibly broken up and participants detained, injured and in some cases killed.

One of the first post Suharto flag raisings in Biak in July 1998 lasted three days until police shot into the crowd. At least eight people are believed to have been extrajudicially executed and some 150 people were reported to have been arrested and subjected to torture or otherwise ill-treated by the security forces.

Subsequent operations took place in other locations, including Sorong (July 1999), Timika (December 1999), Nabire (February and March 2000), Merauke (February 2000), Sorong (August 2000), Fakfak (December 2000), Merauke (November and December 2000), and Manokwari (May 2001). The exact number of deaths resulting from these operations is unclear, but it is thought to be at least 37. Dozens of other people sustained injuries both from being shot and as a result of torture or ill-treatment and numerous people were arbitrarily detained.

### **b The Papuan People's Congress and the detention of its leaders**

In late November, 2000, leading members of the Papuan Presidium, Thaha al-Hamid, Don Flassy, John Mambor, Theys Eluay and Revd Herman Awom were all charged with rebellion and spreading hatred against the state. Theys Eluay was killed while the trials, which began in May 2001, were in progress. Thaha al-Hamid, Don Flassy and Revd Herman Awom were acquitted in March 2002 – the court stated that they were guilty of rebellion but would not be convicted because of the support the central government had given to the Congress. John Mambor did not attend the trial because of ill-health. It is unclear if the charges against him have been dropped.

### **c The Wamena killings in October 2000**

In October 2000, a series of police raids were carried out on command posts which had been established as centres for political and other discussions and where Morning Star flags were flying. The flag poles were cut down with chain saws and over 80 people were arrested. Many of them were tortured or otherwise ill-treated and one passer by, Eliaser Alua, was shot dead.

News of these events prompted a violent reaction from local people which resulted in revenge attacks by locals against non-Papuan residents. Later police demanded that five local leaders hand over those responsible for the killings or be held directly responsible themselves. In fact Revd Komba, Amelia Yiggibalom, Revd Meage, Murjono Murib and Yafet Yelemaken had actively tried to prevent violence. In December they were arrested, tried for treason and sentenced to 4 years in prison. They were post-Suharto Indonesia's first prisoners of conscience. They remain under town arrest pending a decision on their appeal by the Indonesian Supreme Court.

#### **d Abepura - arrests and mass torture.**

The killings at Wamena had unexpected repercussions. In the early morning of December 7, 2000 unknown men attacked a police post near Jayapura and killed two policemen and a civilian. Claiming that the attackers were highlanders, Brimob police stormed nearby dormitories for highland students studying in Jayapura. Arrests continued around Jayapura and within a day two students had been beaten to death, one other executed and around 100 unlawfully detained and tortured

One of the students spoke of his experiences:

*We were then ordered to take off our shirts and to sit separated from one another a meter or so, our legs and arms stretched straight in front of us. They started beating us on our shins and forearms with batons, rifle butts, shovels, 2 by 4s, pieces of hard rubber, and rattan whips. They also beat us with the same objects on the upper back, on the shoulders, and the back of the head, making deep wounds. Occasionally one of the officers would stomp down on our bloody shins with their boots. If you screamed, the beatings only increased. Many Brimob joined the beatings – there were probably more than a dozen Brimob hitting us, but I couldn't really tell, I was just trying to keep my head down for protection. This continued for at least an hour.*

Four months later he still had deep scars and pain in his ribs.

An inquiry was established by the National Commission on Human Rights. Despite police intimidation of witnesses they recommended that 25 police officers, including the chief of police for Papua, be investigated further for committing gross abuses. It also recommended that this case be heard by Indonesia's new Human Rights Court. An investigation team was sent by the Attorney General in April 1999. However, it has not made its findings public nor has anyone been charged in relation to the events in Abepura in December 2000.

#### **e Police operations in the Wasior area in 2001.**

In the Wasior area there were widespread police operations between April and October 2001 after attacks on logging camps left 5 Brimob officers and 3 civilians dead. Brimob conducted operations over the following months to capture those responsible, but which took on the appearance of a campaign of revenge against the against community leaders, political activists, teachers and their families. Local human rights organisations estimate that over 140 people were detained and tortured or ill-treated. One person died in police custody as a result of torture while at least seven people are believed to have been extrajudicially executed.

Hundreds of villagers fled their homes and many homes were destroyed. Twenty-seven people were put on trial and imprisoned for 'separatism' in unfair trials which used confessions obtained by torture. No investigations have been carried out into allegations of torture and of other human rights violations by members of the police, including Brimob.

### 6.3 Threats and intimidation of human rights monitors in Papua

As in Aceh, human rights defenders in Papua have become the targets of human rights violation. Examples of the problems encountered by human rights organisations in Papua include:

- In December 2000, the director of ELS-HAM, Yohannes Bonay, and Demianus Wakman, Director of the Papua branch of the Indonesian Legal Aid Foundation, were both questioned by police and threatened with a defamation action after they made statements criticizing police operations in Abepura in December 2000.
- In July 2001, Yohannes Bonay and ELS-HAM Coordinator John Rumbiak, were threatened with arrest while investigating the 'disappearance' of Hubertus Wresman after he was detained by Kopassus troops near Jayapura in June 2001.
- Human rights monitors from Manokwari NGOs and churches were prevented by police from travelling to the Wasior area to investigate Brimob actions in July 2001. On a later visit in October 2001 they were greeted by around 20 Brimob officers firing shots into the air. They found local people too scared to talk to them.
- **On June 22, 2001, Manokwari lawyer, Yan Christian Warinussy, was threatened by a local Brimob officer after he complained that his clients had been beaten – he reported that the officer told him *“If you make false reports I will shoot you and your lawyer .. if you want to report to international organizations or journalists, I am not afraid”***
- On February 11, 2002, the staff of ELS-HAM received anonymous threats that they would be killed by Kopassus personnel after they issued a statement criticizing the lack of independence of a military police inquiry into the killing of Theys Eluay.
- On September 28, 2002, ELS-HAM and another human rights organisation stated that their workers were being followed and threatened. They were investigating the killing of three teachers near the PT Freeport Indonesia mine on August 31, 2002. ELS-HAM has publicly stated that they believe that Kopassus personnel may have been involved in the attack. ELS-HAM's Jakarta office was forced to close after two men carrying knives entered the office and destroyed documents and other items. Albert Rumbekwan, the head of this office received phone threats and was followed.