



Submission No 104

Inquiry into Australia's Relations with Indonesia

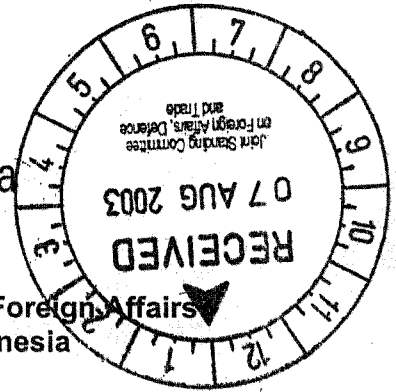
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**Supplementary submission to the Joint Standing Committee on Foreign Affairs
and Defence Inquiry into Australia's Relations with Indonesia**

1. Update on Aceh

An agreement to cease hostilities was signed by the Indonesian Government and the Free Aceh Movement on December 9th, 2002. This was widely welcomed in Aceh and very quickly led to a reduction in deaths – for example in the first month only 12 civilian killings were reported compared to 90 in the previous month.

Despite the presence of international monitors from Thailand and the Philippines neither the Indonesian army nor the GAM were prepared to honour their agreement to restrict troop movements or to put weapons beyond use. Tension increased and the agreement broke down in May. A military emergency was declared on May 19th, 2003.

According to the army 457 GAM fighters had been killed compared to 43 police and soldiers – the army does not admit to any civilian deaths. However the police believe that civilian deaths outnumber GAM deaths. Amnesty International received information in early July that police had arrested 176 people and the army had detained more than 300 people – these are very likely under-estimates. The human rights group KONTRAS reported in mid-July that 110 civilians were summarily killed, 103 were ill-treated, 46 were arbitrarily arrested and 10 disappeared during June.

Some of the detainees are GAM fighters but others are detained because they are relatives of GAM members or are suspected of being GAM supporters. They are often denied access to lawyers and their families and are at grave risk of torture. Recently the police have passed the cases of 71 detainees to prosecutors, apparently on charges of treason. These apparently include 5 men who took part in the negotiations that led to the COHA. Amnesty International has serious concerns about the fairness of any trial that they will receive.

1.1 Harassment of humanitarian and human rights workers

The harassment of humanitarian and human rights workers has continued throughout 2003. Indeed since May, almost all human rights workers have either left Aceh or have been confined to the main towns.

The most serious examples during 2003 have been

- March 27 – two people who work with displaced people were detained by military intelligence officers in Bireuen District. Mukhlis Ishak and Zulfikar were part of a protest against the establishment of a Police Mobile Brigade office in their village. They have not yet re-appeared.
- May 11 – Raja Ismail and Abdussalam Deli, two members of an East Aceh human rights group and volunteers with the Indonesian Red Cross went missing on May 11. Deli was taken from a bus and driven away by unidentified men. His dead body was found in a river on May 13th – he had been tortured. Ismail went missing after he left home to deliver information on human rights violations to his organization (PB-HAM, Human Rights and Legal Aid Post). He has not been seen since.

- June 19 – A volunteer coordinator for the human rights body KONTRAS was arrested along with her father and a neighbour in Pidie. Nuraini was beaten and forced to strip. Her father was tortured. After a week she was transferred to police custody in Banda Aceh and was later released but restricted to Banda Aceh. At the same time plain clothes police raided other human rights offices in Aceh but did not find the people they were seeking. The offices of KONTRAS in Jakarta were attacked by a youth group with military associations on May 26 and 27th.

Other human rights workers have been detained for shorter times and released. Kontras has also reported the murder in June of one of its volunteers in Aceh, Muzakkir Abdullah, 21, whose tortured body was found tied to a palm tree.

1.2 Muhammad Nazar – a prisoner of conscience in Aceh

One very serious case occurred even before May. Muhammad Nazar, the chairman of SIRA, the Centre for Aceh Referendum Information, was arrested in February and charged with 'spreading hostility against the government'. This was despite the agreement in the Cessation of Hostility Agreement that both parties (the Government of Indonesia) and the GAM would allow civil society to express without hindrance their democratic rights. Nazar received a 5 year sentence in July 2003. Amnesty International considers him to be a prisoner of conscience. Nazar's sentence was deplored by the United States Government as a further example of a series of convictions for the peaceful expression of anti-government views in Indonesia.'

1.3 Accountability during the military emergency

When the military emergency was declared the Indonesian army stated that it would respect human rights and minimize civilian casualties. Since late May there have been severe restrictions on the media but reports during May from the Indonesian and foreign reporters indicate that civilians are being mistreated and sometimes killed. The Indonesian National Human Rights Commission, KOMNAS HAM, has endeavoured to investigate these reports with limited success. Statements from KOMNAS have been strongly challenged by the army.

The Indonesian army has put some soldiers on trial since May – reported cases are

- 3 soldiers sentenced for raping 4 women received sentences from 2.5 to 3.5 years
- 6 soldiers received sentences of 4 to 6 months for beating civilians
- 2 soldiers are currently on trial for stealing money and jewellery

These trials have been criticized for their relatively low sentences. It is worth noting that in the whole time since 1998 despite many serious cases investigated in Aceh only 3 were brought to trial.

There are also credible reports that the GAM has killed, threatened or detained suspected informers, government officials. They have also kidnapped several journalists.

2 Update on Papua

2.1 Prisoners of conscience in Papua

Since 1998 fifty people have been brought to trial in Papua in connection with pro-independence actions. At least 20 are believed to have engaged only in peaceful activities. At present twelve people are awaiting trial for flag raising ceremonies in both Manokwari and

Jayapura in November and December 2002. They are charged with rebellion. At least nine appear to have been arrested solely for their peaceful activities and would be regarded as prisoners of conscience by Amnesty International.

2.2 The killing of Theys Eluay

Seven members of Kopassus were court martialed for their involvement in the death of Theys Eluay. Lt Col Hartomo claimed that he had ordered two soldiers to persuade Eluay not to promote independence as they drove him home from a dinner at the Kopassus base in Jayapura. Private Zulfahmi claimed that he reacted with force when Theys denounced autonomy proposals for Papua and that he put his hand over Theys's mouth until he stopped breathing. The other soldiers were nearby and assisted with taking Theys's body to a remote road. Private Zulfahmi and Lt Col Hartomo were jailed for 3.5 years and the others for 2 to 3 years for third degree murder or abuse resulting in death. Aristoteles Masoka, Theys's driver, who was last seen entering the Kopassus base after Theys's murder has not been seen since. General Ryacudu, the army chief of staff, described the convicted soldiers as heroes who had killed a rebel leader.

2.3 Events in Wamena in April

On April 4th, a military base in Wamena was raided by unidentified people. Two soldiers were killed and 29 weapons and a substantial quantity of ammunition were reportedly stolen. Brigadier-General Nurdin Zainal from the regional military command in Jayapura soon blamed the raid on the OPM and announced that 158 soldiers, apparently including 144 soldiers from the Kopassus Special Forces, had arrived in Wamena to search for the weapons and the raiders. More recently 20 of the weapons have been recovered either from within the base or from local people.

At least thirty people were detained and many were tortured. The army set out to find suspected OPM members around Wamena and raided nearby villages. In Ilekma village nine houses were burnt down and possessions stolen.

One of those detained died in military custody on April 14th. Yapenas Murib, reportedly died in military custody as a result of torture on 14 or 15 April. Yapenas and Kanius Murib had been arrested on April 6th and on April 14th they were dragged reportedly dragged the three kilometres from Wamena town to Ilekma. Yapenas had two ropes tied around his neck which were tightened from different directions by soldiers so that he fell over. He allegedly fell on several occasions and soldiers kicked him each time he fell. He was seen alive in Ilekma on the evening of 14 April, but is said to have died either that night or the following day in the Jayawijaya Military Command (Kodim 1702) in Wamena.

A local newspaper reported that military personnel forced members of Yapenas Murib's family to sign a letter agreeing not to hold the military responsible for his death before they permitted the family to take his body away for burial.

One detainee, Michael Heselo, was particularly badly tortured having a thumb nail pulled and his fingers crushed. Local human rights monitors, including a Baptist minister, were harassed.

The military operation against suspected OPM sympathizers continued throughout April and May causing many villagers to flee into the hills. On May 24th, the Jakarta newspaper, Sinar Harapan, quoted allegations by a Baptist minister in the region that 3 of these villagers had starved to death. Church representatives from Jayapura were not permitted to investigate.

Two Papuan soldiers and another seven civilians are believed to be in detention awaiting trial.

2.4 Recent flag raising ceremonies

On July 7th, four men were arrested and one was shot dead during a flag-raising ceremony outside the Wamena district parliament. Twelve people are currently facing trial for taking part in flag raising ceremonies in November and December 2002 in Jayapura and Manokwari. At least nine of them appear to have been detained solely for their peaceful actions and are likely prisoners of conscience

2.5 Failure to prosecute those responsible for killings and mass torture in Jayapura, December 2000.

There is still no progress on prosecuting the police officers responsible for the death of three students and the torture of many more in Jayapura in December 2000 although the Attorney General's office reportedly completed its investigation in February 2003. The Jakarta newspaper, Kompas, reported on May 24th that the Finance Ministry had still not approved a budget for taking witnesses from Jayapura to the Human Rights Court in South Sulawesi

3 Update on prisoners of conscience and increased use of repressive laws

Amnesty International has recently completed a report on the revival of prosecutions for 'insulting the President or Vice-President' (articles 134, 136 and 137 of the Criminal Code) and for 'spreading feelings of hatred, hostility or contempt towards the Government' (articles 154-156). These charges were never used under Presidents Habibie or Wahid or in the first few months of President Sukarnoputri's term. However Amnesty International has discovered fourteen current prisoners of conscience convicted under these laws. Five are actually serving their sentences while the others are either free pending an appeal or had served their full sentence while awaiting trial.

Those convicted under these laws included labour and student activists in Java who participated in demonstrations against rising prices. Some participated in 'street theatre' in which photos of the President and Vice-President were thrown on the ground and stamped on. President Megawati has twice angrily criticized people doing this. Some of these sentences are remarkably severe.

3.1 Two activists imprisoned for three years in Yogyakarta

Ignatius Mahendra Kusuma Wardana (m), is the Chairperson of the Yogyakarta branch of the National Democratic Student's League (LMND); Yoyok Eko Widodok (m) is a member of the Indonesian Street Musicians Union (*Serikat Pengamen Indonesia*, SPI).

They both took part in a demonstration in Yogyakarta on January 7, 2003 against increases in fuel prices (fuels like kerosene are widely used for cooking in Indonesia). In April 2003, the two were sentenced to three years' imprisonment which they are currently serving in Wirogunan Prison in Yogyakarta, Central Java. The two were accused of "insulting the President or Vice-president" because they had burnt photographs of them during the demonstration.

In this case, the burning of the portraits was clearly a symbolic action in which violence was neither directly nor indirectly threatened. Amnesty International therefore regards Ignatius Mahendra Kusuma Wardana and Yoyok Eko Widodok as prisoners of conscience and is calling for their immediate and unconditional release.

President Megawati Sukarnoputri was reported in the media to have responded angrily to these events. In the Jakarta Post newspaper on January 29 2003, she was quoted as saying,

"When I look at my pictures – and I actually look pretty there – and see people stomping on them, I feel like I want to throw up... like a volcano about to explode..."

3.2 Bilal Abu Bakar Ahmad Fauzi

Bilal Fauzi, was sentenced to one year in prison for taking part in a demonstration against rising fuel prices in front of the Presidential Palace in Jakarta on July 30, 2002. Bilal was arrested by a police officer as he was walking from the demonstration on his way home. He was not an organizer of the protest or one of the performance artists. He is however ethnically East Timorese and therefore stood out as visibly darker than most of the other participants. This may have been the reason he was the only one targeted for arrest by the police.

He was charged with insulting the Vice-President by drawing over and ripping up the photo of Vice-President Hamzah Haz. No one else was prosecuted. Amnesty International considers him to be a prisoner of conscience and is calling for his immediate and unconditional release.

3.3 A possible prisoner of conscience in Sulawesi

A disturbing case involves Revd Rinaldi Damanik, a Protestant minister from the Poso region in Central Sulawesi. This area was plagued by Muslim-Christian religious conflict during 2000 and 2001 but has been relatively quiet since a peace agreement was signed in late 2001. Revd Damanik was at the forefront of efforts to resolve the conflict. On August 17th, Revd Rinaldi was travelling with a convoy of humanitarian workers to take assistance to displaced people in the Morowali District. Police stopped the convoy, moved everyone away and then searched the cars. They then let the convoy proceed. A few days later the police stated that they had found weapons and ammunition in the cars. Revd Rinaldi says that he was not told of this at the time. He was arrested in September 2002 and tried during February 2003. One witness stated that he had been tortured to provide evidence against Revd Rinaldi. Rinaldi was sentenced to three years in prison. Amnesty International is concerned that his trial was not fair and that there are strong indications that the charges against him are false. If so the organization would consider him to be a prisoner of conscience.

4 Update on East Timor trials

The proceedings of the ad-hoc human rights court in Jakarta are almost complete. Despite some convictions, the tribunal has largely failed to deliver a true picture of events in East Timor in 1999 and to provide justice. The criticisms made in Amnesty International submission on the limited jurisdiction, poor preparation of cases and indictments, inexperienced judges, an inadequate protection program for East Timorese witnesses and a failure to present a broad picture of the relationship between Indonesian police and military officers with the various militia groups still hold. The Indonesian Government has completely failed to cooperate with the East Timor

Amnesty International has requested the UN Secretary General to commission an independent review of the trials in both Indonesia and East Timor and to look at the strength and weaknesses of all possible avenues to achieve justice for East Timor. This review should look at an international tribunal for East Timor.

Meantime Amnesty International urges the Indonesian Government to fully cooperate with the East Timorese trials.

Amnesty International also asks that governments such as Australia continue to provide technical and financial assistance to the Serious Crimes Unit and Special Judicial Panels in East Timor.

Only one verdict has not been given. None of those convicted are actually in prison – all are free pending their appeals. The full list of the cases and their results so far is:

Convicted:

- Abilio Soares, former governor of East Timor – failure to control his subordinates the bupatis of Liquica and Suai. Guilty – 3 year sentence, August 2002.
- Brig General Noer Muis, East Timor military commander following General Suratman. Sentenced to five years in March 2003, particularly in relation to attacks on Dili Diocese and Suai church in September 1999.
- Dili Police Commander Holtman Gultom, sentenced to 3 years in prison for failing to prevent the attack on the house of Manuel Carrascalao in April 1999
- Lt Colonel Soedjarwo, former Dili military commander, sentenced to 5 years in prison in December 2002 for responsibility for the attacks on Bishop Belo's residence
- Eurico Guterres, commander of Aitarak militia. Sentenced in 2002 to 10 years in prison in relation to attacks on the house of Manuel Carrascalao in April 1999. Free pending appeal

Acquitted

- Brig General Timbul Silaen – former head of East Timor police. Acquitted in August 2002 of responsibility for actions of subordinates in relation to attacks in Suai, Liquisa and on Bishop Belo's house.
- Five officials, including the bupati of Suai and military and police commanders in Suai – acquitted in August 2002
- The bupati, police and military commanders of Liquisa – acquitted in November 2002 of responsibility for the Liquisa church killings
- Former Dili police commander Priyanto – acquitted in November 2002

Verdict yet not handed down (as of August 1, 2003)

Major General Adam Damiri, former regional military commander based in Bali. Charged with failure to prevent human rights violations in Liquisa, Suai and Dili. His trial has concluded and the prosecutor has asked for his acquittal. The verdict has not been handed down. General Damiri is currently the Deputy Chief of Staff of the Indonesian Army.