

## INDONESIA: HUMAN RIGHTS ABUSES IN NORTH SUMATRA

### I. INTRODUCTION

The province of North Sumatra continues to be plagued by human rights abuses committed by security forces. Two cases are highlighted in this report: the ongoing military interference in a leadership dispute within a Protestant church group (*Huria Kristen Batak Protestant* or HKBP), and the treatment of villagers in a complicated land dispute in Sei Lapan, an area about 80 miles north of Medan, the provincial capital.

Both of these cases involve disputes in which the Indonesian government is an active party. Both involve arbitrary arrest and detention by the military, in violation of Indonesia's own Criminal Procedure Code as well as international human rights standards. Over 100 men and women remained in detention from the Sei Lapan case at the end of September 1993, some of them with serious injuries suffered during beatings by security forces. Two men disappeared after having been taken into custody.

Both cases have involved widespread denial of freedom of assembly and freedom of expression. Both cases have also involved some acts of violence on the part of individuals, such as assaulting a policeman and setting fire to vehicles; it is obviously appropriate to punish such acts under the relevant provision of the Criminal Code (KUHP). But the Indonesian security forces have shown a disquieting propensity for collective, disproportionate and summary punishment, in a manner that violates the rights of those suspected -- including the right not to be subjected to cruel, inhuman or degrading treatment.

The two cases are illustrative as well of the more general lack of effective means of redress for those who have grievances against the government and military. This problem is clearly not unique to Indonesia, but as the Indonesian government begins to discuss ways of addressing human rights problems at home and within the region, the lack of accountability of officials must be high on its agenda.

### Background

The two disputes described in this report are symptomatic of a broader pattern of abuse in northern Sumatra that has gone largely unnoticed by the international community and unpunished by the Indonesian authorities. The worst abuses in the area took place in Aceh, a special region on the northern tip of Sumatra, between 1989 and 1991 where over 1,000 people

are estimated to have been killed by the military in the course of a counterinsurgency campaign against an armed Acehnese independence organization called Aceh Merdeka. The Medan-based regional military command (KODAM I "Bukit Barisan") was heavily involved in those operations. The government never

carried out any investigation of army atrocities as it did, however imperfectly, in East Timor, nor was any officer ever disciplined or punished for those atrocities which included summary executions, disappearances, and torture. On the contrary, key officers were promoted. Many prisoners were detained incommunicado and abused in detention facilities in the city of Medan, such as the one run by the intelligence unit of Bukit Barisan command on Gaperta Street, usually referred to simply as "Gaperta."

The Medan police have also been notorious for their policy of "shoot to kill" of suspected criminals. Long after a centrally-organized program of systematically executing rather than apprehending such suspects ceased in other parts of Indonesia (the so-called "mysterious killings" campaign of 1983-85), the Medan police continued the policy as a way of combatting crime. In 1992, according to the U.S. State Department, the Medan police shot 92 suspects, of whom two died; some of them were shot in handcuffs, inside police stations.

Medan has also been the center of periodic crackdowns on non-governmental organizations (NGOs) and independent associations. On June 25, 1993, for example, two labor activists from the independent trade union SBSI were arrested on the street in Medan without warrant by the local subdistrict military command and taken to district military headquarters. Amosi Telambanua and Soniman Lafoa were detained incommunicado and severely beaten before being released a week later. (The founder and secretary-general of SBSI, Mochtar Pakpahan is originally from North Sumatra.)

Many of these NGOs claim goals of furthering such government objectives as economic development or environmental conservation, and some have been recognized for these efforts by the government. However, the emphasis placed by some of these same organizations on legal education and community empowerment has brought them into conflict with military and civilian officials at the local and national levels. Two NGOs in particular, KSPPM, (*Kelompok Studi Pengembangan Prakarsa Masyarakat*) and WIM (*Wahana Informasi Masyarakat*), a coalition of NGOs in the province, have been past targets of harassment, as Asia Watch has documented in two reports.<sup>1</sup> Incidents of harassment have ranged from surveillance to arrests and forced suspension of activities. KSPPM is a rural development and advocacy group established by activist members of the HKBP, the focus of one of the disputes described in this report.

Government suspicion of these NGOs is illustrated by the local government's response to a letter sent by three students on August 20, 1993 to the governor of North Sumatra, the regional military commander, and the regional police chief, denouncing five NGOs for inciting people to oppose the government. Four of the NGOs cited in the letter (WIM, Bitra, KKSP, and Sintesa), were accused of inciting protests against the governor and a large pulp and paper factory in the area, P.T.Indorayon. The NGO Sintesa was also accused of inciting a riot in the city of Kisaran that resulted in the burning of a hotel and a movie theater. The fifth NGO, YPMP, was listed in the letter because its head, Natsir Silalahi, was being sought in connection with the Sei Lengan case discussed below. Also listed by name were Osmar Tanjung (WIM), Sebastian Saragih (Bitra), Hendrik Saragih (Sintesa), and Taufan Daumanik and Sri Eni (KKSP). The letter urged that these people and all other staff members be detained as subversives and that their computer records be confiscated. It added that these organizations and others like them received money from foreign sources, and that they made up information to justify the funding. A handwritten notation on

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<sup>1</sup>Asia Watch, "Indonesia: Ban on Sumatran Organizations." *News From Asia Watch*, New York: Human Rights Watch, 1990 and "Indonesia: Attempts to Intimidate Labor and Environmental Activists in North Sumatra," *News From Asia Watch*, vol.4, no.9 (New York: Human Rights Watch, April 1992).

one copy from the Social and Political Affairs office of the provincial government indicated that at least three of the NGO activists denounced in the letter were going to be called in for questioning -- simply on the basis of an unsubstantiated letter.

## II. MILITARY INTERFERENCE IN THE BATAK CHRISTIAN CHURCH

An Asia Watch report published in January 1993 described the leadership dispute within the largest Protestant church organization in Indonesia, *Huria Kristen Batak Protestan* or HKBP, in North Sumatra.<sup>2</sup> (The Batak are the dominant ethnic group in the region.) The long-simmering dispute came into public view during the 51st Synod in late November 1992, when the regional military command intervened to replace the elected incumbent leader or *ephorus*, Dr. S.A.E. Nababan. A December 23 directive from the internal security agency, Bakorstanasda (*Badan Koordinasi Bantuan Pemantapan Stabilitas Nasional Daerah* -- the Regional Coordinating Agency for the Maintenance of National Stability), appointed a lecturer named Rev. Siahaan in his place. The appointment was to be on an interim basis until a special synod could be convened. Supporters of Nababan, and those upset by the apparent disregard for the HKBP constitution, mounted a series of protests, which intensified after the anti-Nababan faction began replacing ministers who rejected the government-appointed leader. Those protests led to numerous incidents of illegal arrest and detention and severe physical abuse of protestors by security forces.

Asia Watch's report was issued just after a military crackdown on pro-Nababan supporters began on January 16, 1993. Early that morning, the military stormed a church in Tarutung, North Sumatra where several thousand Nababan supporters occupied the church compound. Over 80 were taken into custody, and many beaten. The commander of the Bukit Barisan regional command denied that any arrests or physical abuse took place.<sup>3</sup>

About 11:45 a.m. the same day, Rev. J.A.U. Doloksaribu, a founding member of the KSPPM organization, well known for his social activism, was arrested. He was taken into custody by intelligence operatives of district military command, KODIM 0201, in Medan, outside the Sudirman church, as he was about to officiate at a wedding ceremony. He was taken first to the KODIM headquarters, then to the military intelligence office and detention center of the Bukit Barisan command on Gaperta Street. At 11 p.m., still wearing his robes, he was moved to the municipal police station in Medan where he was detained. (He was sentenced to six months in prison for incitement in June).

On the evening of January 17, Dr. Nababan returned to Medan from Jakarta to attend a hearing scheduled for the following day in Medan's administrative court (*Pengadilan Tata Usaha Negara*). The hearing was on a suit Nababan had filed in December challenging the regional military command's appointment of Siahaan. Nababan proceeded to a house in the city where dozens of his supporters, most of them students, had gathered in the yard. About 8 p.m., two truckloads of military police and soldiers from the district military command, KODIM, arrived at the house, together with intelligence agents from Bakorstanasda. They began to forcibly arrest those in the yard. One of those arrested described the events that followed in an interview with Asia Watch:

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<sup>2</sup> Asia Watch, "Indonesia: Military Repression against the Batak Church," *News From Asia Watch*, vol.5, no.3 (New York: Human Rights Watch, January 1993).

<sup>3</sup> Keyakinan Dalam Pencobaan: Studi Kasus Gereja HKBP. Edited by Rev. Darmaputera, Ph.D. (Pustaka Sopo Metmet, Jakarta: 1993), p. 75.

...[A]bout 49 students and other followers were forcibly put into the open top military jeeps and taken to Poltabes [Medan Police]. Poltabes refused us. We were taken to KODIM. All the way there, the military were hitting our faces with rattan bats, with the butts of their rifles. They kicked us. When we arrived at KODIM we were kicked and shoved and hit all over again....They proceeded to kick us, beat us with rifles and rattan. A few were taken to separate places. We could hear them scream. Then they ran over our backs as we were made to do pushups. If we failed in a pushup, they hit us harder.

Seventeen of those arrested were then taken by military truck to Gaperta. They arrived there close to midnight. Uniformed soldiers and some men who were not in uniform then used a one-meter stick of rattan to beat the Nababan supporters, accusing them of being government rebels, according to one account. Their interrogators told them that Nababan and another HKBP minister were corrupt and had embezzled billions of rupiahs. One detainee told Asia Watch:

Then they said we could sleep but we had to sit in a circle. But they didn't let us sleep. The room was barely large enough for us to sit in a circle, but just large enough for a soldier to come in and beat us one by one going around the circle. They did this every fifteen minutes. A soldier would come in and do this, beating us one by one in the face. Many of our faces were bleeding and swollen by this time. This continued for hours. The soldiers started calling us to the door in order to beat us at the door rather than come inside. This lasted until around three or four in the morning...

The detainees were interrogated again in the morning and forced to confess that the demonstrations in support of Nababan had been organized. They accused Nababan of being a communist. Early that afternoon, they saw some 20 persons arrested the day before in Tarutung being brought into the detention center with their hands chained. On the evening of January 20, they were forced to sign a statement that they would no longer protest the new church leadership and would endeavor to make the special synod called by Bakorstanasda of North Sumatra a success. The intelligence officers said that those who did not sign the statement would not be released. All signed and they were taken to Poltabes, the Medan police station, at 9 p.m. They were released the next day.

## **The Special Synod**

The Synod Agung Istemewa, or special synod, was held February 11-13, 1993 in a Medan hotel. Rev. P.W.T. Simanjuntak, an ally of Rev. Siahaan, was elected *ephorus*. Nababan's supporters charged that 83 of the 464 delegates at the special synod were appointed by Acting Ephorus Siahaan and that the only credentials required to be a delegate was to agree in writing to recognize Siahaan as *ephorus* and to acknowledge that Dr. Nababan had had no claim to speak for HKBP since November 28, 1992, the date of the 51st Synod.<sup>4</sup> Protests from the pro-Nababan faction escalated, saying Nababan had been illegally ousted. The anti-Nababan faction in turn argued that the Special Synod had been valid. They also circulated a letter calling Nababan "a dashing figure in the world of international church jet-setting" who had "brought

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<sup>4</sup>Keyakinan Dalam Pencobaan: Studi Kasus Gereja HKBP. op. cit. p. 78-79.

six years of suffering, fear and dictatorship" to HKBP.<sup>5</sup>

Nababan followers began to be systematically replaced by the Siahaan group. Some fled to Jakarta to escape the violence and arbitrary arrests and were immediately replaced. Many stayed in their positions as long as they could, and the efforts to replace them took several months. In many cases, the military appeared to be involved in the replacement process.

A Medan-area pastor, L. Manurung, was attacked in an incident that took place at his church, HKBP Dame, on March 28. A number of outsiders and long absent congregation members had shown up and claimed control of the church. The pastor and his congregation protested. Then, he told Asia Watch,

[a] military officer from Battalion Zenitempur named T.R. Silitonga arrived. He pushed my head from the side with a forceful thrust yelling, "Get out, you!" Then I was grabbed. Sergeant Major Binara Sihombing hit my head on the temple and ear once and pushed me out the door. My head hurt and I was worried about my congregation. I didn't want them to lose their heads. They were already asking, "Why did you hit our pastor?" They were advancing rapidly. The military and police both began to take forceful measures to stop the people. They began to kick the congregation. . . The military and the police were pulling people out of the pews. They were all pushed out of the church.

Two members of the congregation were detained for 24 hours, then released.

Nababan supporters continued to go to services led by Nababan-appointed ministers, and Simanjuntak supporters went to services led by the newly-appointed ministers. Tension mounted between the two groups sharing the churches, both throughout North Sumatra and, on Java, in congregations in Cirebon, Bandung and Jakarta. Clashes occurred on April 4, in Kisaran; April 9 in Tanjung Morawa and Pematang Siantar; on April 18 in Sei Agul and April 17-18 at the HKBP church at the Pabrik Tenun, Medan. In the many cases where pro-Nababan factions of the congregations were barred from using the church, services were held in private homes and often in the street outside the church.

On May 1, a crowd of Simanjuntak supporters surrounded a church in Tebing Tinggi, some 60 kilometers south of Medan, that was being defended by a pro-Nababan congregation. According to one source interviewed by Asia Watch the crowd was not from the area, but instead was made up of hired thugs or soldiers in civilian dress trying to take the church over for Rev. Simanjuntak. At 2 a.m. the crowd began throwing rocks that had reportedly been brought to the site in military trucks that were parked in front of the gates. Uniformed soldiers reportedly joined in the rock-throwing.

At 3 a.m. the crowd broke into four HKBP-owned houses, one of them the home of a pro-Nababan pastor and destroyed their contents throughout that day, May 2. The wells were filled with garbage and all the pastor's belongings destroyed. The pastor disguised himself in Muslim clothing and escaped, walking "right past the gang who were busy eating an afternoon meal after a hard day's work destroying...houses," according to one eyewitness interviewed by Asia Watch. At this point some members of the congregation regrouped and armed themselves with molotov cocktails. That evening they took back the church with no further injuries.

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<sup>5</sup> Photocopy of report from Dr. S.M. Siahaan dated March 12, 1993 entitled "Rev. Dr. S.M. Siahaan Explains: The Turmoil in the HKBP, How and Why."

Asia Watch does not sanction the use of weapons on the part of the Nababan faction defending the church and recognizes the right of Indonesian police to charge those who made or possessed the molotov cocktails under the appropriate provisions of the Indonesian Criminal Code. At the same time, the reported vandalism of homes on the part of the army or civilians working under its direction is in clear violation of Article 17 of the International Covenant on Civil and Political Rights, "no one shall be subjected to arbitrary or unlawful interference with his privacy, family, home" and Article 18, "everyone shall have the right to freedom of thought, conscience and religion."

On May 16, some 100 troops from KODIM 0121 and 0122 stormed the HKBP church in Tebing Tinggi. At some point several mopeds and a car were allegedly burned by the pro-Nababan groups, and eight Nababan supporters were arrested. A week later, two more members were arrested in connection with the same struggle in Tebing Tinggi and held together with the eight arrested on May 16. The ten members implicated in the May 16 incident were held at the Tebing Tinggi police station and charged under articles 170 and 406 of the Indonesian Criminal Code for disturbing the peace and destroying property. The first offense carries a maximum sentence of five and a half years, the second, two years and eight months. Four of those have also been charged with Section 2, paragraph 1, Law No.12, 1951, for the possession of "sharp" weapons.

On May 23, some 39 pro-Nababan church members were rounded up in connection with the alleged discovery of hundreds of molotov cocktails and home-made bayonets, among other simple weapons in the HKBP office in Tebing Tinggi. They were held overnight in the Tebing Tinggi police office and released on May 24, 1993. Again, the use or advocacy of violence is not condoned by Asia Watch.

As of July 15, ten people awaited trial in a Medan prison and had chosen Legal Aid Foundation (LBH) lawyers for their defense.<sup>6</sup>

In late May, President Suharto appointed T.B. Silalahi, Minister for the Utilization of the State Apparatus (Menpan), to mediate between the two factions. On June 14, an agreement was signed by Nababan and Simanjuntak. In the agreement Nababan acknowledged the authority of Simanjuntak pending another synod (to be held in accordance with HKBP by-laws), and it was agreed that the replacements would cease and that churches should remain open for use by all groups wishing to meet for worship.<sup>7</sup> According to Silalahi, if this could not be done peacefully, the parties "have already agreed to involve the security forces."<sup>8</sup>

However, at Sunday services six days later, when the agreement was announced, the ongoing conflict over church leadership erupted again, leading to the arrests of eight more Nababan supporters on charges ranging from carrying weapons to murder.<sup>9</sup> The incident allegedly began when a group of

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<sup>6</sup> The ten are: Paris Gultom (34); Syamsul Parulian Sitorus (22); Ajun Purba (47); Luhut Doloksaribu (30); Harafin Siagian (40); Lambok Manurung (21); Parlindungan Hutagaol (21); Edison Sirait (23); Edison Silitonga (21); Riduan Situmorang (17).

<sup>7</sup> "Pernyataan Bersama", agreement between the two parties, signed and dated in Jakarta, June 14, 1993.

<sup>8</sup> "Kebaktian Bergilir Sulit," *Tempo*, June 26, 1993.

<sup>9</sup> They were charged under Criminal Code Articles 170, 406, 55, and 56 and Article 351. The penalties for the latter

Simanjuntak supporters inside the HKBP church in the Helvetia neighborhood of Medan refused to let worshippers enter. One account said they began to throw stones at the crowd outside and displayed sharp weapons. The Nababan supporters became angry and tried to storm the church doors. A fight broke out, and some mopeds and a car outside the church were set ablaze. Some 50 people from inside the church ran to a priest's house for cover, where they allegedly found weapons.<sup>10</sup>

The newspaper *Sinar Indonesia Baru* reported that a pro-Simanjuntak school teacher, Mr. Pakpahan, had died as a result of injuries sustained in the struggle.<sup>11</sup> However, according to the Medan Legal Aid Foundation, eyewitnesses reported seeing Mr. Pakpahan leave the church by motorscooter, uninjured. Both Cabinet Minister Silalahi and Medan Police Chief, Lieutenant Colonel Drs. Chairuddin, have reportedly called the murder charge into question.<sup>12</sup>

The eight people arrested were detained at the Medan municipal police station (Poltabes Medan).<sup>13</sup> Six others were placed under house arrest.<sup>14</sup>

As of July 7, 1993, some 39 members of the HKBP awaited investigation by the Medan municipal police. Bukit Barisan army commander Maj. General A. Pranowo reportedly announced that people should realize that all worship is the same, and expressed his full attention to resolving the situation and preventing difficulties through continued surveillance by Bakorstanasda.<sup>15</sup> In at least one instance, local military and police personnel gave their support to a pro-Nababan group seeking access to their church, HKBP Dame, under the terms of the reconciliation, indicating that not all local officials sided with the Simanjuntak faction.

On July 9, however, five more people were arrested after another struggle outside the Helvetia Medan HKBP church as Nababan supporters were leaving the church and Simorangkir supporters were gathered outside. Three days later, six more Nababan supporters were arrested in another clash with their opponents. All were charged with the same crimes as those above. To Asia Watch's knowledge, no pro-Simanjuntak supporters were arrested following any of these clashes.

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(carrying weapons) depend on how the weapons were used: if there was no damage, the maximum sentence is 20 months; for wounding someone the maximum sentence is five years; for manslaughter, the maximum sentence is seven years.

<sup>10</sup> See "Kronologis Kasus HKBP Sejak Keluarnya SK Bakorstanas Sumbagut," p.4.

<sup>11</sup> "Kebaktian Bergilir Sulit," *Tempo*.

<sup>12</sup> Case Report, Medan Legal Aid Foundation, p. 26.

<sup>13</sup> Rev. Laurensius Napitu (minister); St. GP Hutapea; St. Sihar Siahaan; St. Kondar Manurung; St. Jacomat Lubis (teacher at technical school — SMEA II Medan); Ihutan Panjaitan (civil servant); Timbul Simangunsong (travel agent); Maslem Simangunsong, SH (lawyer).

<sup>14</sup> Drs. H. Napitupulu; St. Drs. S. Siagian; Drs. R. Silalahi; St. SP. Simanungkalit; Netty R. Sibarani (woman); and St. L. Butarbutar.

<sup>15</sup> *Editor*, July 3, 1993.

On July 25, 1993, a photographer named Pardomuan Sibarani was hired by the pastor of the Bongbongan HKBP church to record the conflicts that took place every Sunday over use of the church. Lieutenant Jono of the district military command, KODIM Simalungun, reportedly called him over and had him put into a hardtop jeep with license number BK 884 BB. Once in the jeep Lieutenant Jono asked him questions and punched him constantly in the head and ribs, as did the private seated on Pardomuan's right, breaking several ribs and causing him to bleed from his ears. After threatening and interrogating Pardomuan and a vicar from the church, district military command took them to the police station (Polres 205 Simalungun) as rioters. The police refused to take them (presumably due to Pardomuan's condition) and had them taken to the hospital.

Some Nababan supporters who believe they were arbitrarily arrested by the military have sought legal redress, always unsuccessfully, through the *praperadilan*, a pre-trial process similar to a *habeas corpus* hearing that is provided for in the Indonesia Criminal Procedure Code (*Kitab Undang-Undang Hukum Acara Pidana* or KUHAP).

In one such case in August, Rev. Marulan Sitorus challenged his arrest by the district military command, KODIM 0204 Deli Serdang, at Tebing Tinggi District Court. Rev. Sitorus, a Nababan supporter, had begun leading services for pro-Nababan congregation members again after the June 14 statement of reconciliation. However, on August 1 he was arrested without warrant during Sunday services and detained for three days at the KODIM. On the third day, he claimed, he was beaten with a cable until he agreed to sign a confession and to acknowledge in writing the authority of Rev. Simanjuntak as *ephorus*.<sup>16</sup>

Rev. Sitorus then went to LBH and they asked for a pre-trial hearing. On August 19 Judge Amir Sjarifuddin decided the court did not have the authority to examine the military.

Similarly, Rev. Manurung in Langkat had been summoned to district military command by 2nd Lieutenant Djafar Sidik. He appeared voluntarily and was taken to the regional military command, KODAM I Bukit Barisan, Medan. He was held for eight days, where he asserts he was kicked and hit, accused of being a communist, a cheat, a "money-priest", and forced to acknowledge in writing the authority of the new *ephorus*.<sup>17</sup>

Rev. Manurung also challenged his wrongful arrest and detention in the Langkat district. As in the previous example, the judge, Judge H.S. Hutahuruk, dismissed the case. He argued that the purpose of the hearing is to judge whether an arrest and detention is in accord with KUHAP. According to him, this applies only to police or other investigating officers, but not to the military.

Borkat Harahap, a lawyer with the Medan Branch of the Indonesian Legal Aid Foundation and Rev. Manurung's lawyer, said, "The judge's decision is clearly wrong," and pointed to Supreme Court Circular No. 15, 1983.<sup>18</sup> Criminal Law expert Dr. Loebby Loeqman agreed, saying that while KUHAP does not explicitly include military in the articles concerning the *praperadilan*, it must be interpreted to do so, since

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<sup>16</sup> "Buntut Lain Kericuhan Itu," *Forum Keadilan*, September 16, 1993.

<sup>17</sup> *Ibid.*

<sup>18</sup> The circular affirms that "if a member of the military is accused by a civilian of illegal arrest or detention in a criminal case, the district court will conduct the *praperadilan*."

the principle prohibiting arbitrary detention cannot be violated. The *praperadilan* guidelines do not mention military authorities because, according to Article 18 of KUHAP, all arrests are to be carried out by the police. (However, the Medan district military command did agree to hear the *praperadilan* case involving the military in the case of the two labor activists arrested without warrant in June, so the position of the courts in the HKBP cases is inconsistent even with other courts in the same province.<sup>19</sup>)

The responses of the commanding officers of the units involved are illuminating: the head of the military command in the district of Langkat, Lieutenant Colonel Djuardi Mansyur, denies ordering Manurung's arrest, saying he was misunderstood by his men. Meanwhile, his counterpart in the district of Deli Serdang, Lieutenant Colonel M. Syaruhl, said that Marulan Sitorus was never detained: "We only held him in protective custody."<sup>20</sup>

On August 9, as another step in Cabinet Minister Silalahi's "reconciliation", Siahaan and Nababan went on state television and announced an end to the problems. Nababan told Asia Watch that he knew the terms of the reconciliation would never be carried out despite Silalahi's good intentions. Indeed, after an initial two-week period of action, the working group on the reconciliation reportedly stopped altogether. Nababan has also written that he has faith that the situation will be allowed to resolve itself, counting on factors such as President Suharto's April 1991 statement that neither "the state nor the government have the authority to interfere with internal religious problems, whether doctrinal or institutional."<sup>21</sup>

From August 19 to 24, a delegation of over 100 HKBP members representing 403 congregations tried unsuccessfully to meet with the Minister of Religious Affairs, Tarmizi Taher. After they were turned away by the Minister, (the problem is "finished" he explained), the spokesman for the delegation, Rev. H.S. Marpaung, was quoted as saying, "The minister says only 40 congregations [do] not yet recognize Ephorus Simanjuntak. In fact, 80 percent do not support him. That's what you call engineering lies (*rekayasa bohong*)."<sup>22</sup> In a letter to the Minister, the delegation stressed that it would never accept the authority of an *ephorus* who is elected without regard for the rules governing HKBP.<sup>23</sup>

As recently as September 20, 1993, Rembang Siburian, a religious teacher at the Sitabotabo HKBP church, was called to the Siborongborong subdistrict military command. The head of the command, First Lieutenant M. Siahaan, was angry over the fact that Siburian had allowed a wedding to take place at the church, officiated by Rev. Japiaman Lumbangaol. The officer made reference to a letter of complaint from a pro-Simanjuntak pastor. Lieutenant Siahaan then beat Siburian until he temporarily lost consciousness. He was then turned over to a member of the command staff, Murdiono, who reportedly yelled at and beat Siburian with his fists and with a wooden club. Seeing that Siburian had not yet come home from the sub-district military command (KORAMIL), 100 women from the HKBP church at Sitabotabo came to the

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<sup>19</sup> "Buntut Lain Kericuhan Itu."

<sup>20</sup> *Ibid.* For a more detailed discussion of KUHAP and arrests and detention by military authorities, see Lawyers Committee for Human Rights, *Broken Laws, Broken Bodies* (New York: 1993).

<sup>21</sup> Quoted from a April 9, 1992 speech in an August 1, 1993 letter to HKBP members from Nababan.

<sup>22</sup> *Editor*, September 11, 1993.

<sup>23</sup> Letter to Dr. H. Tarmizi Taher, Minister of Religious Affairs, August 19, 1993.

office just before noon. Told he was not there they pushed their way in and seized him. His supporters then took Siburian to the Siborongborong police station to report the beating he had received at subdistrict command. The complaint was taken by First Sergeant B.M. Situmorang. Siburian was then taken to Tarutung Hospital. It is unknown if steps have been taken as a result of the complaint.

Both Nababan and Simanjuntak were placed under a press ban, but their supporters have been quoted in national magazines and newspapers.

### III. TRANSLOK SEI LEPAN CASE

On March 25-26, 1993, 198 villagers from the village of Sei Lapan were detained, accused of damaging a police station in a district north of Medan that borders on the special region of Aceh. There were reports of torture and at least two detainees were reported to have died in custody. As of September, armed military guards were denying entry to those wishing to investigate the situation in Sei Lapan. They were also restricting villagers from leaving the area to acquire basic food and medical supplies. Many of the detainees had been released by September, but 174 people remained in custody.

The origin of these events goes ten years to a struggle by settlers to claim land ownership rights that had long been promised to them by the government. But control over the land, instead of being granted to the settlers, was given to a private business operating in collusion with the local government and military.

The settlers were originally from villages not far from Sei Lapan. In April 1982, they were moved by a government transmigration program to the disputed site in an attempt to curb unofficial land use in the area.<sup>24</sup> Each *transmigran lokal* or *translok* was promised two hectares of workable land, a house, and a monthly stipend. In 1986, the 500 transmigrant families protested to the Ministry of Transmigration that the government had not met its obligations, and that they were unable to cultivate the infertile soil. The Ministry responded that its responsibility ended in April 1984, when the area was transferred formally to the control of the local government.

In January 1989, after six years of unsuccessfully trying to obtain land ownership certificates and to earn a living from the soil, the transmigrants learned that their land had been slated by the district head for development by a company named P.T. Anugrah Langkat Makmur (PT.ALM). Under the terms of the agreement, which was signed by the district head, or district head, and the president of PT. ALM on January 24, 1989, with no villagers present, the company was to be responsible for developing a commercial oil palm plantation, and for providing housing and a package of social services. After the three years, the participants of this program would be given the profits from selling the harvest, less any outstanding debts. The harvest would have to be sold to PT. ALM. In the meantime, all participants would receive a salary for working on the plantation.<sup>25</sup>

Of the 500 *translok* families, 135 were excluded from the official agreement because they had at some point left their homes to look for work, preventing them from receiving any benefits that might accrue from the use of the land. The plantation, which was supposed to provide employment and eventually profit-sharing, was never able to employ more than 20 percent of the villagers, and these at reportedly substandard

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<sup>24</sup> "Kilas Balik Sejarah Sei Lapan" *Editor*, June 19, 1993, p.84.

<sup>25</sup> Summarized in Surat Tuntutan No. Reg. PERK-03-I/STBAT/0593.

wages. For these reasons, the villagers were opposed to the presence of PT. ALM in Sei Lengan from the start..

On July 3, 1989, PT. ALM began, with no prior warning, to plow under cropland and productive trees, such as rubber and coconut trees, that belonged to the transmigrants. In September 1991, they increased the amount of land bulldozed for plantation use, despite an order from the district head to leave 1,104 hectares of the villagers' land untouched. Around this time the villagers were invited to a meeting by PT. ALM. An attendance sheet that was passed around and signed by the villagers was subsequently and without their knowledge affixed to a cover letter surrendering all land rights to PT. ALM, and was subsequently notarized. With this fraudulent document, PT. ALM took control of even more village land and easily secured additional bank credit.<sup>26</sup>

During this period oil palms were planted not just on former farmland, but also in the yards of houses and even the grounds of village churches and mosques.<sup>27</sup> As many as 135 families left Sei Lengan at that time. Of those remaining, a small percentage worked on the plantation.

On September 7, 1991, PT. ALM ordered the village head to dismantle all houses that had been left vacant by villagers who had left the area to search for employment, and warned that they should not be rebuilt. Nine days later, a delegation of villagers brought their complaints to the headquarters of the Indonesian Farmers' Association (*Himpunan Kerukunan Tani Indonesia* -- HKTI) in Jakarta. HKTI requested that the National Land Bureau (*Biro Perancang Nasional* -- BPN) send a team out to PT. ALM to resolve the situation. Tension mounted over the following months as villagers were not allowed to replant their own crops and trees that had been destroyed by the company, nor were they allowed to harvest from the company's trees. Since 1989, reports had been reaching WIM, a Medan-based forum of non-governmental organizations (NGOs), that the villagers were once again nearly without food.

In May 1992, several incidents of attempted kidnapping by plantation security guards, interpreted by some villagers as attempts to intimidate them from speaking out against PT. ALM, fueled resentment among the villagers. On May 11, 1992, a Sei Lengan neighborhood official, Misnan Saragih (a transmigrant himself), forced the company office to close. On May 19-20, 1992, a company office building in the Alur Dua neighborhood and fourteen of the employee housing blocks were burned down. Five of the employees were beaten up, according to reports from the company. Twenty-one families (108 people) of transmigrants who were also plantation employees left the area and took refuge at the Pangkalan Brandan police station for the next nine months.

On July 2, 1992, in an effort to resolve the conflict, the district head promised to issue all land certificates to all villagers and to end the relationship between Sei Lengan and PT. ALM. This withdrawal would be based on negotiations with the company. The villagers affirmed their rejection of the presence of PT. ALM in the village, and agreed to compensate the company for the oil palms, based on an independent evaluation of their worth. Subsequent negotiations were carried out in December 1992.

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<sup>26</sup> Momentum: Translok Sei Lengan, July 1993. p.8.

<sup>27</sup> Minutes from a meeting between delegation of transmigrants and Mr. Mahali, Department of Home Affairs, September 8, 1992.

By March 1993, the village was facing food shortages for the third time since 1983. They received some assistance from YPMP (Yayasan Pengembangan Masyarakat Pancasila - Pancasila Community Development Foundation), a small NGO that had taken an interest in the case. Natsir Silalahi, its head, visited several times bringing sacks of rice. They received no assistance from the local government or PT. ALM. Seeing the oil palms going unharvested while they were going hungry, yet aware that they were not allowed to harvest the palms according to the terms of the original agreement between the district head and PT. ALM, they informed the authorities of the situation, first by sending a letter on March 11 and then through several visits. On March 14, 1993, a regional government official from the Langkat district, Drs. Sofyan Nasution, announced to the transmigrants, "We will not order you or forbid you. Do anything that you see fit as good citizens."<sup>28</sup> The apparent permission from the regional government came as a relief to the transmigrants, and they began to harvest the palms.

On March 23, 1993, after four previous, uneventful trips, a truck carrying several tons of coconuts was stopped by the police. Two villagers from Sei Lapan, Zulkifli Sitepu and Ahmad Surbakti, were arrested together with the driver. A delegation of villagers came to the police station that day and the next, asking that the two be allowed to come home for Idul Fitri, the holiday marking the end of the Muslim fasting month. Two Christians volunteered to take their place, but they were refused.

It is still unclear what actually occurred on March 25. In the morning, according to one account, the wives of the two detainees went to the Pangkalan Brandan police station but were turned away and told that their husbands had already been moved to the Langkat district police command in Binjai. Rumors began circulating that the two had been killed and dumped in the Aceh River.

In the charge-sheet against one group of villagers, the prosecution claims that five men, including Misnan Saragih, the village official mentioned above, held a meeting on the morning of March 25 at which they decided to forcibly free the two detainees. (No witness testimony is cited to confirm that meeting). At about 3 p.m., the five went to the Pangkalan Brandan police station and asked to meet with the two men. One police officer who testified said his colleagues refused, not mentioning this time that the detainees had already been transferred.<sup>29</sup>

The sounding of a drum at 6 p.m. that evening was the signal for some 200 villagers to board three buses and head for the Pangkalan Brandan police station. (Some villagers report that they joined the group because Misnan Saragih and Misnan Jawa, another villager, had threatened to burn down the houses of anyone who did not do so.) At 8:30 p.m., the prosecution continues, the crowd moved on the station, led by two of the men urging the rest to attack and destroy it. One policeman took a megaphone and ordered the crowd to disperse and go home. He was stabbed, according to the charge-sheet against one group of detainees, and three motorcycles were damaged.

At dawn the next morning, March 26, 1993, some 100 troops from subdistrict military command (Koramil) and the military police (CPM) arrived at the police station, joined by the Major-General of the Bukit Barisan Command, the North Sumatra regional police chief, a mobile unit of the army (BRIMOB), and the airborne unit LINUD 100/NS.<sup>30</sup> Police and soldiers then began to load the villagers into trucks,

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<sup>28</sup> "Kilas Balik Sejarah Sei Lapan."

<sup>29</sup> Surat Tuntutan, No.Reg.Perk-03-I/STBAT/0593 p.10

<sup>30</sup> *Editor*, June 19, 1993, p.81.

beating them with guns. The police claim to have arrested only 60 villagers, stating the rest came along for solidarity with those arrested. LBH and other NGO estimates put the number arrested at the station at 194 people.

The following day, police came to Sei Lengan and arrested 52 villagers, subsequently releasing all but four. The final total arrested was 198 villagers, including 142 men, 43 women, and 13 children. Following the arrests, 17 of those arrested had to be taken to police hospitals and one woman had a miscarriage, according to an NGO coalition called Forum Solidaritas Untuk Masyarakat Sei Lengan. Children were separated from their parents, reportedly including two children under the age of five, and detained. Natsir Silalahi, the head of YPMP, had visited the village to celebrate the holidays on the March 25, and on now learning he was being sought, fled the province.

At least seven of the villagers were then charged with disturbing the peace, carrying weapons, inciting the masses, and destroying property: Rajiman Silalahi alias Situnkir (35); Sanwaridi (50); Saut Hutasoit (50); Anwar Taringan (61); Marion Hutasoit; Pinondang Pangaribuan (47); and Misnan Saragih (41).<sup>31</sup> At least one innocent bystander was reportedly caught up in the mass arrest: Krisman Simumora was passing by the police station on his motorcycle on the morning of March 26. He was arrested shortly after he stopped to see the crowd in front of the station. He is thought to be still in detention.

According to lawyers of the Indonesian Legal Aid Foundation (LBH), as of September the detainees remained in several prisons, without access to legal counsel of their choice. Police Chief Lieutenant General Banurusman said in June that some 48 villagers remain in detention, and that they could receive regular visits from family members. In addition, he contended that the detainees did not want to be represented by LBH, and "if they don't want [LBH], we can't force them."<sup>32</sup>

In an article dated April 21, 1993, Police Lieutenant Colonel Leo Sukardi explained that the detainees had not been allowed to consult with lawyers because "if the suspects were assisted by legal advisors it would interfere with the results of the investigation."<sup>33</sup> The Legal Aid Foundation (LBH) pointed out that this is in direct conflict not only with international standards of justice, but with Indonesia's own Criminal Procedure Code (KUHAP), which states that "suspects have the right to legal assistance...for the length of and at each stage of the investigation."<sup>34</sup>

A rationale similar to the one above is used to explain the placement of guard posts manned by military (KODIM 0203 Langkat) and plantation personnel all around Sei Lengan soon after the March 25 incident. According to a June statement by the military, checkpoints restricting entry to the area of Sei Lengan have remained in place because police investigations are still under way.<sup>35</sup> H. Anif, president of PT. ALM,

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<sup>31</sup> Articles 170, 406, 55, and 56 of the Indonesian Criminal Code.

<sup>32</sup> "Kapolseknya Sudah Kami Ganti," *Editor*, June 19, 1993, p.83.

<sup>33</sup> *Kompas*, April 21, 1993, p.6.

<sup>34</sup> KUHAP, section 54. See also KUHP, section 69.

<sup>35</sup> On May 20, 1993, the North Sumatra regional police information director, Lt. Colonel Leo Sukardi said, "Remember, the instigator of the attack on the police station is still around." (*Editor*, June 19, 1993, p. 82).

asserted that the posts are in place at the villagers' request, to protect them from third parties.<sup>36</sup> The posts require that all travelers into and out of the village bring letters of permission from the proper authorities.

Eyewitness reports from a villager who had fled the area and returned on two separate dates state that by May 15, 15 more houses had been destroyed and PT. ALM was back in the area. By July 11, the same man reported, 100 houses had been destroyed by PT. ALM, another 100 people had fled, and the company was terrorizing those who stayed, mostly women and children. Others reported that families who had family members in detention were being evicted from their houses. Those plantation workers who had left the village the previous year were back. Strangers were reported to be living in the houses of some of those detained. Most alarming, in April a Sei Lengan woman whose husband was in detention was raped by seven men wearing masks, and her house was robbed. Because security was so tight in the area, villagers believe that the men, who made reference to the fact that the woman's husband was in prison, must have been employees of the plantation or gained access to the area with the knowledge of security guards.

One villager told Legal Aid Foundation (LBH) investigators that on April 12, officials from the police, military, the district head's office, and PT. ALM came and told villagers "[n]o one can help you, not even LBH." Returning from a fact-finding visit, LBH and other NGO representatives encountered the military, who instructed them to check in with the district military commander at the house of H. Anif, the president of PT. ALM. They were questioned at length and noted that Anif, although a civilian, gave direct orders to low-level military personnel and did much of the talking while military officers stayed quiet, despite the fact that LBH had been summoned specifically to report to the officers.

The detainees were divided into twenty-two groups, with from five to ten people per dossier. Two of the dossiers were assigned to LBH although the legal aid lawyers were not granted access to their clients outside of the courtroom. In June, some of the detainees were charged with offenses including committing acts of violence and carrying illegal weapons. In the charge for one dossier, reference is made to the fact that three of the thirteen suspects claim they signed their interrogation depositions because they were afraid of being hit by the police investigators, and one suspect claims he signed the deposition without being allowed to read it first. The prosecution rejected these arguments on the grounds that 1) the fear of being hit is not the same as being tortured; 2) previous abuse by arresting officers is irrelevant to the investigation proper, and 3) investigators assert there was no intimidation and all suspects knew the contents of their interrogation depositions.<sup>37</sup> Such an argument illustrates the casual acceptance of some form of physical abuse in criminal justice, and further indicates the willingness of Indonesian courts to admit depositions obtained through coercion.

LBH responded to the charges by stating that the investigation was not valid because no lawyers were provided in accordance with Article 56 of the Criminal Procedure Code; therefore the case based on the investigation is invalid (*vernietigbar*).

### **Developments Through September**

In July, August, and September many of the villagers who left Sei Lengan tried to return to their homes. There are reports that their entrance was prevented by the security blockades. On September 15, a

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<sup>36</sup> "Saya Akan Jalan Terus," *Editor*, June 19, 1993, p.85.

<sup>37</sup> Surat Tuntutan No. Reg. PERK-03-I/STBAT/0593, pp. 27-28.

group of 58 villagers were stopped from entering, though no clear reason was given. Two days later, Anif held a meeting in the village and reportedly encouraged some of the villagers to protest violently against the return of others who had left for reasons of safety or economic need. On the following September 20-21, hundreds of villagers attempted to return to Sei Lapan in order to speak to an investigative team from Coordinating Minister for Politics and Security, but were sent away by the military and security guards surrounding the village. As of September 23, there were reportedly 125 villagers, mostly women, now waiting outside the gate, unable to return to their homes. The village was guarded by three military posts and two civilian defense posts.

On September 23, 24 villagers (18 women and 6 men) were released from Tanjung Pura and Binjai prisons. Eight of them joined the temporary camp of villagers waiting to return to their homes. Asia Watch has received reports that on October 23, 40 more prisoners were to be released, 17 from the Tanjungpura prison and 23 from Binjai. On September 25, Mangiring Sihombing was taken from prison to the hospital to be treated for rib injuries. A detainee named Sukri, once feared dead, has been returned to the Binjai prison from the hospital, but his condition is worrying, and he reportedly still constantly bleeds from the nose.

#### IV. CONCLUSIONS

In both of the cases described above, some individuals went beyond the bounds of lawful protest and committed acts punishable under the Indonesian Criminal Code. Asia Watch does not condone these acts, nor does it question the legitimacy of arresting people for producing molotov cocktails or setting fire to police vehicles.

But under no circumstances can torture or disappearances be justified. Reports of the disappearance and possible death of Ahmad Surbakti and Zulkifli Sitepu on March 25 must be fully and impartially investigated, and if found to be accurate, officials responsible must be prosecuted and punished. (In September 1993, Asia Watch requested information from the Indonesian Foreign Ministry, offering to publish any information the Ministry could obtain about the government's version of events. We were told orally that it would be too difficult to do so.)

Treatment of the HKBP detainees arrested in January, May, July and August and held in various military detention centers including Gaperta and various district and subdistrict military commands was clearly unacceptable by international standards and violated the principle of proportionality outlined in the United Nations Code of Conduct for Law Enforcement Officials. That Code states that officials may only use force "as is reasonably necessary under the circumstances for the prevention of crime or in effecting or assisting in the lawful arrest of offenders or suspected offenders." Beating with rattan sticks and other instruments during interrogation to the point of causing broken ribs and other injuries constitutes torture.

The Indonesian Criminal Procedure Code and the prohibition in the Universal Declaration of Human Rights on arbitrary arrest and detention were violated numerous times in both the Sei Lapan case and the HKBP dispute. When the old security agency KOPKAMTIB was transformed into BAKORSTANAS in 1988, the Indonesian government claimed the military would no longer be responsible for arrests; this was to be exclusively a police role. But not only do intelligence task forces and other parts of the military continue to arrest and detain suspects; their actions, however unjust and unlawful, cannot be challenged in Indonesian courts if the rulings on the HKBP *praperadilan* petitions are any indication.

Another violation of the Criminal Procedure Code took place in the Sei Lapan case, when all

detainees, held at prisons in Binjai and Tanjung Pura, were denied access to counsel during the investigations and in preparation for their trials. They were also often denied access to friends and family, and the prisoners Ahmad Surbakti and Zulkifli Sitepu have not been seen since their arrest.

Forced confessions were used in both cases, violating both the Criminal Procedure Code and Article 14 of the International Covenant on Civil and Political Rights. In the Sei Lapan case, three detainees in one twelve-person dossier stated that their confessions were coerced. In the HKBP case, instances of coerced confessions took place at KODIM 0204 Deli Serdang and KODIM 0203 Langkat.

The Sei Lapan case also involved harassment and expulsion of former detainees and their relatives from their own homes, in direct violation of Article 17 of the International Covenant on Civil and Political Rights prohibiting arbitrary interference with home and family. All villagers not in detention must be allowed to return without harassment to their houses and land in accordance with this principle. Posts guarded by armed military and plantation personnel restrict the freedom of movement of inhabitants.

Underlying both these cases is the lack of an effective system of redress when government officials, either military or civilian, are involved in committing injustices. In the Sei Lapan case, the military, local government, and business interests colluded to deprive the transmigrants of land. The presence of local or regional military command at all meetings between villagers and PT. ALM, the close relationship between PT. ALM's executive officer H. Anif and local military commanders, and the post-arrest intimidation of villagers by the military and plantation guards show how deeply the armed forces were involved in this case. Despite a decade of organized delegations and letters to local, regional, and national offices, villagers were given no valid assistance and nothing but casual promises to investigate at a later date. As long as villagers cannot turn to independent and impartial courts for effective remedy in such situations, further conflicts are likely to occur.<sup>38</sup>

#### For More Information

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*Asia Watch is an independent organization created in 1985 to monitor and promote internationally recognized human rights in Asia. The Chair is Jack Greenberg, the Vice Chair is Orville Schell, the Executive Director is Sidney Jones and the Washington Director is Mike Jendrzeczyk.*

*Asia Watch is a division of Human Rights Watch, which also includes Africa Watch, Americas Watch, Helsinki Watch and Middle East Watch. The Chair of Human Rights Watch is Robert L. Bernstein and the Vice Chair is Adrian DeWind. Kenneth Roth is Acting Executive Director; Holly Burkhalter, Washington Director; Susan Osnos, Press Director.*

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<sup>38</sup> As recently as September 25, 1993 a dispute over the construction of a dam on the island of Madura ended when the army opened fire on a protest demonstration and four people were killed.