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Regional Police Chief (Kapolda)
Inspector General Bekto Suprpto
Jayapura, Papua,
Indonesia

30 November 2009

**AMNESTY
INTERNATIONAL**



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RE: OPEN LETTER ON UNCHECKED POLICE ABUSE IN NABIRE DISTRICT, PAPUA

Dear Inspector General Bekto Suprpto,

On behalf of Amnesty International and KontraS (Komisi Untuk Orang Hilang dan Korban Tindak Kekerasaan, the Commission for the Disappeared and Victims of Violence), we would like to take this opportunity to welcome you in your new position and bring to your attention some of our recent concerns about the situation of human rights in Papua.

We would like to raise to your attention a pattern of unchecked human rights violations by police in the Nabire district, Papua province, over the last year. We would like to request that you take the lead in ensuring that independent, impartial and effective investigations into these reports be conducted immediately. The results should be made public. Fair and prompt investigations are an essential first step towards combating impunity for police abuse.

Credible local sources told Amnesty International and KontraS that, between December 2008 and April 2009, police officials used unnecessary and excessive force against demonstrators, injuring at least 21 people in Nabire. Moreover, police repeatedly beat and otherwise ill-treated at least 17 people during and after arrests between January and April 2009. Amnesty International also received credible information on two cases of unlawful killings in April and June 2009. To date, Amnesty International and KontraS are unaware of any independent and impartial investigation into these reports.

Please find below some details about these cases. The most recent cases are set out first:

1. POSSIBLE UNLAWFUL KILLINGS

- On 24 June 2009, police reportedly shot dead **Melkias Agape**, aged 38, in the city of Nabire. Melkias Agape had been suffering from malaria for over six months. Local sources told Amnesty International that the day before his death Melkias Agape was agitated because of his illness, and had gone missing. Later the next day at about 2.00pm, he returned, wielding a knife. While his family was attempting to take the knife away from him, police officers arrived, stating that Melkias Agape had taken a motorcycle key. According to reports, although a family member safely obtained the key from Melkias Agape and returned it to the police officers, some police officers fired shots into the air, pinned Melkias Agape on a wooden pillar and subsequently fired directly at him and killed him. When questioned, the Head of the Nabire District Police station stated that he had not authorised the shooting and that action would be taken against the police. However, Amnesty International is not aware of any disciplinary or criminal investigation into the case.

- On 9 April 2009, the body of **Abet Nego Keiya**, aged 19, was found at Waharia village, Nabire district. His chest was crushed and he had numerous injuries, including to his armpit, stomach, wrists, right thigh and left calf. According to local sources, police had arrested him at the Karang Tumartis market in the city of Nabire on 6 April 2009 during a protest demonstration. Local contacts told Amnesty International that police punched, kicked and beat him with rifle butts and stabbed him with bayonets until he died. His body was then reportedly hidden for three days in a black plastic bag in a warehouse before being dumped in Waharia. Human rights activists were prevented from observing a medical examination of the body at the morgue and taking photos of the body. After the medical examination the body was buried by the police. His family were also not present during the medical examination nor informed of the burial location.

2. THE CASE OF MONIKA ZONGGONAU AND 15 PEACEFUL POLITICAL ACTIVISTS

Local sources told Amnesty International and KontraS that police beat and otherwise ill-treated **Monika Zonggonau** and 15 peaceful political activists, **Januaris Tigi, Derianus Anouw, Naftali Ogetai, Frans Kataoki, Dominggus Pakage, Benutus Pekey, Elias Pigome, Yohanes Gobay, Marten Anouw, Marthinus Youw, Nadi Pigome, Yusak Kayame, Yohanes Agapa, Beny Gobay, and Matias Adii** during and after they were arrested in the city of Nabire on 6 April 2009.

According to reports, police beat Monika Zonggonau with a rattan cane on the back of her head and hands at the time of arrest. During her initial detention, police repeatedly threw a shoe at her head, causing injuries above her eye. Monika Zonggonau experienced severe injuries to her head and suffered headaches as a result. Police officials also intimidated Monika Zonggonau during interrogation. She was not allowed to read the statement she gave to police, nor to have a lawyer present during questioning. Despite the provision in Indonesia's Criminal Procedure Code for medical care for suspects, Monika Zonggonau was provided with no medical assistance throughout the first three months of her detention.

On 14 September 2009, all 15 activists were acquitted of charges of 'rebellion' (makar) and released. However, Monika Zonggonau, a mother of five, was sentenced on 7 September 2009 to ten months' imprisonment for 'inciting in public to commit a punishable act or a violent action against a public authority' under Article 160 of the Criminal Code. Police witnesses alleged during the trial that she used the word 'attack' during the demonstration. Monika Zonggonau denies the allegations. Amnesty International and KontraS are concerned that her trial did not meet international standards of fairness. Monika Zonggonau is currently appealing her conviction.

3. THE CASE OF HUMAN RIGHTS DEFENDER YONES DOUW AND SEVEN DEMONSTRATORS

Local sources told Amnesty International that police officials kicked a 40 year-old human rights defender, **Yones Douw**, with their boots three times following his arrest on 29 January 2009 in the city of Nabire. They also beat him on the ears and punched him in the face when he attempted to intervene to stop clashes between police and demonstrators. They destroyed his computer memory stick which contained data on his work. Yones Douw is a member of the Papuan Kingmi church (the Papuan branch of the Gospel Tabernacle Church of Indonesia) and a volunteer with the human rights organization ELSHAM (Lembaga Studi dan Advokasi Hak Asasi Manusia, Institute for Human Rights Study and Advocacy).

Police then arrested and interrogated Yones Douw and seven demonstrators. They allegedly refused all eight people access to the outside world and deprived them of food and drinking water during their one day detention. Those injured reported that police did not grant them access to appropriate medical care. Police held Yones Douw in a cell on his own and interrogated him for several hours. On 30 January the police released all eight people but instructed them to report to the station each day.

4. UNNECESSARY AND EXCESSIVE USE OF FORCE DURING DISPERSALS OF DEMONSTRATIONS

- On 6 April 2009, police opened fire on a protest demonstration in the city of Nabire, injuring at least seven people including a 10 year-old student who was shot as he was returning from school. A police officer was also injured by an arrow.

- On 29 January 2009, police units violently dispersed peaceful demonstrators in the early morning while they were sleeping at the protest site in front of General Election Commission's building in Nabire. Local sources told Amnesty International and KontraS that police shot rubber bullets at the crowd, wounding at least five demonstrators. Police also kicked and beat some demonstrators with rattan sticks and rifle butts. Many people suffered bruises and cuts as a result.
- On 4 December 2008, police officials forcibly removed protestors from church premises in the city of Nabire by using disproportionate and excessive force. Reports indicate that police officials beat some demonstrators with rifle butts and rattan sticks. Police also kicked them with their boots and fired rubber bullets at some of the protesters' heads. At least nine people were wounded altogether, including a 17 year old student who was not participating in the demonstration and who had been sitting at his school desk.¹ At least four of them² sustained serious head or neck injuries from the rubber bullets, resulting in open wounds.

5. HUMAN RIGHTS BASED POLICING

With regard to the use of force, the Indonesian authorities should ensure that there are thorough, prompt and impartial investigations into all reports of unnecessary or excessive use of force by police. In particular, there should be investigations into reports of deaths at the time of arrest and detention involving the use of firearms by police officials. The right to life must be respected at all times. The International Covenant for Civil and Political Rights (ICCPR) to which Indonesia is a state party, provides that "[e]very human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life" (Article 6.1). As stated in the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, "[i]n cases of death and serious injury or other grave consequences, a detailed report shall be sent promptly to the competent authorities responsible for administrative review and judicial control" (Principle 22). Furthermore, governments must ensure that arbitrary or abusive use of force and firearms by law enforcement officials is punished as a criminal offence under law (Principle 7).

Amnesty International recognizes the challenges involved in policing demonstrations, and that some protestors may have been involved in acts of violence or obstruction. However, in the cases outlined above, the security forces appear to have violated the rights to life and to freedom from torture and other cruel, inhuman or degrading treatment or punishment, both non-derogable under the ICCPR. They also appear to have contravened the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, the Code of Conduct for Law Enforcement Officials, and the Police Regulation on the use of force in police action (No 1/2009). The Regulation provides for, among other things, that force should be used only as a last resort, in proportion to the threat posed, and should be designed to minimize damage or injury. Under international standards the police may use firearms in certain circumstances, either to protect their own life or the lives of others. However, it is essential that every incident involving the use of firearms be investigated to ensure that it is not unnecessary or excessive.

Acts of torture and other cruel, inhuman or degrading treatment or punishment should be prohibited at all times, as provided in international human rights treaties such as the ICCPR and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, which Indonesia has also ratified. Under these treaties and international law in general, the right not to be tortured or otherwise ill-treated is absolute and non-derogable. The Indonesian Constitution and the law on Human Rights (No.39/1999) also provide for the right for all people in Indonesia to be free from torture and other ill-treatment.

¹ Their names are Daud Auwe, Samuel Pekey, Yulianus Pigome, Demianus Wandegau, Marthen Pigai, Yulius Tebai, Marthen Ogetai, Oktopianus Pigai, and Marthen Douw.

² Their names are Samuel Pekey, Marthen Pigai, Yulius Tebai, and Marthen Douw.

6. RECOMMENDATIONS

Please find below a number of recommendations, which, if implemented, could help to improve the human rights record of the police in Nabire:

Amnesty International calls on the Indonesian authorities to:

- Immediately conduct thorough, independent and impartial investigations into these and any other reports of police abuse in Nabire district, Papua province. In particular there should be investigations into reports of deaths involving police;
- Ensure that the findings of the investigations are submitted, wherever relevant, to the public prosecutor to ensure that all those found responsible for offences involving human rights violations are brought to justice in proceedings which meet international standards of fairness and without the imposition of the death penalty, and that victims are provided reparations;
- Ensure that all police officials stationed in Nabire district, Papua, are familiar with the recent Regulation of the Chief of the National Police regarding the Implementation of Human Rights Principles and Standards in the Discharge of Duties of the Indonesian National Police (No 8/2009) and on the Use of Force (No1/2009), and have the necessary knowledge and equipment to apply these principles in their daily work;
- Send a clear public message to all police in the Papua region, that unlawful killings, torture and other ill-treatment are unacceptable and strictly prohibited at all times;
- Conduct a thorough review of police tactics and use of weapons during the policing of demonstrations in Papua, with a view to ensuring that they accord with international standards, in particular the UN Code of Conduct for Law Enforcement Officials and the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials.

Please do not hesitate to contact us if you have any questions. We would be pleased to discuss this matter with you.

Yours sincerely,

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