

Ref: TG ASA 21/2011.024
Index: ASA 21/005/2011

**AMNESTY
INTERNATIONAL**



General Timur Pradopo
Head of the Indonesian National Police
Jl. Trunojoyo No. 3
Jakarta Selatan
Indonesia

AMNESTY INTERNATIONAL INTERNATIONAL SECRETARIAT
Peter Benenson House, 1 Easton Street
London WC1X 0DW, United Kingdom
T: +44 (0)20 7413 5500 F: +44 (0)20 7956 1157
E: amnestyis@amnesty.org W: www.amnesty.org

14 March 2011

Dear General Timur Pradopo,

RE: OPEN LETTER ON FAILURE OF POLICE ACCOUNTABILITY IN INDONESIA

We would like to take this opportunity to welcome you in your new position as Head of the Indonesian National Police. We also welcome the positive steps taken over the last few years to reform the police, including the passing of the 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 the Regulation on the Use of Force in Police Action (No. 1/2009).

In June 2009, Amnesty International published a report entitled *Unfinished Business: Police Accountability in Indonesia*. The report analyzes the police reform process using a human rights-based framework and considers how effective these reforms have been in preventing human rights violations by the police. The report sets out extensive recommendations on developing accountability mechanisms both internally within the police and externally; challenging the culture of impunity; and ensuring human rights-based policing in Indonesia.

Since the report's publication, Amnesty International has continued to receive credible reports of human rights violations by the police, and of the failure to hold police accountable in Indonesia. We have highlighted below some recent cases that have occurred over the last year. These include instances of arbitrary detention; unnecessary or excessive use of force or firearms; torture or other cruel, inhuman or degrading treatment or punishment (ill-treatment); and the failure to protect or investigate attacks against minorities.

We urge you to take the lead in ensuring the prompt, independent, impartial and effective investigation of these reports. The results should be made public. Fair and prompt investigations are an essential first step towards combating impunity for police abuse.

1. UNNECESSARY OR EXCESSIVE USE OF FORCE – INCLUDING LETHAL FORCE – AGAINST FARMERS

- On 15 January 2011, Police Mobile Brigade (Brimob) officers in Jambi province opened fire, critically injuring six palm oil farmers.¹ There has reportedly been an ongoing land dispute between the farmers and a palm oil company, PT Kresna Duta Agroindo, since 2006. At least 150 farmers

¹ Their names are Suhen, Saiful, Munawir, Fahmi, Agus and Nur Indones.

were harvesting palm oil that morning near the village of Karang Mendapo in Sarolangun district when they were confronted by at least 30 Brimob officers who attempted to evict them from the plantation. An instruction letter had been issued by the Jambi regional police to the Brimob unit to “support the Sarolangun district police in maintaining security in the area of the company”. When the farmers resisted, the police fired warning shots into the air, causing the farmers to flee in panic. As they fled, the police reportedly opened fire on them with rubber bullets, hitting six farmers in the face, thigh, stomach and back. The police internal affairs division (Propam) is currently investigating the incident but Amnesty International is not aware of any progress on the case.

- On 8 June 2010, police from the Kuantan Singingi District Police Station and Brimob officers from the Riau provincial police reportedly used unnecessary and excessive force, including firearms, against a group of farmers. According to reliable sources police shot dead one of them, **Yusniar**, a 45-year-old woman. Another farmer, **Disman**, was critically injured after being shot while 11 other farmers sustained injuries after the police punched and kicked them and beat them with batons. Local sources told Amnesty International that on the morning of 8 June, an estimated 80 farmers from 11 villages in Lubuk Jambi in Riau province had gathered at Koto Cengar village to harvest oil palm trees. An estimated 300 police officers then arrived and began to disperse the crowd, opening fire on them. The police also burnt 10 motorcycles. Some of the farmers retaliated by burning one police vehicle. According to local sources, since 1998, the land on which the oil palm trees are located has been subject to an ongoing land dispute between a farmers’ cooperative, Koperasi Prima Sehati, and a local palm oil company, PT Tri Bakti Sarimas.

2. TORTURE AND OTHER ILL-TREATMENT OF POLITICAL ACTIVISTS IN MALUKU

Between 1 and 10 August 2010, police officers from the Ambon and Lease Islands District Police, the Saparua Sub-district Police and the Special Detachment-88 anti-terrorist unit arrested 21 peaceful political activists in the province of Maluku, allegedly linked to the separatist Republic of South Maluku (RMS) movement.² Reliable sources told Amnesty International that at least 17 activists were arbitrarily arrested without a warrant. At least 15 of these activists were reportedly tortured and otherwise ill-treated by the police during their arrest, detention and interrogation in order to force them to confess.

At the time of their arrest, police beat the detainees on different parts of their bodies, including the face, head, chest, ribs and abdomen. During their interrogation, some of the activists had their eyes covered and their hands tied with duct tape while they continued to be beaten. Two of them were also forced to kiss each other. When they refused, police forced them to stand upside down on their hands and continued to beat them with pistol butts. One of the detainees was burnt with a cigarette while another was forced to eat dozens of chillies.

Their interrogation took place in three locations: at the Special Detachment-88 base in Tantui; the home of the local Saparua Sub-district Head; and the Saparua Sub-district Police Station. Some of the detainees were denied access to lawyers of their choice and to their families during the period of the detention and interrogation.

All the detainees were charged in November and December 2010 with “rebellion” under Articles 106 and 110 of the Indonesian Criminal Code and their trial is ongoing. The police internal affairs division (Propam) is currently investigating these reports of torture and other ill-treatment; however Amnesty International is not aware of any progress on the case.

² Their names are: Pieter Lernaya alias Sinyo, Frans Sinmiasa, Yacob Sinay alias Benny, Jonas Entamoin, Paul Lodiwyk Krikhoof alias Ongker, Mervin Bremer alias Epin, Andarias Maruanaya alias Andi, Yusuf Sahetapy, Steven Ronaldo Siahaya alias Ali, Ronald Viktor Andreas, Isak Yohanis Sapulete, Yonias Siahaya, Maxi Josep Anakota, Vestus Futwembun, Marthin Kasulia, Demianus Lesil, Samuel Pattipeiluhu, Yunus Markus, Yosep Louhenapessy, Ishak Supusepa, and Fredy Tutursenaya.

3. ARBITRARY DETENTION AND TORTURE OF A PRIEST IN PAPUA

On 24 May 2010, Brimob police officers from the Mulia District Police (Polres) in Puncak Jaya district, Papua province, allegedly tortured **Miles Wenda**, a priest from the Indonesian Bible Church (*Gereja Injil di Indonesia or GIDI*) Pilia. According to reliable sources, Miles Wenda was returning from his garden carrying a machete when 14 Brimob officers arrested him and accused him of being a separatist. On the way to the Mulia District Police Station they punched him in the face. The officers also beat him with a rifle butt and kicked and stamped on him. He was then put in a cell where the beatings continued until his nose and mouth bled and his face was swollen. He was forced to sign a Police Investigation Report written in Indonesian which he did not understand, as he only speaks Lani, and was not provided with an interpreter. For three weeks his family was not informed of his whereabouts or detention. On 17 June 2010 he was transferred to Nabire prison with a black bag over his head. He was then charged for “possession of weapons” under Emergency Law No. 12/1951³ and “deliberate intent to take a life” under Article 338 of the Indonesian Criminal Code. On 22 October 2010 he was sentenced to seven months’ imprisonment.

4. FAILURE TO PROTECT THE AHMADIYYA COMMUNITY IN LOMBOK

On 26 November 2010, hundreds of villagers attacked the houses of members of the Ahmadiyya community in Gegerung village, West Lombok, West Nusa Tenggara province in order to force them out of the village. Local sources told Amnesty International that the mob, armed with crowbars and sticks, threw stones and smashed window panes and roof tiles. They destroyed 22 houses and burnt one down. The Ahmadiyya members had informed the West Lombok District Police (Polres) about threats to them at least five days prior to the attacks, but according to them the police did not take any preventive action. Local sources reported that dozens of police officers were present at the scene on the day of the incident but did not take adequate steps to prevent the attacks or protect the homes of the Ahmadiyya. Instead they only focused on evacuating the Ahmadiyya from the village. While Amnesty International is aware that a number of witnesses have been interviewed by the police since then, the organization does not know of anyone who has been charged for the attacks. No one has been brought to justice for attacks against Ahmadiyya followers in a similar incident in the village in February 2006.

5. HUMAN RIGHTS-BASED POLICING

Amnesty International recognizes the challenges involved in policing in Indonesia. However, in the cases outlined above, the security forces appear to have violated the rights to life and to freedom from torture and other ill-treatment, both of which are non-derogable under the International Covenant for Civil and Political Rights (ICCPR), to which Indonesia is a state party.

The right to life must be respected at all times. The ICCPR 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).

If the use of force and firearms is unavoidable, Principle 5 of the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials states, among other things, that law enforcement officials must:

- “(a) Exercise restraint in such use and act in proportion to the seriousness of the offence and the legitimate objective to be achieved;
- (b) Minimize damage and injury, and respect and preserve human life;

³ The Emergency Law penalizes anyone who illegally makes, receives, tries to obtain, controls, carries, possesses, stores, transports, hides, or tries to import or export firearms, ammunition, explosives or weapons.

(c) Ensure that assistance and medical aid are rendered to any injured or affected persons at the earliest possible moment.”

As further 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).

The actions of the police also appear to have contravened the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, the UN Code of Conduct for Law Enforcement Officials, and the Indonesian Police Regulation on the Use of Force in Police Action (No. 1/2009). The Regulation provides that, among other things, 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.

In some cases above, individuals were reportedly arbitrarily arrested, and detained and tortured or otherwise ill-treated by police officers. The ICCPR clearly states that “[n]o one shall be subjected to arbitrary arrest or detention” (Article 9.1), and “[a]nyone who is arrested shall be informed, at the time of arrest, of the reasons for his arrest and shall be promptly informed of any charges against him” (Article 9.2).

Acts of torture and other ill-treatment 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.

One of the main functions of a police force governed by the rule of law is maintaining public order. This includes the obligation to prevent people’s rights being violated or abused by state officials or others and to promote the full enjoyment of human rights. If private citizens threaten to abuse those rights, especially the right to life and security of the person, the police, under international law, are obliged to prevent such from happening. This means that when the police know of possible human rights abuses and fail to take reasonable action to prevent them from happening, they bear responsibility under international law. If the abuse has taken place, a state is, under international law, obliged to investigate and prosecute those responsible in fair proceedings.

The duty to protect individuals from human rights violations and abuses is outlined, among other things, in the ICCPR. As a state party to the ICCPR, Indonesia has an obligation to ensure the right to life, security and freedom from torture and other ill-treatment. Under Article 2(1) of the ICCPR, such protection must be provided “without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status”.

The duty to protect human rights is also explicitly invoked in the National Police Act (No. 2/2002), which provides that the function of the police includes maintaining security and social order, enforcing the law and providing protection.

6. RECOMMENDATIONS

Amnesty International calls on the Indonesian authorities to:

- Immediately conduct thorough, independent and impartial investigations into these and any other reports of police abuse and failures. In particular there should be investigations into reports of deaths involving police action;

- 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;
- Send a clear public message to all police that unlawful killings; torture and other ill-treatment; intimidation; and failure to act to stop attacks against private individuals by non-state actors are unacceptable and strictly prohibited at all times;
- Ensure that all police officials are familiar with the 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 in Police Action (No. 1/2009), and have the necessary knowledge and equipment to apply these principles in their daily work;
- Conduct a thorough review of police tactics and use of weapons during public order policing, 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; and
- Ensure that there is a clear, independent and impartial system in place to deal with complaints about suspected human rights violations by police officers. In particular, suspected criminal offences involving human rights violations must be dealt with through the criminal justice system, rather than only internally and only as disciplinary breaches.

Please do not hesitate to contact us if you have any comments or questions. I look forward to discussing these matters with you.

Yours very truly,

Sam Zarifi
Asia-Pacific Director