

AMNESTY INTERNATIONAL PUBLIC STATEMENT

Date 29 January 2009
AI Index: ASA 21/001/2009

Papuan court clears human rights defender of all charges

Amnesty International welcomes the decision today by the Jayapura District Court to clear human rights lawyer Iwanggin Sabar Olif alias Sabar of all the charges brought against him. This ruling sends a positive signal to the Papuan human rights defenders community. However, the government needs to do more to ensure that Papuans are free to voice their opinions.

The court's decision occurs in the context of a larger crackdown on freedom of expression in Papua. On 14 January 2009 Amnesty International called for the immediate and unconditional release of 11 Papuan protestors facing three years or more in prison merely because they displayed a banned flag.

Iwanggin Sabar Olif should never have been arrested in the first place. His detention from October 2007 to January 2008 and his subsequent trial took over 15 months, which prevented him from carrying out his legitimate work as a human rights defender in Papua. As Hina Jilani, then UN Special Representative on Human Rights Defenders, said in her report after her June 2007 visit to Indonesia, procedures should be "instituted to prevent the prosecution of human rights defenders aimed at their harassment for conducting activities that are legitimately a part of their function for the defence of human rights".

Iwanggin Sabar Olif was charged under Article 160 of Indonesia's Criminal Code (KUHP, *Kitab Undang-Undang Hukum Pidana*) for inciting "in public to commit a punishable act, a violent action against the public authority or any other disobedience". This article, which carries a maximum sentence of six years' imprisonment, has been used in the past against human rights defenders in Indonesia, including in Aceh, Java, East Kalimantan and Maluku, to suppress freedom of expression and assembly.

Amnesty International urges the Indonesian government to ensure that Article 160 is no longer used to undermine the right to freedom of expression, which is guaranteed in its Constitution and in the International Covenant on Civil and Political Rights (ICCPR) to which Indonesia is a state party.

Background

Papua, Indonesia's eastern-most province, has witnessed a deteriorating human rights situation over the past few years. The indigenous population, ethnically distinct from other parts of Indonesia, has increasingly questioned the Indonesian government's policies regarding Papua's natural resources and the migration of non-Papuans into the area. The Indonesian government maintains a heavy police and military presence, whose members have faced accusations of intimidating and threatening members of the local indigenous community who support greater autonomy or independence from Indonesia through peaceful means.

Iwanggin Sabar Olif is a member of the Papuan organization ELSHAM (*Lembaga Studi dan Advokasi Hak Asasi Manusia*, Institute for Human Rights Study and Advocacy). He was arrested on 18 October 2007 for having sent a text message to friends and family contacts, which asked

people to be careful because Indonesian President Susilo Bambang Yudhoyono had ordered a deadly program together with the army aimed at 'eradicating' (*membasmikan*) the Papuan population through food poisoning and other violent actions.

Papuan human rights defenders claimed at the time of Iwanggin Sabar Olif's arrest that this text message had been in circulation since July 2007, and that thousands of Papuans had already received it. Iwanggin Sabar Olif always denied having written or sent this message, or even having received it.

Iwanggin Sabar Olif was initially charged for 'insulting the President'. Yet Articles 134, 136 and 137 of the country's Criminal Code, which provided penalties for "insulting the President or Vice-President" of up to six years' imprisonment, had been declared unconstitutional by Indonesia's Constitutional Court in December 2006, leading the police to change the charges.

Iwanggin Sabar Olif's team of lawyers have expressed strong concerns at some irregularities surrounding his arrest and trial. They claim that a number of provisions that are set out in Indonesia's Criminal Procedure Code (KUHP, *Kitab Undang-Undang Hukum Acara Pidana*) were not respected. In particular Iwanggin Sabar Olif did not have access to a lawyer during police interrogation (Article 54). He reports having been intimidated by police to confess he was the original sender of the text message (Article 117.1). According to reports, judges shouted at and blamed him during court proceedings and as such violated the principle of the presumption of innocence (Article 158).

END/

Public Document

For more information please call Amnesty International's press office in London, UK, on +44 20 7413 5871 or email: carina.trimingham@amnesty.org

International Secretariat, Amnesty International, 1 Easton St., London WC1X 0DW, UK
www.amnesty.org