



UNFINISHED BUSINESS: POLICE ACCOUNTABILITY IN INDONESIA

EXECUTIVE SUMMARY

**AMNESTY
INTERNATIONAL**



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The Indonesian National Police Force has made significant progress in becoming an effective, independent body since separating from the Armed Forces a decade ago under the Presidency of Bacharuddin Jusuf Habibie. Successive governments have put in place a number of key legislative and structural reforms to strengthen police effectiveness in preventing and detecting crime; maintaining public order; and promoting the rule of law. Moreover sections of the police force have been trained in international human rights law and standards, and community policing initiatives have been taken forward in order to develop police professionalism and accountability to the public.

Despite these positive moves, the police in Indonesia are still perceived today as a highly corrupt and mistrusted institution. Although police officials are in charge of promoting the rule of law, in reality they often behave as if they were above the law, a situation which is supported by a lack of effective accountability mechanisms, both internally and externally.

POLICE ABUSES

Amnesty International has observed a pattern of police abuse towards certain groups in the population. Criminal suspects living in poor and marginalized communities, in particular women and repeat offenders, suffer disproportionately from a range of human rights violations including excessive use of force leading in some cases to fatal shootings; torture and cruel, inhuman or degrading treatment (other ill-treatment) during arrest, interrogation and detention; and inadequate access to medical care while in police custody.

Some of this information was obtained during two visits to Indonesia in 2008-09 during which over 90 individual and group interviews with government officials, senior and mid-ranking police officials; academics; donors; lawyers; members of local non-government and international organizations; journalists; and over 160 victims of police abuse were conducted. Amnesty International's findings are also based on daily news monitoring on issues related to police reform over the last two years; extensive reading of academic and other professional publications on police; analysis of laws and police regulations and regular contact with lawyers, victims of police abuse and members of non governmental organizations in Indonesia.

Police abuses include excessive use of force sometimes leading to fatal shootings. Two victims of police abuse interviewed by Amnesty International described possible unlawful killings by police officials of 'repeat offenders' in Jakarta. These testimonies illustrate a belief within poor marginalized communities in Jakarta that local police stations maintain blacklists of repeat offenders known as 'TO' (Target Operasi, Operational Target) or 'DPO' (Daftar Pencarian Orang, List of Wanted Persons). Repeat offenders believe that if they ignore the police's warning to end their criminal activity, they will be targeted and killed.

Amnesty International's monitoring of the Indonesian media revealed that between April 2008 and April 2009 there were at least 76 firearm incidents involving the police and criminal suspects. At least 49 people, including two police officials, were killed by firearms during these incidents and over 60 criminal suspects were injured. The reports indicated that in many cases the criminal suspects were shot during arrest after the police had fired warning shots and/or because police said that they were trying to escape. They appeared to be involved in petty crimes, mostly theft. There was in most cases no mention in the media reports that the criminal suspects used or threatened violence against police officials or other members of the public during their arrests and/or attempts to escape.

Many of the victims of human rights violations Amnesty International interviewed in 2008 in Jakarta and West Java were arrested on suspicion of theft or possession of narcotics and subjected to torture or other ill-treatment during arrest, interrogation and detention. Police officials from the Criminal Investigation Department were responsible for many of these abuses. They include beating suspects, sometimes for days; punching; slapping; using electric shocks and threatening suspects with further violence sometimes at gunpoint. The abuses usually occurred because police officials wanted to extract money; force confessions; or extract information. The suspects often received inadequate medical care for the injuries they received as a result of torture and other ill treatment. In some cases detainees had to pay for treatment after police abused them, and received inadequate medical care from police medical institutions.

Amnesty International also found that a system of extortion and bribery characterizes police detention. Access to food, bedding, and family visits all come at a price. Detainees pay to be placed in cells of varying size and density depending on the amount of the bribe paid. The extortion to which detainees are subject is not restricted to police officials. Cells have a head of room, a fellow inmate who extorts monthly payments from detainees and makes regular payments to the police wardens. Failure to pay results in ill-treatment.

Female sex workers are at particular risk of gender based violence including sexual harassment and sexual assault by police officers. Some reported that they have to pay monthly protection fees to various police officials including staff members of the traffic police, internal affairs department, and the Criminal Investigation Department. Further, they had to do so at various levels of the police chain of command and localities including staff members of the District Police, Sub-district Police, and other local government auxiliary policing units such as Trantib (Ketentruman dan Ketertiban, Peace and Order Unit) and Civilian Investigators of the State (PPNS, Penyidik Pegawai Negeri Sipil, also called Pamong Praja). However these bribes did not necessarily protect them from other abuses by police.

Police abuses occur in an environment where suspects lack access to adequate legal safeguards during detention and interrogation. Criminal suspects and other groups from poor and marginalized communities have very limited access to legal assistance and are often not familiar with the complexities of Indonesia's criminal justice system. They are often unaware of their rights.

These violations point to a persistent problem within the police force of corruption, driven in part by their need for additional resources.

HOLDING THE POLICE ACCOUNTABLE

Amnesty International acknowledges the many challenges facing the police in their daily work. However as set out in international human rights law and standards, police have rights, but there are also limits on police powers. Police in Indonesia have an obligation to respect the provisions set out in the international human rights treaties ratified by Indonesia and other internationally recognised human rights standards which form customary international law. Police personnel also have a duty to respect human rights provisions in national legislation.

Police officers and the policing institution are furnished with unique discretionary powers by the State. However, operational independence comes with a burden of accountability in which police need to take full responsibility for their actions. A number of internal and external mechanisms now exist in Indonesia to monitor police work, but none of these institutions has the mandate, independence and authority to hold to account police officers responsible for human rights violations. Conspicuously absent from these institutions is an independent public complaints board that would guarantee that police officials who violate human rights are brought to justice and victims receive reparations.

At an internal level, police officials should respect the Disciplinary Code and the Code of Ethics. However neither complies fully with international human rights law or standards such as the UN Code of Conduct for Law Enforcement Officials. Both the Codes require police officers to respect human rights but neither contains an explicit prohibition against torture and other ill-treatment. Nor do the Codes explicitly prohibit unnecessary and excessive use of force and firearms as provided for in the recently revised police regulation on the Use of Force. The police internal Codes of Conduct are very difficult to obtain, and are not made publicly available and accessible for the general public. Many police officials, especially at the local levels, do not know about them.

Within Indonesia's existing policing structure, only police officials can lodge a complaint about police violations of the Disciplinary Code. This process is purely internal. However, members of the public (as well as police officials) can directly or through independent external commissions lodge complaints about police violations of the Code of Ethics to Irwasum (Inspektor Pengawasan Umum, General Oversight Inspectorate), the department that deals directly with oversight and implementation of police policy and Propam (Divisi Pertanggungjawaban Profesi dan Pengamanan Internal, literally the Division of Profession and Security), the Internal Disciplinary Division.

Amnesty International received many reports about the difficulty of lodging complaints about police misconduct through the internal disciplinary mechanism and the inadequacy of Propam to investigate independently, impartially and promptly these complaints.

Victims of police abuse usually do not know where to lodge a complaint, and if they attempt to do so, police may subject them to further abuse. Victims' testimonies suggest that Propam has failed in practice to provide protection to complainants and witnesses. Their names appear to be freely available within the police. Reports indicate that police personnel who had nothing to do with Propam's investigation walked freely in and out of rooms where

victims were giving testimony. Victims of police abuse who dare to make a complaint while in detention are particularly vulnerable to reprisals. When a complaint may have been made, Amnesty International found that police officers may attempt to bribe or intimidate the complainants to ensure that they do not pursue their complaint.

Lawyers acting on behalf of victims of human rights violations who have tried to lodge a complaint with Propam have told Amnesty International that they found the process opaque. Complainants and their lawyers were usually given no information on the procedures to follow or the charges that may be levelled against police officials. While Propam at times acted on high profile cases reported in the media, it is less responsive to complaints from other individuals, particularly those from impoverished or marginalized communities.

Many of the complaints by members of the public are about possible human rights violations by police officials from the Criminal Investigation Department itself; however they themselves appear to be the main body in charge of submitting Criminal Cases to the Public Prosecutor once the dossier is finalized. The power thus granted to the Criminal Investigation Department to investigate reports of alleged crimes by their own investigators is extremely inappropriate. The same police officials who commit human rights violations may be in charge of investigating human rights violations involving criminal offences by their own staff or colleagues. This system illustrates one of the main weaknesses of the current internal disciplinary system and its inability to deal with many complaints by members of the public, especially from poor and marginalized communities.

As far as Amnesty International is aware, very few police officers have faced criminal charges for offences involving human rights violations, and only a handful of them have been found guilty. The few that have been prosecuted are usually acquitted and according to the UN Committee against Torture “otherwise sentenced to lenient penalties which are not in accordance with the grave nature of their crimes” in the cases of torture and other ill-treatment.

A number of commissions in Indonesia can provide potential external oversight mechanisms for police work. They include the National Ombudsman (Ombudsman Republik Indonesia), the National Police Commission (Koppolnas), and the National Human Rights Commission (Komnas HAM). However, the mandate of these commissions remains largely inadequate to deal effectively with public complaints about ongoing police abuses, and bring justice and reparations to the victims.

Complaints about police abuses submitted to these Commissions usually go through the same cycle of investigation as other complaints directly submitted to Irwasum or Propam divisions thus making it almost impossible for complaints about possible offences involving human rights violations by police officers to actually reach the civilian courts.

RECOMMENDATIONS

In order to address these problems, Amnesty International recommends that the Indonesian authorities undertake the following as a matter of priority:

- Acknowledge the serious problem of police abuse within the country and state publicly that it is unacceptable. Relevant legislation should be amended to ensure better compliance with Indonesia's international human rights obligations and better safeguards for victims and their families. Prompt, impartial and effective investigation into every alleged police abuse should be conducted as a matter of priority. Those found responsible should be brought to justice in proceedings which meet international standards of fairness, and the victims should be granted reparations;
- Review the current accountability system to deal with suspected human rights violations by police officials. In particular, the internal system for submitting and processing complaints of police abuse should be reviewed to ensure that investigations into police misconduct are prompt, impartial and independent;
- Set up an independent police complaints mechanism that can receive and deal with complaints from the public. This task could be undertaken either by a new mechanism or an existing external police oversight mechanism as long as the terms of reference of this independent police complaints mechanism ensure that it is operationally independent of the government, political influence and the police itself and accessible to members of the public throughout the country. Its mandate should empower it to, among other things, receive complaints; carry out effective investigations; and refer cases to the public prosecutor or to the police internal disciplinary body. It should also have the power to choose when to supervise or manage investigations conducted by police investigation officers and when to carry out its own independent investigations.

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