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INDONESIA: POLICE MUST DROP *MAKAR* (REBELLION) CHARGES AGAINST SIX PAPUAN ACTIVISTS

Amnesty International Indonesia urges the Jakarta Regional Police Force (Polda) to immediately drop all “rebellion (*makar*)” charges brought against six political activists who are campaigning for the right to self-determination for Papua, and to immediately and unconditionally release them. The activists were charged and detained under Articles 106 and 110 of Indonesia’s Criminal Code (KUHP), which cover crimes against the security of the state, solely for exercising their rights to freedom of peaceful assembly and expression.

Amnesty International Indonesia considers all six activists to be prisoners of conscience who are detained solely for peacefully exercising their human rights.

The police originally arrested eight activists, seven of whom are Papuan students, on 30 and 31 August in four separate locations for allegedly organizing a peaceful protest in front of the Presidential Palace on 28 August. During the protest, some of the protesters waved the Morning Star Flag, a banned symbol of Papuan independence. The activists organized the protest in response to earlier incidents in Malang and Surabaya—two cities in East Java province—where some military personnel and members of mass organizations verbally attacked Papuan students in their dormitory, using racist slurs such as “monkey,” “dog,” “animal,” and pig.”

On 30 August at around 6pm local time, plainclothes police arrested Dano (Anes) Tabuni and Charles Kosai at their rented house in Depok, West Java, without showing an arrest warrant. During the arrest, a police officer pointed a gun at the Papuan students. The next day officers from the Jakarta Regional Police Force arrested two other Papuan student activists, Ambrosius Mulait and Isay Wenda, who were protesting with dozens of other Papuan students in front of the Jakarta Police Force Headquarters. On 31 August around 7pm, plainclothes police arrested three other Papuan students, Naliana Lokbere, Arina Lokbere and Norince Kogoya, at their house in South Jakarta without showing an arrest warrant. When one of the students wanted to change her clothes, a police officer told her, insultingly: “You Papuans generally don’t wear clothes.” Finally, on 31 August at around 8pm, plainclothes police arrested Surya Anta Ginting at Plaza Indonesia, a shopping mall in Central Jakarta. Ginting is a spokesperson for the *Front Rakyat Indonesia untuk West Papua* [Indonesian People’s Front for West Papua].

On 1 September, the police released Naliana Lokbere and Norince Kogoya without charges, leaving Tabuni, Kosai, Mulait, Wenda, Arina Lokbere, and Ginting in detention.

All six detainees are being held by the police at the Mobile Brigade Headquarters (*Mako Brimob*) in Depok, West Java, and have been charged under Articles 106 and 110 of the Criminal Code. Article 106 of the Criminal Code authorizes the authorities to sentence a person “to life imprisonment or a maximum of twenty years imprisonment for *makar* with the intent to bring the territory of the state in whole or in part under foreign domination or to separate part thereof.”¹ In addition, Article 110 stipulates that conspiracy to commit *makar* is punishable as a violation of Article 106. The Indonesian authorities have used these criminal code provisions to prosecute dozens of peaceful pro-independence political activists over the last decade.

Besides the use of these criminal code provisions, the conduct of the police investigation is also of great concern. The Papuan activists’ lawyers claim that the police have been preventing them from accompanying and providing legal assistance to their clients during interrogation, in violation of the activists’ fair trials and due process rights.

¹ Note that the definition of “*makar*” is still debated among Indonesian legal scholars. While “*makar*” literally means treason, the criminal code has other provisions that criminalize treasonous acts such as rebellion and inciting revolution. Experts have argued that article 106 was directly translated from the Dutch Criminal Code during colonial times and “*makar*” is used erroneously to translate the word “*aanslag*,” which means “attack” or “onslaught,” signifying a physical attack.

The last decade has seen an increase in pro-independence political activities in Papua, particularly those led by students and young people. They have routinely organised mass demonstrations in several cities in and outside of Papua to call for self-determination through a referendum. Security forces have often used repressive measures against these activists, such as blanket prohibitions on peaceful protest, mass arrests, and prosecution under *makar* provisions in the Criminal Code. Pro-independence political activists in Papua have also been victim of unlawful killings by security forces.

Amnesty International Indonesia calls upon the Indonesian authorities to repeal or amend Articles 106 and 110 of the Criminal Code, so that these provisions can no longer be used to criminalize freedom of expression, beyond the permissible limits set out in international human rights law. Pending the release of the Papuan activists, we also call upon the Jakarta Regional Police Force to ensure that they will not be tortured or otherwise ill-treated and will have regular access to their family and the lawyers of their choice. They must also be assisted by their lawyers in all steps in the legal process and be detained at the Jakarta Regional Police Headquarters (*Mapolda Metro Jaya*) rather than the *Mako Brimob*, which is more remote and therefore less accessible.

Amnesty International takes no position whatsoever on the political status of any province of Indonesia, including on calls for independence. However, we consider that the right to freedom of expression protects the right to peacefully advocate for independence or any other political solutions that do not involve incitement to discrimination, hostility or violence. The organization acknowledges that there have clearly been incidents of violence committed by non-state actors in Papua recently, and recognizes that the Indonesian government can use the domestic criminal law to address any violent attacks. However, the government has consistently failed to make a distinction between violent armed groups and peaceful activists, and between peaceful expression of opinion and acts of physical violence.

The Indonesian authorities must ensure that any restriction on the rights to freedom of expression and peaceful assembly are in accordance with Indonesia's obligations under international human rights law, including the International Covenant on Civil and Political Rights, to which Indonesia is a State party. Further, under both Indonesian and international law, groups organizing public protests are only required to inform the police of peaceful demonstrations, not to seek prior authorisation or permission. However, these regulations are constantly ignored by the security forces in Papua, which continue to unlawfully restrict various forms of peaceful protest against the authorities by students, political groups and human rights non-governmental organizations (NGOs). In some cases, the security forces have used excessive force against peaceful protesters, but these cases have not been promptly, thoroughly and impartially investigated and no one suspected of responsibility has been brought to justice.