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INDONESIA: LAUNCH INDEPENDENT AND EFFECTIVE INVESTIGATIONS INTO UNLAWFUL KILLINGS IN PAPUA, INCLUDING IN PANIAI AND GALUNGGAMA, SUGAPA DISTRICT

Amnesty International Indonesia is calling for the Indonesian authorities to ensure thorough, independent, impartial and effective investigations into allegations of excessive use of force by security agencies in Papua that remain in impunity.¹

In 2018, Amnesty International published a report titled *Indonesia: "Don't Bother, Just Let Him Die": Killing With Impunity In Papua*. In this report, the organization found that there were at least 69 unlawful killings committed by security agencies (police, military or municipal police) in the period of January 2010 until February 2018, all of which largely went without anyone being investigated or prosecuted for the killings. A few cases that were investigated were brought before a military tribunal or were settled by internal disciplinary mechanism or traditional settlement methods.² To date, none of these killings have been brought to justice through civilian courts. Since the 2018 report, things have not changed and the approximately 85 new cases of potentially unlawful killings documented by the organization in Papua have lacked from an independent investigation.

The killings in Paniai that occurred in 2014 are a stark example of the pervasive impunity. On the morning of 8 December 2014, security forces opened fire on hundreds of Papuan protesters gathered near the local military and police headquarters in response to allegations that military personnel beat 11 Papuan children in East Paniai Subdistrict the day before. After protesters started throwing stones and pieces of wood at the building, security forces shot against protesters, resulting in four people dead and 11 injured. More than five years later, the National Commission of Human Rights finally announced in February 2020 that it has completed an inquiry on the incident, concluding that it had been a gross human rights violation. The National Commission of Human Rights has submitted the inquiry report to the Attorney General Office on 11 February 2020.

Law No. 26 of 2000 on the Human Rights Court provides that gross human rights violations pertain to crimes against humanity and genocide. It further provides that the National Commission of Human Rights is the sole body authorised to initiate and carry out preliminary inquiries into alleged gross human rights violations, and should the National Commission of Human Rights consider there is sufficient preliminary evidence that a gross human rights violation has occurred, the findings of the inquiry shall be submitted to the Attorney General Office. The Attorney General Office should then undertake an investigation to follow up the inquiry result, and should they find enough evidence to do so, they should bring the alleged perpetrator to be prosecuted before the Human Rights Court. However, since a previous case of unlawful killings in 2000 known as the Abepura case,³ which was classified as a

¹ Papua here refers to two administrative provinces, Papua and West Papua

² Of the 69 cases of suspected unlawful killings by security forces in Papua recorded in the 2018 Amnesty International Report, 25 cases have not been investigated at all. In 26 cases the police or military claimed to have conducted internal investigations, but the results were not made public. See Amnesty International, *Indonesia: "Don't Bother, Just Let Him Die": Killing With Impunity In Papua*, 2018 (AI Index ASA 21/8198/2018), pp 51-57

³ Abepura case refers to the incident whereby after unknown persons attacked a police station in Abepura, Papua on December 7, 2000, the police attacked three student dormitories in the city the next day. The attack left three fatalities, one was shot by a Police Mobile Brigade officer and two

crime against humanity by the National Commission of Human Rights and brought before the Human Rights Court following the procedures in Law no. 26 (2000), the Attorney General Office has been refusing to investigate all cases that the National Commission of Human Rights refer to them.

Recently, the security forces confirmed the use of lethal force against Papuans in Sugapa District, Papua, on 18 February 2020. In his explanation in front of media, the Head of Public Relations of the Regional Military Command XVII/Cenderawasih, Lieutenant Colonel CPL Eko Daryanto stated that an 18 year old man was killed and a boy aged 14 was injured during a security operations by joint forces of Indonesian military and police. So far, despite the use of lethal force, the authorities have not announced an investigation into the circumstances of the killings.

The incident in Sugapa District is only the latest in a string of human rights violations in Papua. Over the last two decades, Amnesty International has continuously received allegations of unlawful killings and excessive use of force by Indonesian security forces, especially in Papua. Papua is the only region in Indonesia that has both peaceful and armed pro-independence movements. However, as shown by our 2018 report on unlawful killings the majority of the 69 cases we studied, 41 of them, occurred in the context of events that are unrelated with calls for independence. Rather, the unlawful killings involved security forces using excessive force in exercising their duty when facing peaceful social protests and incidents of public disorder or arresting criminal suspects.

Amnesty International takes no position on the political status of any region of Indonesia, including calls for independence.

The unnecessary and excessive use of force directly impacts on the right to life, which is protected under Article 6 of the International Covenant on Civil and Political Rights (ICCPR), to which Indonesia is a State party. Indonesia is legally obliged to respect, protect and fulfil everyone's right to life at all times. Therefore, the use of force and firearms shall be subject to human rights standards outlined in the UN Code of Conduct for Law Enforcement Officials (1979) and the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials (1990). Under these standards, intentional lethal force and firearms may only be used when strictly unavoidable to protect life.⁴

When President Jokowi first took the presidency in 2014, he publicly committed to carry out an effective investigation into the Paniai killings. It has taken more than five years for the National Commission of Human Rights to make that stride. It is time for the government to act on that report and ensure that all individuals responsible for the killings, including those with command responsibility, are brought to justice before ordinary courts in fair trials and without recourse of the death penalty.

Amnesty International particularly calls upon the President of the Republic of Indonesia, the Attorney General, the Chief of the Indonesian National Police, and the Commander of the Armed Forces to uphold their human rights obligations and ensure that all victims have access to justice in this case, particularly by undertaking the recommendations outlined below.

To the President of the Republic of Indonesia:

- Acknowledge that there have been serious human rights violations taking place in Papua;
- Ensure that allegations of unlawful killings committed by Indonesian security forces, including in Paniai and in Galunggung, Sugapa District are thoroughly investigated before independent, impartial and effective civilian courts that meet international standards of fairness.

passed away in police custody, and numerous injured. See Amnesty International, Indonesia: Impunity and human rights violations in Papua, 2002 (AI Index ASA 21/015/2002), pp 14-15

⁴ Principle 9 of the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials

- Ensuring that the National Commission of Human Rights' inquiry report in the case of Paniai is followed up without delay, and provide public assurances that the legal process will be carried out in accordance with Law no. 26 (2000) on Human Rights Court.
- Ensure that victims and their families have access to an effective remedy and adequate reparations for the human rights violations they have suffered;
- Conduct a thorough review of police and military tactics in the use of force and firearms, in accordance to the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials and the UN Code of Conduct for Law Enforcement Officials to ensure that such human rights violations do not happen again.

To the Attorney General:

- Act upon all pro justicia inquiries submitted by the National Commission for Human Rights, including the Paniai killings which have been concluded as a gross human rights violation in accordance to Law No. 26 (2000) on Human Rights Court;

To the Chief of the Indonesian National Police and the Commander of Indonesian Armed Forces:

- Acknowledge that serious human rights violations have occurred, including unlawful killings in Papua, and publicly commit to provide full accountability for any individuals found to be responsible for such human rights violations, including those with command responsibility;
- Ensure that the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials and the UN Code of Conduct for Law Enforcement Officials are incorporated into internal regulations and disseminated among all personnel with appropriate training;
- Ensure that all allegations of excessive use of force and unlawful killings committed by security forces are promptly investigated independently, impartially and effectively;
- Launch criminal and disciplinary investigations, as appropriate, where use of force by the security forces has resulted in injury or death, including those with command responsibility, irrespective of rank. Investigations should conform to the UN Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions.