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Indonesia: Independent investigation needed for allegations of torture and unlawful killing of Yudas Gebze in Papua

Indonesian authorities must conduct prompt, independent, impartial and effective investigations into allegations of torture leading to the death of Yudas Gebze in Ilwayab, Merauke District, Papua Province. The persons responsible for the acts must be prosecuted before civilian courts in proceedings that meet international fair trial standards without the use of death penalty.

On 13 September, the local police of Merauke District attempted to arrest Yudas Gebze, who was suspected of cutting off a man's right hand with a machete. Yudas escaped, and during the chase, the police said that Yudas Gebze was caught and injured after he stepped on broken glasses. A different account was provided by a local human rights organization which reported that the police beat Yudas repeatedly and severely. Subsequently, police brought Yudas to a local medical clinic in Ilwayab sub-district, but the family said they were prevented by the police to visit him. The local medical district and the local police then transferred Yudas to the general hospital in Merauke City. On 14 September, doctors in that hospital confirmed his death. The day after, the body of Yudas Gebze was brought to his family and the Merauke Chief of Police announced to the media that his death resulted from the foot injury caused by stepping on the broken glasses and denied that police officers committed any violence against Yudas.

The family of Yudas Gebze objected to the police' version of his death after seeing his body. According to the family, there are several wounds on Yudas' head, hand, thigh and back that, they say, resulted from torture by the security forces. In view of the facts as described above, as well as several photos of Yudas Gebze's body that were posted online show some open wounds on Yudas' head, Amnesty International is deeply concerned that Yudas Gebze may have been the victim of torture and an unlawful killing. An autopsy of Yudas' body has been carried out by the police on 18 September as requested by his family. The autopsy carried out by a doctor from the police forensic team in Merauke general hospital observed by the victim's family members, but without the presence of an independent forensic expert. After the autopsy, the doctor said that the cause of Yudas' death was a heart attack and there was no fatal wound on his body.

Amnesty International Indonesia and Pusaka Foundation, an Indonesian NGO working on the indigenous rights, concerned that the autopsy by police forensic team whose independence from the force that carried out the arrest is not clear. Without the presence of an independent forensic expert, the autopsy would breach the requirement of impartiality under the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. Articles 12 and 13 of the UNCAT stated that "Each State Party shall ensure that its competent authorities proceed to a prompt and impartial investigation, wherever there is reasonable ground to believe that an act of torture has been committed in any territory under its jurisdiction" and "each State Party shall ensure that any individual who alleges he has been subjected to torture in any territory under its jurisdiction has the right to complain to, and to have his case promptly and impartially examined by, its competent authorities. Steps shall be taken to ensure that the complainant and witnesses are protected against all ill-treatment or intimidation as a consequence of his complaint or any evidence given."

Alleged torture and other acts of ill-treatment are rarely investigated in an independent and transparent manner in Indonesia/Papua, and few perpetrators have been prosecuted, let alone convicted for such acts. Further, torture is not a specific criminal offense under Indonesia's Criminal Code. Nevertheless, under the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, to which Indonesia is a state party, the authorities are legally obliged to investigate all complaints and reports of torture and bring perpetrators to justice, in addition to providing reparations to victims. This incident is the latest reminder that the use of torture and other ill-treatment by law enforcement officials in Papua remains prevalent.

Amnesty International Indonesia and Pusaka Foundation call on Indonesian authorities to immediately conduct an independent, impartial and effective investigation into Yudas Gebze's death, applying the Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (the Istanbul Protocol). They should ensure that anyone against whom sufficient, admissible evidence is found of involvement in torturing o Yudas Gebze, his unlawful death or other human rights violations involving criminal acts is held accountable in a proceeding in front of an independent civilian court, that comply with international fair trial standards and do not impose the death penalty. The investigation, and any prosecutions, should not be limited to the direct perpetrators but also look into any involvement of commanders, irrespective of rank. The internal accountability mechanisms conducted by the police or military must not be restricted to disciplinary matters, any crimes involving human rights violations by officials need to be referred to the Public Prosecutor.

Amnesty International Indonesia and Pusaka Foundation further urge the Indonesian parliament to combat torture and ill-treatment by amending the existing Criminal Code or passing new legislation to criminalise torture and other acts of ill-treatment in accordance with the UN Convention against Torture and other relevant international treaties and standards.

Background

Amnesty International Indonesia and Pusaka Foundation believe that torture and other ill-treatment are still commonly used by the security forces in the Papua region. Previous investigations into human rights violations committed by security forces in Papua and West Papua Provinces – including unlawful killings, the use of unnecessary and excessive force, and torture and other ill-treatment – have been unduly delayed, dropped, or their findings suppressed, encouraging perpetrators to commit more human rights violations and leaving victims and their families without access to truth, justice and reparations.

Over the two decades since Indonesia's 1998 reforms (*Reformasi*) began, Amnesty International Indonesia has continued to receive allegations of unlawful killings by security forces in the eastern provinces of Papua and West Papua. Amnesty International Indonesia has recorded 69 cases of suspected unlawful killings by security forces in Papua between January 2010 and February 2018, resulting in the death 95 persons. Of the 69 incidents documented, not one has been the subject of a criminal investigation by an institution independent of the one whose members were suspected of committing the killing. In 25 cases there was no investigation at all, not even an internal one. In the 26 cases the police or military claimed to have conducted internal investigation they did not make the results public. In only eight cases were perpetrators held accountable for the deaths. Most families of the victims of unlawful killings by security forces in Papua told Amnesty International that they still wanted to see the perpetrators brought to justice through trials in court.