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Province  
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22 July 2011

Dear Inspector General,

**OPEN LETTER ON UNNECESSARY AND EXCESSIVE USE OF FORCE AND UNJUSTIFIED USE OF FIREARMS BY POLICE IN SOUTH SULAWESI**

We would like to bring to your attention our concerns about the case of two farmers in South Sulawesi province, **Saribu Pulo**, then age 29, and his father **Mustari Gadding**, then age 58, who were shot by police officers on 9 September 2009. Saribu Pulo died on 26 April 2010 due to medical complications as a result of the shooting.

We urge your office to take the lead in initiating a prompt, independent, impartial and effective investigation and bring the perpetrators to justice in fair trials and without imposing the death penalty.

On 9 September 2009, at 1am, at least 20 police officers from the Gowa District Police Station (Polres) arrived at Mustari Gadding's house in Sawakang village, Takalar District, looking for his son Saribu Pulo. Mustari Gadding informed the police that Saribu Pulo lived next door. The police officers then approached Saribu Pulo's house while shouting his name. Saribu Pulo, who was with his wife and two young children, opened the front door and invited the police into the house but the police demanded that he step outside. Saribu Pulo then asked the police if he had committed a crime while his wife requested to see the arrest warrant. The police officers informed them they did not need an arrest warrant and dragged Saribu Pulo down the stairs.

The police officers continued to drag Saribu Pulo for about 50 metres towards their patrol car while punching him. As they were dragging him, a few police officers who were about four metres away from Saribu Pulo opened fire and a bullet hit his right buttock. Saribu Pulo's father, wife, and younger brother witnessed the shooting.

When Mustari Gadding saw his son being shot he ran to help him. The police opened fire again and shot Mustari Gadding, hitting him on his right knee, his hand and stomach. The police then threw stones at Saribu Pulo and Mustari Gadding and beat them both with bamboo sticks before leaving the scene. Family members took both the men to the Dr. Wahiddin Sudiro Husodo Hospital in Makassar. When they reached the hospital there were police officers present. The police accused Saribu Pulo and Mustari Gadding of fighting with them during the arrest, forcing the police to shoot them.

At about 4pm the same day, four police officers from the Gowa District Police Station visited the hospital where the two men were being treated and gave Rp 500,000 (US\$ 60) to a member of Saribu Pulo's family, to assist with medical costs. They informed the family that they had attempted to arrest Saribu Pulo because they had received a report that he had stolen chickens from Bontokadatto village, Bottonompo Sub-district, Gowa District on 2 September 2009.

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Doctors at the hospital informed the family that removing the bullet from Saribu Pulo's body was too risky because of its location near his groin. According to his family, Saribu Pulo continued to suffer from medical complications and died seven months later. Moreover, as a result of the injuries from the shooting, Mustari Gadding has not been able to farm which has affected his ability to earn a living.

Reports were filed on the incident at the police internal affairs division (Propam) on 9 September 2009 and with the Criminal Investigation Division (Bareskrim) on 8 October 2009, both located at the South Sulawesi Provincial Police Headquarters. The Makassar branch of the Legal Aid Organization (Yayasan Lembaga Bantuan Hukum, LBH) has also written three letters to the Chief of the South and West Sulawesi Provincial Police on this case. However, in spite of such initiatives, Amnesty International is not aware of any independent investigation into the case.

Amnesty International is gravely concerned about the unnecessary and excessive use of force and firearms by police officials against Saribu Pulo and Mustari Gadding, in violation of their right to life, a key non-derogable human right which Indonesia has committed itself to respect and protect when it acceded to the International Covenant on Civil and Political Rights (ICCPR). The right to life is also guaranteed in Article 28(A) of the Indonesian Constitution.

The use of such force against individuals who are under the officers' control also violated their right to freedom from torture and other cruel, inhuman or degrading treatment or punishment (ill-treatment), another non-derogable human right provided for in the ICCPR and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, which Indonesia has also ratified. The Indonesian Constitution and the Law on Human Rights (No. 39/1999) provide for the right for all people in Indonesia to be free from torture and other ill-treatment.

Under international standards, the police may only use firearms in certain, limited circumstances, mainly to protect their own life or the lives of others. Under Principle 4 of the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials:

“Law enforcement officials, in carrying out their duty, shall, as far as possible, apply non-violent means before resorting to the use of force and firearms. They may use force and firearms only if other means remain ineffective or without any promise of achieving the intended result.”

There could have been no justification for the use of firearms in the circumstances as described to Amnesty International, where at least 20 police officers faced two unarmed men.

The actions of the police also contravened the Indonesian Police Regulation on the Use of Force in Police Action (No. 1/2009). The Regulation provides that, among other things, force should be used only as a last resort, in proportion to the threat posed, and should be designed to minimize damage or injury.

We are also concerned that Saribu Pulo's arrest contravened provisions in the ICCPR. The ICCPR states that “[n]o one shall be subjected to arbitrary arrest” (Article 9.1), and that “[a]nyone who is arrested shall be informed, at the time of arrest, of the reasons for his arrest and shall be promptly informed of any charges against him” (Article 9.2).

Furthermore, Article 18 of the Indonesian Criminal Procedure Code (Kitab Undang-Undang Hukum Acara Pidana, KUHAP) states that when executing an arrest, the police must hand over to the suspect an arrest warrant which states the reason for the arrest and also must provide a copy of the arrest warrant to the family.

Finally, it appears that by leaving the scene of the incident, the police officers violated Article 49 (1)(b) of the Regulation of the Chief of the National Police regarding the Implementation of Human Rights Principles and Standards in the Discharge of Duties of the Indonesian National Police (No. 8/2009) which states that “[f]ollowing the exercise of action using firearms, the officer shall provide medical attention to any person sustaining a gunshot wound”.

Amnesty International calls on your office to take the lead in ensuring the following:

- Immediately conduct thorough, independent and impartial investigations into reports of the arbitrary arrest of Saribu Pulo and unnecessary and excessive use of force and unjustified use of firearms against Saribu Pulo and Mustari Gadding;
- Ensure that the findings of the investigations are made public and are submitted, if relevant, to the Public Prosecutor so that all those found responsible for criminal offences involving human rights violations are brought to justice in proceedings which meet international standards of fairness and without the imposition of the death penalty, and that the victims and their family are provided reparations;
- Ensure that whenever injury or death is caused by the use of force and firearms by the police, they report the incident promptly to their superiors. A detailed report should also be sent promptly to the competent authorities responsible for administrative and judicial review;
- Conduct a thorough review of police tactics and the use of force and firearms during arrest, with a view to ensuring that they meet international standards, in particular the UN Code of Conduct for Law Enforcement Officials and the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials;
- Ensure that all police officials are familiar with the Indonesian Police Regulation on the Use of Force in Police Action (No. 1/2009) and the Regulation of the Chief of the National Police regarding the Implementation of Human Rights Principles and Standards in the Discharge of Duties of the Indonesian National Police (No. 8/2009); and that they have the necessary knowledge and equipment to apply these principles in their daily work; and
- Ensure that there is a clear, independent and impartial system in place to deal with complaints about suspected human rights violations by police officers and that those who make a complaint are kept informed of the criminal investigation process, by placing time limits for processing filed reports and establishing a system for reporting, both internally and publicly, on the investigation's progress and results.

Please do not hesitate to contact us if you have any questions. We would be pleased to discuss this matter with you.

Yours sincerely,

Donna Guest  
Asia-Pacific Deputy Director

Cc: Patrialis Akbar  
Minister for Justice and Human Rights

General Timur Pradopo  
Head of the Indonesian National Police

Irjen Pol Budi Gunawan  
Head of the Division on Professionalism & Security (Propam)

Adnan Pandu Praja  
Secretary of the National Police Commission (KOMPOLNAS)

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Head of the Indonesian Human Rights Commission (Komnas HAM)