



AMNESTY
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Coordinating Minister for Politics, Law and Security Affairs
Coordinating Ministry for Politics, Law and Security Affairs
Jl. Medan Merdeka Barat No. 15
Jakarta Pusat 10110
Indonesia

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Dear Minister,

INVESTIGATION OF PANIAI SHOOTINGS, ONE YEAR ON

Amnesty International and KontraS (the Commission for the Disappeared and Victims of Violence) are writing to you with regards to the use of force by the Indonesian security forces that led to the death of four individuals and injuries to 17 others in Paniai, Papua province, almost a year ago. Our organisations urge your office to take the lead to ensure that the perpetrators are brought to justice and victims and their families provided with full reparation.

8 December 2015 will mark the one year anniversary of the incident, when four young men, all students, were killed and many others injured when police and military personnel opened fire on a crowd of peaceful protestors at the Karel Gobai field, located in Enarotali, Paniai District, Papua province. The four people who were found dead from gunshot wounds include **Apius Gobay**, aged 16, who was shot in the stomach; **Alpius Youw**, aged 18, in the buttocks; **Simon Degei**, aged 17, in his left rib; while **Yulianus Yeimo**, aged 17, had bullet wounds in his stomach and back. At least 17 others were also injured after being hit by bullets or bayoneted by the security forces.

The crowd had gathered to protest against the beating of a child from Ipakije village, Enarotali, the night before allegedly by soldiers from the Special Team Battalion 753. The child had later been hospitalised.

In 27 December 2014, President Joko Widodo publicly committed to resolve the case.¹ In January 2015 the National Human Rights Commission (*Komisi Nasional Hak Asasi Manusia*, Komnas HAM) established a team to undertake an initial investigation into the case.² After four months of work, the Commission reported that it found evidence of gross human rights violations as defined in Law No.

¹ The Jakarta Globe, "Jokowi Breaks Silence on Killings in Paniai, Pledges to Resolve Shootings", 28 December 2014, available at: <http://jakartaglobe.beritasatu.com/news/joko-breaks-silence-security-force-killings-paniai/>.

² "Human Rights Committee Readies Papua Investigation of Paniai Shooting", 9 January 2015, available at: <http://jakartaglobe.beritasatu.com/news/human-rights-committee-readies-papua-investigation-paniai-shooting/>.

26/2000 on Human Rights Courts, and recommended a pro-justicia inquiry team to undertake a more detailed investigation.³

Despite the fact that Komnas HAM has formed a pro-justicia inquiry team, the investigation has stalled due to an apparent lack of funds and an unwillingness from victims' families to allow the team to conduct exhumations. These families do not believe that the investigation will lead to conclusive convictions and so the exhumations are seen as an unwelcome disturbance of the memory of the victims.⁷

The police and military authorities have also reportedly each set up their own internal fact-finding investigations into the incident. These reports have yet to be made public and have not led to criminal investigations.⁴

INDONESIA'S OBLIGATIONS TO FULLY INVESTIGATE ALLEGED VIOLATIONS OF THE RIGHT TO LIFE AND OTHER ABUSE OF THE USE OF FORCE BY SECURITY FORCES

Amnesty International and KontraS acknowledge the right of police officers or other law enforcement officials to defend themselves and their duty to protect the safety of the public. This role should, however, be carried out in a way that ensures full respect for the right to life, liberty and security of all persons, including those suspected of crime. Use of force is subject to strict human rights safeguards as set out 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). The actions of the police may also contravene the Indonesian Chief of Police Regulation on the Use of Force in Police Action (No. 1/2009).⁵

Under international law and standards, law enforcement officials may use force only when strictly necessary and to the extent required to carry out a legitimate law enforcement objective; they must not use firearms except in defence against an imminent threat of death or serious injury. Allegations of arbitrary or abusive use of force by police or other security forces carrying out law enforcement duties must be fully investigated. States must conduct effective, impartial and independent investigations into allegations of human rights violations committed by law enforcement officials, including alleged violations of the right to life and crimes under international law, such as extrajudicial execution. The authorities must also ensure that victims of such violations and their families receive full and effective reparations, including compensation.

If sufficient admissible evidence exists, those suspected of criminal responsibility - including persons with command responsibility who gave unlawful orders or who knew or should have known that those under their command were resorting to unlawful use of force and who did not take measures to prevent it - should be prosecuted in civilian courts in proceedings which meet international fair trial without recourse to the death penalty.

³ Radio New Zealand International, "Indonesia's Human Rights Commission calls for new Paniai probe", 14 April 2015, available at: <http://www.radionz.co.nz/international/programmes/datelinepacific/audio/20174569/indonesia's-human-rights-commission-calls-for-new-paniai-probe>.

⁴ *The Jakarta Post*, "Papua Police investigate Paniai shooting", 10 December 2014, available at: <http://www.thejakartapost.com/news/2014/12/10/papua-police-investigate-paniai-shooting.html>, *Antaranews*, "Pangdam Cenderawasih ingin kasus Paniai dibongkar [Cenderawasih regional Chief of Army wants Paniai case resolved]", 26 March 2015, available at: <http://papua.antaraneews.com/berita/449511/pangdam-cenderawasih-ingin-kasus-paniai-dibongkar>.

⁵ 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.

CULTURE OF IMPUNITY

Amnesty International and KontraS believe that the Paniai case is not an isolated incident but speaks to a culture of impunity that continues to exist in the Papua region. Previous administrations have also turned a blind eye to human rights violations carried out by security forces, including unlawful killings, excessive use of force, and torture and other ill-treatment, which is evident from investigations that have been delayed, dropped, or their findings buried, leaving victims and their families without access to truth, justice and reparations.

In almost all cases that have been taken forward, members of the security forces in Papua do not face prosecution or are just given disciplinary sanctions when found to have committed human rights violations. There is still a lack of accountability for numerous cases that have been raised by our organisations over the last few years.

Our organisations note that President Joko Widodo's administration has started to take some initial steps to improve the human rights situation in Papua and West Papua provinces. In May, the president granted clemency to five political activists in Papua province imprisoned for "rebellion" (*makar*) and made a pledge to grant clemency or an amnesty to other political activists detained throughout the country. In November, the Indonesian authorities released prisoner of conscience Filep Karma who had spent more than a decade in prison for his peaceful political expression. President Joko Widodo also announced that restrictions on foreign journalists applying to visit Papua were to be lifted.

However, Amnesty International and KontraS believe that in order to bring about concrete human rights change in the Papuan region, the Indonesian authorities must also address the culture of impunity in Papua and deal with current and past cases of alleged human rights violations by security forces. Fully investigating the Paniai case will be a strong signal of President Joko Widodo's commitment to end to the climate of impunity in the region.

RECCOMENDATIONS

Amnesty International and KontraS calls on your office to undertake the following steps as a matter of priority:

- Take steps to ensure that Komnas HAM's are provided with the necessary funds to complete its investigations and ensure that the findings of all investigations are made public;
- Ensure that, if sufficient admissible evidence exists that members of the security are responsible for arbitrary or abusive use of force, including persons with command responsibility, they are prosecuted in civilian courts in proceedings which meet international fair trial standards, without recourse to the death penalty;
- If violations are found to have been committed, ensure that victims, including families of those killed in such circumstances, are provided with full and effective reparation and steps must be taken to provide victims and witnesses adequate protection;
- Conduct a thorough review of police or other law enforcement officials' 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.

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

Yours sincerely,

Amnesty International

KontraS (the Commission for the Disappeared and Victims of Violence)