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Inspector General Untung Suharsono Radjab
Head of the Jakarta Metropolitan Police (Metro
Jaya)
Jl. Jenderal Sudirman Kav. 55
Jakarta Selatan 12190
Indonesia

13 July 2011

Dear Inspector General,

RE: OPEN LETTER ON POLICE FAILURE TO PROTECT AND INVESTIGATE ATTACK ON HUMAN RIGHTS TRAINING

Amnesty International is writing to you to highlight our concerns about an attack on a human rights training organized by the National Human Rights Commission (Komnas HAM) in Depok, West Java province. We are particularly concerned that to date there have been no updates from the police regarding their investigation into the attack.

The three day training for members of Indonesia's transgender community held in the Bumi Wiyata Hotel, Depok, was disrupted on its second day, 30 April 2010, at 10.15am by a group of approximately 15 men. The Head of the Depok Sub-district Police (Polres) had previously been officially notified of the event by a letter from Komnas HAM Commissioner Hesti Armiwulan dated 26 April 2010.

The attack was captured on video, which shows up to 15 men entering the training room shouting aggressively and knocking over chairs, drinking glasses and other objects on the tables. The 25 training participants and six organizers in the room fled out of a different door when the attackers entered except the person leading the training, Zainal Abidin. The videos clearly show at least four police officers from Depok Sub-district Police (Polres) in uniform accompanying the attackers and around five journalists into the training room without stopping the attack.

Witnesses report the police "just following [the attackers] around the room", "just looking on", and "not showing any authority". This is confirmed by the video footage. As the trainer, Zainal Abidin, attempted to leave the room, he was approached by the leader of the attackers who shouted and pointed aggressively at his face while two policemen on either side of him looked on. Another of the attackers then ran up and tried to slap Zainal Abidin, catching the side of his head. While one of the police officers present moved to protect Zainal Abidin, there was no attempt to restrain the person who had assaulted him.

The attackers then left the training room and proceeded into the hotel via the door through which the other participants had fled. They went straight to the room on the third floor which Komnas HAM had also reserved for a later event before marching through the hotel complex on their way out shouting aggressively.

At that point, the leader of the attackers gave an interview to an accompanying journalist identifying himself as the head of the Islamic Defenders Front (Front Pembela Islam, FPI) Depok. The videos also clearly show some of the attackers wearing jackets with the FPI and Soldiers of Islam (Laskar Pembela Islam, LPI) insignia on them.

One week after the attack, two reports were filed at the Jakarta Metropolitan Police (Metro Jaya) Headquarters. However over one year later, none of the perpetrators of the attacks have been brought to

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justice. According to credible sources, the case on the assault of Zainal Abidin stalled after one of the alleged attackers refused to come into the police station for questioning on the grounds that he was ill.

One of the main functions of a police force governed by the rule of law is to respect and to ensure respect for human rights, such as freedom of speech and of peaceful assembly without discrimination. This duty is provided for in the International Covenant on Civil and Political Rights (ICCPR), to which Indonesia is a state party. It includes the obligation to prevent people's rights being violated or abused, both by state officials and by others, and to promote the full enjoyment of human rights. If the abuse has taken place, a state is obliged to investigate and prosecute those responsible in fair proceedings.

Moreover, Indonesia's responsibility to protect individuals from human rights abuses without discrimination is outlined, among other things, in the ICCPR: Under Article 2(1) human rights must be protected "without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status".

The duty to protect human rights is also explicitly invoked in the National Police Act (No. 2/2002), which provides that the function of the police includes maintaining security and social order, enforcing the law and providing protection.

Furthermore, Article 6 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), states that ensuring that "everyone has the right to protection" is a duty of the Indonesian National Police.

Article 6(a) 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 also states that "every person, without discrimination, has the right to obtain justice through the filing of application, complaint and suit ... and be granted due process of the law". Article 54(e) of the same regulation also states that "[e]very police officer in providing service to the victim must ... inform the victim of the progress of the case".

In this regard, Amnesty International is concerned that the Indonesian authorities may not have taken adequate steps to prevent or stop the attacks in April 2010.

Amnesty International is also concerned about the failure to investigate and prosecute those responsible for the attacks.

In an authoritative General Comment on Article 2 (non-discrimination) of the ICCPR, the Human Rights Committee, the expert group tasked under the Covenant to oversee its implementation, has stated that "[t]here may be circumstances in which a failure to ensure Covenant rights as required by Article 2 would give rise to violations by States Parties of those rights, as a result of States Parties' permitting or failing to take appropriate measures or to exercise due diligence to prevent, punish, investigate or redress the harm caused by such acts by private persons or entities".¹

In order to remedy this situation, Amnesty International calls on your department to take the lead in ensuring the following:

- Immediately order a thorough, independent and impartial investigation into the disruption and attacks during the human rights training for the transgender community on 30 April 2010 in Depok;

¹ Human Rights Committee, General Comment No. 31 on Article 2 of the Covenant: The Nature of the General Legal Obligation Imposed on States Parties to the Covenant, UN Doc. CCPR/C/74/CRP.4/Rev.6, 21 April 2004, para. 8.

- Ensure that the findings of the investigation are made public and are submitted, wherever relevant, to the Public Prosecutor to ensure that all those suspected of involvement in human rights-related offences are brought to justice in proceedings which meet international standards of fairness and without the imposition of the death penalty, and that victims are provided reparations;
- Ensure that all police officials are familiar with the Regulation of the Chief of the National Police regarding the Implementation of Human Rights Principles and Standards, and have the necessary knowledge and equipment to apply these principles in their daily work; and
- Ensure that those who are making a complaint against the police are not harassed or intimidated, and are kept informed of the criminal investigation process, by placing time limits for processing filed reports and establishing a system for reporting 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: General Timur Pradopo
Head of the Indonesian National Police

Patrialis Akbar
Minister of Justice and Human Rights

Ifdhal Kassim
Head of the National Human Rights Commission (Komnas HAM)

Police Commissioner Ferry Abraham
Head of the Depok Sub-district Police