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"First things first": Amnesty International Seeks Australia-Indonesia Declaration on Respect for Human Rights

On Monday 26 June Australia's Prime Minister John Howard and Indonesia's President Yudhoyono are to meet in an attempt to resolve diplomatic tensions between the two countries. The dispute was sparked by Australia's grant of asylum in March to 42 asylum seekers from Indonesia's Papua province, who arrived in January claiming political persecution.

The Indonesian government is now seeking a formal declaration that Australia respects the territorial integrity of Indonesia and does not support calls for Papuan independence.

Amnesty International is concerned that in the context of the current diplomatic dispute both governments appear to have lost sight of fact that a long history of human rights violations, and impunity for human rights violators, continue to remain at the heart of this issue.

Indonesian officials have declared that any human rights violations which have taken place in Papua are the actions of rogue elements in the security forces. However, the National Human Rights Commission of Indonesia, Komnas HAM, has investigated three cases in Papua in which it has found preliminary evidence that crimes against humanity were committed by the security forces – the Abepura case in 2000, the Wasior case in 2001 and the Wamena case in 2003. To date, not a single person has been held to account for any of these crimes. The state's failure to investigate and bring to justice those responsible renders them complicit in these crimes.

Australian officials have responded to the dispute by proposing changes to the Migration Act which Amnesty International believes would breach Australia's international legal obligations and contravene the basic human rights of asylum seekers arriving in Australia by boat, by transferring them to off-shore detention centres while their asylum claims are processed.

Amnesty International does not take a position on independence for Papua or any other territory. However the organization asserts unequivocally the need for both Australia and Indonesia to recommit to respect for fundamental human rights. Both governments should use next week's meeting to demonstrate renewed, unified leadership in the continued regional promotion and protection of human rights.

From the Indonesian Government, a commitment should be sought that:

- In order to combat impunity and engender respect for human rights in the Indonesian police and military, all allegations of human rights violations by members of the security forces will be effectively investigated by a credible and impartial mechanism that is independent of the military or police. While under investigation, individuals will be suspended from positions of command responsibility. Where sufficient evidence is available individuals will be tried in civilian courts in a

- manner which is consistent with international fair trial standards.
- An effective victim and witness protection program will be established to facilitate full and thorough investigations and prosecutions.
 - In relation to those cases of gross human rights violations in Papua which have already been the subject of Komnas HAM investigations and where preliminary evidence of crimes against humanity has already been found, including the Wamena and Wasior cases, the Attorney General will review the Komnas HAM reports and issue indictments as a matter of priority. By affording priority to these cases, the government will demonstrate, especially to those within the security forces, the seriousness with which it views human rights violations.
 - An urgent review will be conducted into why, despite ample evidence and almost five years of investigations and legal proceedings, not a single member of Indonesia's security forces has been convicted and sentenced in relation to the killing of three Papuan students and the torture of over a hundred others at Abepura on 7 December 2000.
 - All individuals detained or imprisoned solely for the peaceful exercise of their right to freedom of opinion, belief, expression and association will be immediately and unconditionally released and no one will be imprisoned in future for peacefully exercising their right to freedom of expression, including the right to peacefully advocate referenda, independence or other political solutions relevant to the status of Papua.

From the Australian Government, a commitment should be sought that:

- Australia's off-shore detention centres will be closed and no asylum-seekers or refugees who attempt to claim asylum in Australia will be sent to any offshore facilities
- All refugees and asylum-seekers in Australia will be treated without discrimination and with full respect for their human rights, regardless of their immigration status and their mode of arrival. Any distinctions between those that arrive in Australia documented and those arriving undocumented, must satisfy requirements of proportionality, necessity and be prescribed by law.
- No asylum seeker or rejected asylum seeker will be detained unless their detention meets strict criteria of necessity and proportionality. Persons who are detained beyond a maximum period of detention, which will be reasonable in its length and specified in national law, will be automatically released. Children and their families will be released into the community as a matter of priority.
- The temporary protection visa regime will be abolished and all those persons who have been recognised as refugees, including those who have been detained and subsequently recognised as refugees, will be granted permanent protection.