

AMNESTY INTERNATIONAL PUBLIC STATEMENT

31 October 2019 Index: ASA 21/1323/2019

INDONESIA: NO ACCOUNTABILITY FOR UNLAWFUL KILLINGS BY POLICE IN KENDARI

Amnesty International Indonesia and the Commission for the Disappeared and Victims of Violence (KontraS) are deeply concerned that six Indonesian police officers involved in the deaths of two student protesters in September were given only the mildest of administrative punishments for the killings. In particular, the six officers received written warnings, had their promotions and salary increases suspended for a year, and were given 21 days of “placement in a special place.”

Both organizations view these sanctions, which were imposed by the Southeast Sulawesi Regional Police’s Internal Affairs (*Propam Polda Sulawesi Tenggara*), as an utter failure by the authorities to ensure accountability for serious violations of human rights. These “punishments” were handed down after an internal disciplinary hearing on 28 October found that the officers had violated the police Disciplinary Code by their conduct during the protest in which the students were killed.

The circumstances of the killings of the two protesters show that a much more serious effort to achieve accountability is needed. On 26 September, beginning at around 8 am, thousands of students surrounded the office of the Southeast Sulawesi People’s Representative Council (DPRD) to protest the passage of several bills by the national parliament that contained provisions that threatened civil liberties. These bills included the Criminal Code and the recently amended Anti-Corruption Law, which anti-corruption activists believed would limit the Anti-Corruption Commission’s (KPK) mandate and undermine its independence. At approximately 1 pm, the students tried to force their way through the iron fences protecting the DPRD building, leading the police to respond by spraying water at the crowd with cannon. At the same time some students threw rocks and pebbles at the police and the DPRD building, and some police officers responded by firing tear gas. One student received a gunshot wound to the chest, dying when he arrived at a hospital, while another suffered a gunshot wound to his head, dying at another hospital the next day. A pregnant woman was also shot in her right thigh as she was sleeping in her house, around 3 km from the DPRD building.

A few hours after the shootings, a spokesperson for the Southeast Sulawesi Police Force (*Polda Sulawesi Tenggara*) claimed that none of the police officers assigned to policing the student protest had used live ammunition, or even rubber bullets, because they were not authorized to carry firearms. However, on 28 October, a spokesperson for the National Police Force announced publicly that six police officers had been found guilty of violating the Police Disciplinary Code for “disobeying their superior’s command by bringing and using firearms” when policing student protests; this took place after the internal affairs unit (*Propam Polda Sulawesi Tenggara*) held internal disciplinary hearings from 17 to 23 October. The six police officers who were sanctioned, all of them belonging to the Criminal Investigation Unit of the Kendari Police Resort (*Polres Kendari*), had not been wearing uniforms or any identifying symbols marking them as police officers. Indeed, it is common in Indonesia for plainclothes police officers, whose attire prevents them from being identified, to be involved in policing peaceful assemblies. This practice persists despite international human rights standards that recommend that police officers should be identifiable by names or numbers worn visibly on their uniforms.

Besides the 26 September demonstration, there were several other nationwide protests led by student unions on 23-30 September. The protests called for accountability for past human rights violations, the end of violence in Papua, the cessation of environmental degradation caused by forest fires, and for the national parliament to rescind several pending repressive bills. During this series of protests, which happened in several major Indonesian cities, human rights organizations documented the police using excessive force to disperse protesters. Three protesters died in protests in Jakarta, but the police have not announced any investigation into the killings.

The police refusal to promptly, thoroughly and effectively investigate these apparently unlawful deaths—or when they do investigate such deaths, their insistence on using only internal disciplinary mechanisms—runs counter to Indonesia’s obligation to protect the right to life. As stated by the UN Human Rights Committee, the monitoring body for the International Covenant on Civil and Political Rights (ICCPR) to which Indonesia is a State Party, in its General Comment 36, alleged violations of the right to life should not be handled merely via administrative or disciplinary proceedings. To be effective, a system of accountability

system should include: criminal investigations through an independent external oversight mechanism; disciplinary investigations; civil or administrative proceedings for full reparations that include rehabilitation, restitution, compensation, satisfaction and guarantees of non-repetition; and a review of institutional functioning. The results of investigations should be made public, shared both with victims' families and the general public.

In this instance, to remedy the failure of accountability, we call on the Indonesian authorities to initiate an independent, thorough, and effective investigation into the unlawful killings and the excessive use of force by the police. If the investigation concludes that the police officers committed unlawful killings or used excessive force, then those suspected to be responsible, including persons with command responsibility, must be brought to justice in proceedings which meet international standards of fairness, and victims provided with reparations and effective remedies. The failure to bring suspected perpetrators of these violations to justice will reinforce the perception that the police forces operate above the law and will fuel the climate of mistrust toward the police force in the country.

It must be emphasized that impunity among police officers is a long-standing issue in Indonesia, one that has been raised numerous times by our organizations across the years since the fall of Soeharto in 1998. Despite the issuance of a number of Chief of the National Police Regulations (*Perkap*), including No. 8/2009 on the Implementation of Human Rights Principles and Standards in the Discharge of Duties of the Indonesian National Police, No. 1/2009 on the Use of Force, and No. 16/2006 on Policing Public Assembly, there have been insufficient changes in policing practices in Indonesia, especially in those relating to the use of excessive or unnecessary force. Investigations into reports of police abuses are rare, and when alleged perpetrators are held to account, it is most commonly done through internal disciplinary mechanisms rather than judicial proceedings.

Notably, there is no independent, effective, and impartial mechanism to deal with public complaints about police misconducts, including criminal offences involving human rights violations and abuses. This leave many victims without access to justice and reparations. While there are independent commissions that can receive complaints on abuses by members of the security apparatus, such as the National Human Rights Commission (*Komnas HAM*), the National Ombudsman (*Ombudsman Republik Indonesia, ORI*)—or, specifically for the police, the National Police Commission (*Kompolnas*)—their findings cannot be submitted to the public prosecutor. They also cannot carry out official autopsies or examine autopsy reports, death certificates and other medical certificates in cases of suspected human rights violations involving police or military personnel. In terms of the police, the commissions can only send the findings of their inquiry on police abuses to the police, which forwards them to the Police's Internal Affairs Unit (*Propam*).