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January 8, 2018

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Re: Indonesian Armed Forces and Human Rights

Dear Marshal Tjahjanto,

Congratulations on your recent appointment to the role of Commander of the Indonesian Armed Forces (Tentara Nasional Indonesia, TNI). We encourage you to bring energy and commitment to protecting and promoting human rights in Indonesia.

Human Rights Watch is an independent nongovernmental organization that investigates and reports on violations of international human rights and humanitarian law by governments and non-state armed groups in more than 90 countries. Since the late 1980s, Human Rights Watch has worked on human rights issues in Indonesia and provided input to the Indonesian government.

With your appointment, you have an opportunity – and the responsibility – to address continuing human rights concerns in Indonesia. As Indonesia is a party to the core international human rights and humanitarian law treaties, we urge you to ensure that it lives up to its international legal obligations.

We write to you with specific recommendations to prevent human rights violations by Indonesian security forces, to promptly and impartially investigate alleged abuses by military personnel, and to appropriately discipline or prosecute those implicated in abuses.

### Abolish Discriminatory and Invasive “Virginity Tests”

The Indonesian military should immediately end the use of “virginity tests,” which violate the prohibition of cruel, inhuman, and



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degrading treatment under international human rights law. Senior military officers with knowledge of the practice told Human Rights Watch that military doctors continue to impose these cruel and discriminatory “tests,” which are officially classified as “psychological” examinations, for “mental health and morality reasons.”

Virginity testing is a form of gender-based violence and is a widely discredited practice. In November 2014, the World Health Organization issued guidelines that stated, “There is no place for virginity (or ‘two-finger’) testing; it has no scientific validity.”

The quickest way to end this practice, which has harmed the reputation of the TNI globally, is for the Indonesian armed forces commander to issue a clear and direct order prohibiting all “virginity tests” by military doctors and all other military personnel.

### **Allow Foreign Media to Freely Report from Papua and West Papua Provinces**

The Indonesian government has for decades effectively blocked foreign media from independently reporting in Papua by only allowing access to foreign journalists who get special official permission to visit the island. The government rarely approves these applications or delays processing them, hampering efforts by journalists and nongovernmental groups to report on breaking events. Official minders invariably shadow journalists who do get official permission, strictly controlling their movements and access to people they want to interview. The government has justified its restrictions on media access as a necessary security precaution due to the ongoing conflict with the small and poorly organized Free Papua Movement (Organisasi Papua Merdeka, OPM).

In May 2015, President Joko “Jokowi” Widodo said he would lift the 25-year de facto ban on foreign media access to Papua. That policy change was supposed to end the practice of requiring journalists to obtain permission to report in Papua. But curtailing media freedom for foreign journalists in Papua, along with visa denials and blacklisting of reporters who contest restrictions on Papua access, has continued unabated. President Jokowi could have averted this problem by issuing a formal written directive instructing Indonesia’s bureaucracy and security forces to lift these restrictions. But the failure to act is compounded by the deeply rooted perception among many government and security force officials, including military personnel, that problems in Papua are better kept hidden from the foreign media, rather than brought into the open where they can be addressed.

We urge you, as armed forces commander, to publicly support President Jokowi’s lifting of access and reporting restrictions on foreign media to Papua and to ensure

that all military forces have full awareness of and respect for the rights to media freedom in Papua.

### **Support Civilian Prosecutions of Military Human Rights Violations**

Indonesia's military justice system continues to lack the transparency, independence, and impartiality required to properly and fairly investigate and prosecute serious human rights violations.

Under Indonesian law, military personnel cannot be tried in civilian courts, with only a few rarely invoked exceptions. The 1997 Law on Military Courts provides that military courts have jurisdiction to prosecute all crimes committed by soldiers. The law also states that military courts can only apply one of two laws: the Military Penal Code or the general Criminal Code. This means that while civilians are subject to criminal liability under various criminal laws outside the Criminal Code, soldiers are not.

While the 2000 Law on Human Rights Courts authorizes human rights courts to assert jurisdiction over cases involving allegations that military personnel committed serious human rights violations, at present the law applies only to allegations of genocide and crimes against humanity, and not to the broad spectrum of conduct that constitutes violations of human rights.

Although the 2004 Armed Forces Law placed the military courts under the supervision of Indonesia's Supreme Court, in practice the military continues to control the composition, organization, procedure, and administration of the military courts. Military judges can be dismissed by an Honorary Board of Judges whose members are designated by the military commander.

During the United Nations Universal Periodic Review of Indonesia's human rights record in 2007, 2012, and 2017, the Indonesian government committed to reforming the military tribunal system. The promised reforms included adding torture and other acts of violence to the military criminal code of prosecutable offenses and ensuring the definition of those offenses was consistent. However, to date the government has not added those offenses to the military criminal code.

We urge you to publicly support legislative revisions to the law to empower the civilian criminal justice system to prosecute military personnel implicated in human rights violations. It's a crucial step for ending Indonesia's long and pervasive culture of impunity for military abuses.

## Support Government Investigations into Past Atrocities

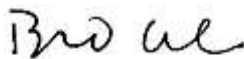
In October 1965, the Indonesian military leadership gave free rein to military forces and local militias to kill all those they deemed to be “communists.” Over the next few months into 1966, at least half a million people were killed. The victims included members of the Communist Party of Indonesia, ethnic Chinese, trade unionists, teachers, civil society activists, and leftist artists. In the 50 years since the killings, the Indonesian government has justified the massacres as a necessary defense against an alleged communist coup attempt.

In 2012 the National Commission on Human Rights stated that the events of 1965-66 constituted a “gross human rights violation,” and the government has taken tentative steps toward possible accountability for those abuses. Public discussion about the killings, a taboo topic in Indonesia for decades, has increased in recent years, aided since 2012 by release of the documentary films *The Act of Killing* and *The Look of Silence*, which feature in-depth interviews with paramilitary members who participated in the killings and family members of victims.

However, elements of the Indonesian military remain deeply hostile to moves toward accountability. In August 2017, Indonesian police and military personnel forced the cancellation of a public workshop on financial compensation for victims of the mass killings. In September 2017, your predecessor, General Gatot Nurmantyo issued a directive ordering military personnel to “restrict” any efforts to hold public screenings of *The Look of Silence*, alleging that it “distorted history.”

We urge you to cooperate fully with government efforts to determine responsibility for these atrocities to ensure a full accounting for both the victims and their families.

Thank you for your consideration of these important matters. We would appreciate the opportunity to discuss these and other human rights issues with you. Please contact me via my San Francisco-based colleague Seashia Vang by email [vangs@hrw.org](mailto:vangs@hrw.org) or by fax +1-415-362-3255 so that we can arrange a meeting at your convenience.



Brad Adams  
Asia Director