



Permanent Mission
of the Republic of Indonesia to the UN, WTO,
and Other International Organizations
in Geneva

No.: 162/Poi II/IX/2012

The Permanent Mission of the Republic of Indonesia to the United Nations, WTO, and Other International Organizations in Geneva, present its compliments to the Secretariat of the Office of High Commissioner for Human Right in Geneva and in reference to the Joint Allegation Letter sent by the Special Rapporteur on the Promotion and Protection of the Rights to Freedom of Opinion and Expression, the Special Rapporteur on the Rights to Freedom of Peaceful Assembly and of Association, the Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions; and the Special Rapporteur on Torture and other Cruel, Inhuman or Degrading Treatment or Punishment dated 24 July 2012 regarding the harassment of members of the West Papua National Committee (KNPB) in the exercise of their right to freedom of peaceful assembly and the Joint Allegation Letter sent by the Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions; and the Special Rapporteur on Torture and other Cruel, Inhuman or Degrading Treatment or Punishment dated 27 July 2012, regarding allegations of increasing climate of violence in Papua and West Papua, Indonesia, including unlawful killings by both State authorities (police and military forces) and non-State actors and excessive use of force, has the honour to transmit the following information:

1. Allegations of excessive use of force, torture, arbitrary arrest

On the allegations of excessive use of force, torture, arbitrary arrest associated with the case of Abepura Correction Facility on 30 April 2012; shooting by Police Mobile Brigade Unit (Brimob) at Billiard Center in Lokasi Emas 45 on 15 May 2012; excessive use of force conducted by elements of the Infantry Battalion 756 in Kampung Honai Lama on 6 June 2012; anarchical acts by members of the community in relation to the arrest of Mr. Teyus Tabuni at Jl. Sam Ratulangi Dok V Jayapura on 7 June 2012; and anarchical acts by members of the Wamena tribe in relation to the arrest of Mr. Mako Tabuni at Perumnas III District Heram Jayapura dated 14 June 2012; anarchical acts by supporters of National Committee of West Papua (KNPB); and the arrest of 45 demonstrators in Kampung Harapan Jayapura on 4 June 2012.

Investigations on all above cases has been or is currently being undertaken in accordance with the principles of accountability.

- a. Investigations on cases relating to treatment in the corectional facilities are carried out by officials of the correctional facility, in accordance with the Standard Minimum Rules (SMR) for Treatment of Prisoners that has been nationally adopted through several legislation, particularly UU No 12 of 1995 on Correctional Facility.

In the particular case of Abepura Correctional Facility dated 30 April 2012, it was found that Mr. Sepius Bobbi has provoked other inmates (+/- 25 inmates) to attack the officers and damage the fences of the correctional facility. In response to such actions, the

authority has taken appropriate measures in accordance with relevant laws and regulations.

- b. Investigations on the other cases are carried out by the police in accordance with applicable regulations. On the allegations of excessive use of force, torture and arbitrary arrest by the police force, the Indonesian Police's internal mechanisms of discipline and ethics will be applied. While indications of criminal offence will be processed accordingly.

As legal basis, the Head of the Indonesian Police Force have issued several regulations, amongst others Perkap No. 8 of 2009 on the Implementation of Principles and Human Right Standards in the Administration of the Indonesian Police Duties; Perkap No. 16 of 2006 on Guidelines on the Handling of Mass Demonstration; Perkap No. 9 of 2008 on Standard Operation Procedure for Public Complaint Service; Perkap No 1 of 2009 on Principles on the Use of Force and Firearms by Law Enforcement and Standard Operating Procedure/I/X/2010 on Counter-measures against Anarchical Acts.

It is worthnoted that in the above-mentioned cases, 4 (four) members of the Brimob (Riot control branch of the Indonesian police force) are currently undergoing legal proceedings in the Papua Provincial Police (three members for the case of 15 May 2012 and one member for the case of 7 June 2012). As to the other cases, measures taken are in line with the acceptable parameter of police standard operation.

- c. In the case of excessive use of force by members of the Infantry Battalion 756 WMS, legal proceedings are carried out by the army military police detachment.

2. Unlawful Killings

On the allegations of unlawful killings of Mr. Melianus Kegepe on 15 May 2012; Private First Class (PFC) Ahmad Sahlan on 6 June 2012; Mr. Teyus Tabuni on 14 June 2012; Chief Petty Officer Second Class (CPO 2nd) Sunaryo, Aco and Rosini on 6 July 2012; and the finding of the deceased body of Ms. Eva Cristyanti on 9 July 2012; Mr. Theprelli Karoba on 1 May 2012; and Mr. Yesa Mirin and Mr. Panuel Tablo on 4 June 2012.

Investigations on the said cases of unlawful killings are closely related to investigation on excessive use of force. In the case of Mr. Melianus Kegepe and four civilian casualties, legal proceedings have been carried out on 3 (three) members of the Brimob. In the case of Mr. Teyus Tabuni, one member of the Brimob is currently undergoing legal proceedings in the Papua Police. In the case of Mr. Mako Tabuni, it was found that the measures taken by the police officers are in accordance with relevant regulations. Mr. Mako Tabuni was shot due to his attempt to grab the firearm belonging to one of the police officers.

In the case of the killing of Private First Class (PFC) Ahmad Sahlan investigations are carried out by the Indonesian police since the perpetrators are local civilians. The perpetrators were part of the mob who attacked PFC Ahmad Sahlan and PFC Saefuddin following the motorcycle accident involving the victim, PFC Saefuddin and child pedestrian Devi Wanimbo.

Investigations on the cases of CPO 2nd Sunaryo, Aco, Rosini and Ms. Eva Christyanti and Mr. Theprelli Karoba by the police is still ongoing. Similarly, the investigations of the killings of Mr. Yesa Mirin and Mr. Panuel Tablo is also underway.

3. Freedom of Opinion, Expression and Assembly

The case of KNPB rally on 4 June 2012, particularly the detention of 45 suspects of violent acts following the dispersion of the KPNB mass is considered as case on the freedom of opinion, expression and assembly. The 45 suspects have been released without charges on 7 June 2012.

The measure to disperse the mass by the police was not instigated by the rally itself but rather due to the location of the rally which was in proximity to the Provincial House of Representative of Papua (DPRP). According to the standard operating procedure of the security apparatus, DPRP is deemed a vital object where the notification of a demonstration must be submitted at least 3 x 24 hours prior to it. This is in line with Article 10 (3) Law no. 9 of 1998 on the Freedom of Speech in Public Space and with the provisions in international human rights laws including article 19 of the ICCPR.

In the case of Kampung Harapan, Jayapura, the measures by police in handling the rally and in ensuring public order have been carried out in accordance with the related laws and regulations.

4. Access to treatment and medical care

The Indonesian laws and regulations guarantee the provision of medical treatment and care to all victims of violence. However its implementation should take into account the capacity and capability of local government. In the case of Papua, the natural and geographical constraints, and lack of infrastructure hamper the access to medical treatment and care. Even so, efforts to ensure access to medical treatment and care is given first priority.

On the above-mentioned cases, it should be noted that access to medical treatment and care is available permanently in the Abepura correctional facility. The victims and casualties of the case of 15 May 2012 (Mr. Melianus Kegepe, Mr. Lukas Kegepe, Mr. Amos Kegepe, and Mr. Yulianus Kegepe) were given direct medical treatment on the location of the incident. Moreover, Mr. Amos Kegepe was evacuated by helicopter to Municipal Hospital Nabire. Meanwhile, Mr. Teyus Tabuni was given medical care in Municipal Hospital Dok II Jayapura.

In regards to case of 14 June 2012, Mr. Mako Tabuni was given medical treatment in Municipal Hospital Bhayangkara Jayapura, while the other casualties of the Wamena tribe mob were taken to the Municipal Hospital Dok II Jayapura and Municipal Hospital Dian Harapan. Similarly, Mr. Theprelli Karoba was given medical treatment at Municipal Hospital Dian Harapan.

5. Restitution and Compensation

The government of Indonesia has enacted several laws regarding restitution and compensation, including Law No. 13 of 2006 on Witness and Victim Protection, which are applicable to all victims of the said cases above, pending legal ruling by the judicial system.

As an alternative, compensation based on deliberation on consensus amongst parties (*musyawarah mufakat*) is also recommended. In the case of Teyus Tabuni, an agreement was reached between the police force and the victims family for the compensation at the sum of 50 million IDR and the proper burial of the victim at the preferred location.

The Permanent Mission of the Republic of Indonesia to the UN, WTO, and Other International Organizations in Geneva, avails itself of this opportunity to renew to the Secretariat of the Office of High Commissioner for Human Right in Geneva, the assurances of its highest consideration.

Geneva, 25 September 2012



**The Secretariat of the Office
of the High Commissioner for Human Rights**
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