



PERMANENT MISSION  
OF THE REPUBLIC OF INDONESIA  
TO THE UNITED NATIONS, WTO AND  
INTERNATIONAL ORGANIZATIONS IN GENEVA

Geneva, 14 February 2020

No. 35/POL-II/II/2020

Dear Madam and Sir,

I would like to take this opportunity to follow up my letter dated 21 November 2019, responding to your joint communication (JC) No. AL IDN 8/2019 regarding developments in the Indonesian provinces of Papua and West Papua.

It is important to note that many of the relevant information, clarifications, and progress related to this matter have already been provided by the Government of the Republic of Indonesia (the Indonesian Government) in its responses to the previous Joint Communication (Ref. AL IDN 7/2019 of 4 September 2019). Some of the issues were also raised in the Joint News Release of 16 September 2019, issued by most of the Special Procedures Mandate Holders transmitting the present Joint Communication, in which the mandate holders also welcomed the engagement of the Indonesian authorities on these matters.

It is also pertinent to bring the attention of the Special Procedures involved in the joint communication, on Indonesia's understanding that given the fact that the entire population of Indonesia has remained unchanged since the time of its colonization and subsequent independence, the concept of Indigenous Peoples is not applicable in the context of Indonesia. In this context, and the fact that Indonesia is a multicultural and multi-ethnic nation, Indonesia does not discriminate against its people on any grounds. However, Indonesia is of the view that such concept and the related Declaration of Indigenous Peoples will be instrumental in the promotion and protection of the human rights of the peoples to whom it is intended to be applicable.

- Ms. Agnes Callamard**, Special Rapporteur on extrajudicial, summary or arbitrary executions
- Mr. David Kaye**, Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression
- Mr. Clement Nyaletsossi Voule**, Special Rapporteur on the rights of peaceful assembly and association
- Mr. Michel Forst**, Special Rapporteur on the situation of human rights defenders
- Ms. Victoria Lucia Tauli-Corpuz**, Special Rapporteur on the rights of indigenous peoples
- Ms. Cecilia Jimenez-Damary**, Special Rapporteur on the human rights of internally displaced persons
- Mr. Livingstone Sewanyana**, Independent Expert on the promotion of a democratic and equitable international order
- Ms. E. Tendayi Achiume**, Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance

The following additional details are aimed at providing further information, details and clarification on the allegations transmitted. This response should be noted as a reflection of Indonesia's commitment to ensure respect of all human rights, public order and to guarantee the security of its all people, including in the provinces of Papua and West Papua, in accordance with existing laws and regulations as well as international law in which Indonesia adheres to.

Moreover, the Government of Indonesia also emphasizes that the same level of attention should also been given to the protection of all human rights defenders, including those having the profession of health workers, that although they perform a state obligation to provide civil and basic services, they are as exposed and prone to the same level of threatening situation as any human rights defenders in performing their duties.

In light of last year's riots in several cities in the provinces of Papua and West Papua, President Joko Widodo has given the following instructions:

- to protect the rights and dignity of all Indonesian citizens.
- to restore security and public order in the provinces of Papua and West Papua.
- to take law enforcement measures against perpetrators of the incident in Surabaya and the subsequent riots in Papua and West Papua, and
- to immediately rebuild damaged infrastructure.

Such instructions provide a strong basis for the relevant authorities to address the situation promptly, including with the utmost utilization of self-restraint and non-excessive use of force by law enforcement officials. After the President's inauguration on 20 October 2020, President Joko Widodo took his first provincial visit to Papua on 28 October 2020. All in all, the visit was aimed at ensuring that the situation in Papua, including economic activities and the provision of public services, returned to normal.

#### **A. Riots in the provinces of Papua and West Papua in August-September 2019 and allegations of racial discrimination and forced displacement**

1. As we have conveyed in our previous communications, the riots and related events that occurred in the provinces of Papua and West Papua in August-September 2019 were triggered by unfortunate incidents in Surabaya and Malang. However, complex and dynamic socio-economic and political issues, including an on-going separatist movement in Papua must also be taken into account. The Indonesian Government is committed to addressing these issues in accordance with national laws and regulations as well as its obligations under international law.
2. At present, the situation in the provinces of Papua and West Papua Provinces has improved and back to normal. Regional government offices and economic activities have begun to run normally, including during the Christmas Day 2019 and New Year's Day 2020 celebrations.

#### **Chronology**

3. The August-September demonstrations and riots in Papua and West Papua Provinces were triggered by an incident on 16 August 2019 in Surabaya, East Java. Pursuant to allegations of the desecration of an Indonesian flag in front of a Papuan students' dormitory, local community organizations held a protest in front of the aforementioned dormitory. During this protest, derogatory remarks were allegedly uttered by security apparatus and leaders of community

organizations that were in attendance. On the same day, a clash broke out between Papuan students and members of the local community in Malang.

4. Immediately after the incident, high ranking officials, including the Governor of East Java and the Mayors of Malang and Surabaya publicly apologized for the incidents and undertook immediate measures to guarantee the safety and well-being of Papuan students living in their respective cities. Unfortunately, the students involved in the incidents refused to accept the invitation for a dialogue with several figures, including, among others, the Governor of Papua, Lukas Enembe, and the Governor of East Java, Khoffah Indar Parawansa (on 27 August 2019) and with Vice Speaker of the House, Fadli Zon, and parliament members from West Papua (on 21 August 2019).
5. In the aftermath of the incident, several peaceful demonstrations and incidents of clashes occurred. On 23 August 2019, a peaceful demonstration was held by Papuans and non-Papuans in Jayapura condemning the incident. During this time, hoax news intended to provoke violence was massively spread throughout social media, most notably through WhatsApp. Therefore, in order to limit the irresponsible spread of provocative hoax news and messages, the Government decided to limit internet access in several critical areas of in the Papua and West Papua Provinces.
6. The Government of Indonesia noted several clashes and riots that occurred in several cities in Papua and West Papua Provinces, namely in Jayapura, Manokwari, Sorong, Timika, Fak-Fak, Deiyai, Waena, and Wamena between August-September 2019. These do not include the clashes in Malang and Surabaya, East Java on August 2019.
7. The riots that occurred in the city of Wamena on 23 September 2019 was triggered by false news spread through social media regarding allegations of a teacher's racist statement made towards a student in Wamena, which was later proven to be absolutely untrue. During the riots, government buildings and vehicle were burned and civilians, both Papuan and non-Papuan were forced to migrate to government offices and places of worship outside of the city.
8. The spread of hoax and provocative news through social media including WhatsApp hampered Government efforts to restore order and security in several cities in the provinces of Papua and West Papua. It became clear that certain groups were systematically creating chaos and unnecessary complications on the ground.
9. In total, the riots resulted in at least 36 casualties, 103 people injured and the displacement of thousands of civilians, especially in the city of Wamena. The victims were not only civilians but also security forces that were on duty to ensure public safety. The clashes and riots destroyed governmental offices, public facilities such as the airport and marketplaces, private properties, and vehicles.
10. Presently, the suspects involved in the clashes and riots in Papua between August-September 2019 are undergoing legal proceedings. Most of the suspects are being charged with violating Article 160 of the Criminal Code on criminal incitement; Article 170(1) of the Criminal Code on violence against a person or property; Article 365 of the Criminal Code on theft with force and Article 1 of Emergency Law No. 12 of 1951.
11. Additionally, members of security forces that were involved in the incidents in Surabaya and Malang are charged with Article 103 of the Military Criminal Code on conduct exceeding authority. Further, Ms. Veronica Koman is charged for violating Article 28(2) Law No. 11 of 2008

on Electronic Information and Transactions, as we have explained in our previous communication regarding this issue.

### **Follow-up**

12. In order to protect public safety, the Government of the Republic of Indonesia has taken the following actions:
  - a. Ensuring stability and restoring public order, including through the deployment of additional security forces in the Provinces of Papua and West Papua.
  - b. Conduct legal proceedings for suspects involved in East Java, Papua and West Papua Provinces;
  - c. Worked together with religious figures, society figures, customary (*adat*) leaders, and youth leaders to resolve tensions on the ground;
  - d. Distributed aide for victims of the riots and undertook reconstruction and rehabilitation efforts in the Provinces of Papua and West Papua;
  - e. Facilitated the return of migrants to their homes in Wamena; and
  - f. Organized the meeting between the President of the Republic of Indonesia with 61 Papuan community leaders on 11 September 2019 to discuss and to find lasting solution to the challenges in the Provinces of Papua and West Papua.
13. It is important to note that several of the clashes occurred between Papuan and non-Papuan residents. During the Wamena riots, the victims of the riots were also non-Papuan residents who were born and raised in Papua and therefore have roots and have lived peacefully side by side with other members of the community for a long period of time in Papua. Indonesian security forces have used a persuasive approach in calming the protestors. Nevertheless, due to the escalation of the situation, such as the burning of properties, especially owned by non-Papuan residents, a defensive approach was also applied. The numbers of security forces on the ground were not enough to handle the situation.

### **B. Regarding the Internet Restriction in the Provinces of Papua and West Papua**

14. The policy to temporary restrict internet access was taken to prevent the spread of false and inciteful information that provoke disunity among Indonesians, as well as to maintain public order and security. The Ministry of Communication and Information Technology (the Ministry of ICT) announced the decision to limit the internet access on 19 August 2019 and also announced its revocation through the same manner.
15. The Ministry of ICT temporarily limited internet access in some areas Papua and West Papua in order to curb the spread of hoax and irresponsible news/messages that sparked conflicts and riots. The measure was taken in Manokwari on 19 August 2019, Sorong on 19 - 20 August 2019, and in Timika on 21 August 2019, among others. Between August and September 2019, the Ministry of ICT recorded at least 710.000 URLs spreading false news and messages of incitement in relation to the situation in Papua.
16. In order to minimize communication disruption, the internet restriction did not expand to phone and *short message services* (SMS). The internet restriction imposed in Papua and West Papua Provinces was a limited measure designed to limit the spread of hoax news in a limited period of time. The measure only applied in certain area for a specific time frame. The restriction was lifted as soon as security conditions improved.

17. To ensure public security and safety, as well as to restore public order and to avoid the irresponsible spread of hoax/false news and messages pertaining the 2019 Presidential election results, a temporary limitation of internet access was also implemented in Jakarta during the post-election unrest in May 2019. Thus, this is not unique to the situation in the Papua and West Papua Provinces.
18. Human rights activists in Indonesia have also brought the internet limitation in Papua case (Case No. 230/G/TF/2019/PTUN.JKT) to the Administrative Court of Jakarta. This legal monitoring and evaluation procedure reflect the open and democratic avenues through which citizens are able to lodge their complaints. As one of the world's largest democracies, Indonesia continues to guarantee the freedom of expression and the freedom of speech.
19. The decision to limit access to communication is lawful under the Indonesian Constitution, Law No. 11 Year 2008 on Electronic Information and Transactions, Law No. 39 Year 1999 on Human Rights, Law No 36 Year 1999 on Telecommunication, which guarantee the rights of citizens to enjoy their freedoms insofar as it does not contravene to the rights of others and public interests.

**C. Regarding the alleged attacks, threats, and intimidation against journalists and the protection of human rights defenders in the Provinces of Papua and West Papua**

20. The duty and purpose of the Indonesian Government under the Constitution is to protect all Indonesian national without exception. In Indonesia, every person is equal before the law, including journalists and human rights defenders.
21. We wish to reiterate the position of the Indonesian Government, namely that human rights defenders come in all shapes and form. They include government officials who make sure that senseless violence due to false and provoking information can be avoided or solved as early as possible. They also include security personnel who risk their life protecting the right to freedom of expression and freedom of assembly. Indonesia values the work and contributions of human rights defenders and civil society organizations in the promotion and protection of human rights and acknowledges the risks they face in carrying out their work.
22. The riots in Wamena also took the life of doctor Soeko Marsetiyo, a healthcare provider who, since 2014, dedicated his life to care for people in the most isolated regions in Papua. The Wamena riots and Doctor Marsetiyo's death resulted in the decision of other healthcare workers to leave Wamena and other regions in Papua, and deterred other doctors from other regions in Indonesia to serve in Papua, making it more difficult for people in Papua to receive the healthcare that they deserve.
23. Despite the risks faced, the Government of Indonesia remained determined to ensure the availability of healthcare and healthcare professionals immediately following the Wamena riots, through the establishment of a joint task force, consisting of the Ministry of Health, the Indonesian National Police and the Indonesian Military.
24. As elaborated in the previous responses of the Indonesian Government, in relation to the alleged intimidation experienced by an Indonesian journalist online, the journalist in question, as well as all other Indonesian citizens, has the right to report such an incident to the Police. However, the journalist in question has yet to exercise his right to do so. An investigation on the matter cannot be initiated without the person lodging a report to the Police.

#### **D. Regarding the elimination of racial discrimination**

25. The Indonesian Government continues to take active measures to develop the Provinces of Papua and West Papua and to reduce the economic gap between these Provinces with the other Provinces in Indonesia. The implementation of the Special Autonomy status through the enactment of Law No. 21 of 2001 on Special Autonomy of Papua and Law No. 35 of 2008 on West Papua Province has been one of the concrete actions taken in this regard.
26. The Indonesian Government has also commenced legal proceedings against members of Indonesian security forces that were involved in the racism incidents in Surabaya and Malang. This is another reflection of Indonesia's active commitment to prosecute, with a view of eliminating, racial discrimination.
27. On 30 January 2020, the District Court of Surabaya sentenced Mr. Syamsul Arifin, a defendant in the Surabaya racial incident, to 5 months imprisonment for his actions. On 3 February 2020, the District Court of Surabaya sentenced Ms. Tri Susanti to 7 months imprisonment for her role in spreading racist messages and incitement of racial hatred during the Surabaya incident.
28. Moreover, as a state party to the International Convention on the Elimination of All Forms of Racial Discrimination, the Indonesian Government will continue to undertake all possible efforts in addressing issues related to racial discrimination in Indonesia, not only in Papua. This involves the role of the Indonesian National Commission on Human Rights, in accordance to the mandate given to the Commission to monitor the implementation of Law No. 40 of 2008 on the Elimination of Racial and Ethnic Discrimination. The Commission has also sent a team to Jayapura and Wamena for a fact-finding mission, after receiving reports regarding the riots in Wamena.

#### **E. Regarding displacement in the Provinces of Papua and West Papua**

29. In the aftermath of the Wamena Riots on 23 September 2019, thousands of civilians, both Papuan and non-Papuan, became displaced. The Indonesian Government has facilitated displaced citizens by establishing temporary shelters in government offices and places of worship, providing food supplies and facilitating the transportation of those displaced to safer areas. As soon as the security situation in Wamena began to improve, the Indonesian Government began reconstruction and rebuilding efforts, and efforts to transport the displaced citizens back to their respective homes in Wamena.
30. Such measures were implemented within 14-day period of emergency response in accordance to national regulation to ensure the availability of basic humanitarian aid for displaced civilians. Following the completion of emergency response, the Government assisted in transporting the return of hundreds of displaced civilians back to their homes, as well provided trauma healing and other mental health services. Moreover, relevant Ministers and local high-officials visited Wamena to directly supervise assistance and rebuilding efforts, and to provide moral support for victims of the riots.

#### **F. Way Forward**

31. The Indonesian Government has been and will continue to uphold the protection of all its citizens, regardless of their ethnicities or backgrounds. The Indonesian Constitution, prevailing laws and regulations guarantee such a right. As clearly emphasized under the Universal Declaration on Human Rights and International Covenant on Civil and Political Rights,

limitations to the implementation of those rights only occur if such rights infringe public order, interest, peace and security.

32. The Indonesian Government handled the unfortunate riots that resulted in deaths, injuries, and displacement to the best extent possible. The Government has strived to secure and normalize the situation on the ground. Presently, the situation in the Provinces of Papua and West Papua has improved. The Christmas 2019 and New Year's 2020 celebrations in both Provinces were held peacefully.
33. The Government of Indonesia is strongly committed to accelerate comprehensive development in the Provinces of Papua and West Papua and the improvement of the welfare of all Papuans. Nevertheless, these efforts are often times disrupted and impeded by armed violence by separatist elements in both provinces. The presence of the Indonesian National Armed Forces and the National Police in the provinces of Papua and West Papua is therefore essential in safeguarding the security of civilians, as well as vital infrastructure development.
34. Papua is an integral part of Indonesia. Therefore, the presence of security personnel in Papua is necessary to uphold laws, maintain security, and to defend Indonesia's sovereignty against armed separatism. At the same time, the Indonesian Government continue to underline the importance for security personnel to respect the human rights of all people and to refrain, at all times, from using excessive force in performing their duties.
35. The Government of Indonesia remains steadfast in continuing efforts to accelerate the economy, development, and the social welfare of all of its citizens, particularly in the Provinces of Papua and West Papua, and to so in a manner that is consistent with our Constitution, laws and regulations.
36. Rest assured that the Indonesian Government will continue to take necessary measures to fulfil its obligations under the Constitution and applicable international laws.

Please accept, Madam and Sir, the assurance of my highest consideration.

Yours sincerely,



Hasan KTeib

Ambassador/Permanent Representative