



AMBASSADOR OF THE REPUBLIC OF INDONESIA  
TO THE UNITED NATIONS, WTO AND OTHER  
INTERNATIONAL ORGANIZATIONS IN  
GENEVA

Geneva, 22 July 2020

No. 107/POL-II/VII/2020

Dear Madam and Sir,

I wish to acknowledge receipt of your Joint Communication, Ref. No. AL IDN 3/2020 of 8 July 2020. I appreciate the continuing efforts of mandate holders in communicating issues of common concern to the Indonesian Government, especially during these challenging times. As a member of the Human Rights Council, rest assured of Indonesia's continued commitment to work together with mandate holders in advancing the promotion and protection of human rights.

As requested, I have brought the Joint Communication to the attention of the relevant authorities in Indonesia. At this juncture, allow me to share with you preliminary information regarding some of the issues in the present Joint Communication.

The "acts of racism against a student belonging to the indigenous Papuan minority in Wamena PGRI Senior High School" that you referred to in the first paragraph of page 2 of your letter, has been investigated by *Komnas HAM*, Indonesia's national human rights institution, in September 2019. Based on interviews conducted by *Komnas HAM* with numerous students and school members, it was concluded that the alleged "acts of racism" was in reality a miscommunication between a teacher and one of the school's students.

In a classroom conversation between the said teacher and student, the word "*keras*" (which translates into "loud" or "hard") uttered by the teacher, was misheard as "*kera*" ("monkey") by the student. An argument between the two individuals ensued, which was then eventually resolved when the two individuals reconciled. Several days passed without incident, including a day in which both the teacher and student sang and celebrated together, the birthday of another student. On Saturday, 21 September 2019, several students of the high school began to publicly raise the incident. On Sunday, 22 September 2019, the high school was vandalized and ransacked. On Monday, 23 September 2019, violent riots broke out across the city of Wamena.

**Prof. Nils Melzer**, Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment

**Ms. Elina Steinerte**, Vice-Chair of the Working Group on Arbitrary Detention

**Ms. Agnès Callamard**, Special Rapporteur on extrajudicial, summary, or arbitrary executions

**Mr. David Kaye**, Special Rapporteur on the promotion and protection of the rights to freedom of opinion and expression

**Mr. Clement Nyaletsossi Voule**, Special Rapporteur on the rights to freedom of peaceful assembly and of association

**Mr. Fernend de Varennes**, Special Rapporteur on minority issues

The outbreak of violence, vandalism of stores, and the burning of buildings across Wamena, was fuelled, therefore, by the spread of false information concerning the said "acts of racism". It was not, as your letter claims, "...due to confrontation by police". The purpose of Police presence, as in any case of massive violent public unrest, was to restore order and to prevent the further spread and escalation of violence.

The subsequent arrests of individuals suspected to have been involved in inciting the violent riots of 23 September 2019, including the arrests of the 7 individuals referred to in your letter, were conducted in accordance with the Indonesian Criminal Procedure Code. Please note that Article 18(2) of the Indonesian Criminal Procedure Code allows for arrests to be carried out without warrants insofar as the officer making the arrest immediately transfers the arrested individuals along with relevant evidence to the nearest police investigator.

### **Allegations of Torture**

The alleged intimidation and sexual harassment that Ms. Teresta Tega Iyaba experienced in police custody, as well as the alleged acts of torture committed towards Mr. Karlos Asemki, Mr. Yhoni Malyo, Mr. Hermanto Nabyal, Mr. Keyus Balyo, Mr. Yosmin Duyala, and Mr. Yenus Deal, are certainly not allegations that the Indonesian Government take lightly. With regard to the on-going legal proceedings of the aforementioned individuals, however, I must implore all Mandate Holders to respect the work and independence of Indonesia's national judicial system.

As a principle, the Indonesian Government deplores all forms of torture. As a State Party to the UN Convention Against Torture (UNCAT) and as a Core State to the Convention Against Torture Initiative (CTI), Indonesia has been at the forefront in igniting the global push in reducing the risks of torture and ill-treatment. Apart from our work towards the universal ratification of UNCAT, Indonesia along with the other core states of the CTI, aspires to strengthen institutions, policies, and practices, to prevent torture and ill-treatment.

We have done so, among others, through the hosting of numerous anti-torture technical advice and capacity-building workshops for public officials, particularly law enforcement officials. Additionally, through the CTI, we have also published a series of implementation tools on various thematic areas, collecting good state practices and inspiring constructive change in the field of law enforcement.

More recently, at the commemoration of the Indonesian National Police Day 2020, President Joko Widodo reiterated the importance of expediting the Police Reform process. In this connection, the President instructed all members of the Indonesian police to strengthen professionalism and to continue to implement persuasive and humane strategies in the undertaking of their work. The President further highlighted the importance for the Police to garner public trust, through the delivery of modern, humane, and professional public service.

The aforementioned efforts and positions of the Indonesian Government reflect Indonesia's genuine intention to root out torture and ill-treatment. While we are cognizant that challenges remain, Indonesia does not seek to slow down efforts in improving the professionalism and quality of law enforcement services to all Indonesian and in all Indonesian territory, in line with both its Constitutional mandate, and its obligations under international law.

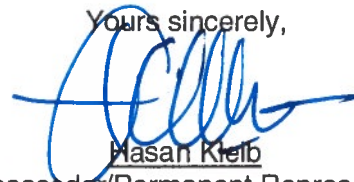
Indonesia will remain steadfast in upholding its unwavering commitment to the promotion and protection of human rights, particularly concerning efforts in combating torture. Moreover, Indonesia will continue to cooperate with, and assist, the special procedures in the performance of their tasks, including by providing initial clarification on issues of concern and by providing updates on actions taken on the ground.

Indonesia's vibrant civil society and robust national human rights mechanism, as demonstrated by the actions taken by Komnas HAM above, reflect a well-functioning and transparent domestic human rights mechanism. In this connection, pursuant to the Code of Conduct for Special Procedures Mandate Holders, I urge you, as special procedure mandate holders, to step-up efforts in seeking "to establish facts, based on objective, reliable information emanating from relevant credible source that they have duly cross-checked to the best extent possible". As such, information given by Indonesia's NHRI on a particular matter, for instance, should also be sought in congruence with information received from other, possibly less reliable sources.

A "due cross-check to the best extent possible" of Indonesia's penal code and the functioning of our domestic human rights machinery, including a reading of the information that Indonesia has consistently been providing to various UN treaty bodies as well as to the UPR process, is thus imperative. Such a practice will avoid the redundancy on the part of mandate holders of addressing the same issue over and over again (e.g. the issue of warrantless arrests). Most importantly, such a practice will enrich the Special Rapporteur's contribution towards the betterment of human rights on the ground, as well as in enhancing the trust of member states with regard to the efficacy and integrity of the respective mandate holders.

Please accept, Madam and Sir, the assurances of my highest consideration

Yours sincerely,

A handwritten signature in blue ink, appearing to read 'Masan Kieib', is written over the typed name.

Masan Kieib

Ambassador/Permanent Representative