



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

Geneva, 15 September 2020

No. 117/POL-II/IX/2020

Dear Madam and Sir,

I wish to acknowledge receipt of your Joint Communication, Ref. No. AL IDN 4/2020 of 7 September 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 factual information that we have gathered regarding some of the issues presented in the Joint Communication.

At the outset, in connection with the use of the term "indigenous people" throughout your communication, please note that Indonesia supports the promotion and protection of indigenous people worldwide, as intended by the the UN Declaration on the Rights of Indigenous Peoples. However, given the intention of the Declaration and against the backdrop of our demographic composition that has not changed during, and after, colonialization, the concept of Indigenous Peoples is not applicable to Indonesia. Indonesia recognizes the term "*masyarakat adat*" or "*masyarakat hukum adat*", meaning 'customary law societies'. As such, I respectfully request that these recognized terms be used in future communications addressed to the Indonesian Government.

**The case of Dilik bin Asap, Hermanus bin Bison, and James Watt**

The investigations conducted by the Central Kalimantan Police Authority in early March 2020 concluded that the case involving Dilik bin Asap, Hermanus bin Bison, and James Watt was strictly criminal in nature. Dilik bin Asap and Hermanus bin Bison were accused of stealing 4,33 tons of palm fruit cultivated by PT Hamparan Mas Bangun Persada (HMPB), while James Watt was arrested for ordering Dilik and other farmers to harvest the fruits.

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

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

**Ms. Irene Khan**, Special Rapporteur on the promotion and protection of the rights to freedom of expression

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

**Ms. Mary Lawlor**, Special Rapporteur on the situation of human rights defenders

**Mr. José Francisco Cali Tzay**, Special Rapporteur on the rights of indigenous peoples

Based on the evidence and testimonies presented in court, on 15 June 2020, the Sampit District Court ruled Dilik bin Asap guilty of illegally harvesting 4,33 tons of palm fruit, sentencing him to 8 months in prison. Furthermore, the Court also found James Watt guilty of ordering the illegal harvesting of the fruits, sentencing him to 10 months imprisonment.

The judicial proceedings against Dilik bin Asap, Hermanus bin Bison, and James Watt, therefore, were strictly based on the crimes alleged, and does not relate in any way to the exercise of the freedom of expression and peaceful assembly. This has been clearly demonstrated by the fact that since 2003, when the Regency of Kotawaringin Timur first granted land concessions to PT Karya Agung Subur Kencana (KASK), then transferred to PT HMPB in 2005, members of the local community and others who disputed segments of the land concessions were able to freely demonstrate and petition their grievances. This exercise in the freedom of expression and freedom of peaceful assembly, resulted in the issuance of several local decrees governing the prohibition of land cultivation by all oil palm companies outside of the permitted land use areas.

Moreover, numerous peaceful demonstrations pertaining to land ownership disputes between locals and PT HMPB have been held in the Kotawaringin Regency prior to the arrests of Dilik bin Asap, Hermanus bin Bison, and James Watt, without resulting to any arrests. There is no nexus, therefore, between the arrests and convictions of the aforesaid individuals, and their right to freedom of expression and peaceful assembly, both of which are rights protected under Indonesia's Constitution. As a democracy, Indonesia has spared no effort in guaranteeing the freedom of peaceful demonstration.

Despite receiving a series of medical attention, Hermanus bin Bison died from complications resulting from his illnesses. On 9 April 2020, having a 39° fever, Hermanus was taken to the Murjani Sampit Hospital. The doctor who attended to Hermanus tested him for COVID-19, which resulted negative. He was then cleared to go back to the Kotawaringin Timur District Police detention facility. On 25 April 2020, due to deteriorating health, Hermanus was once again taken to the hospital. He passed away on 26 April 2020.

### **The case of Marius Betera**

On 3 September 2020, the Province of Papua chapter of the Indonesia's National Human Rights Institution, *Komnas HAM*, declared the case of Marius Betera to be closed, after conducting extensive investigations from 29 June to 3 July 2020. From this investigation, *Komnas HAM Papua* concluded the following:

- Marius Betera was a former employee of PT TSE, in Kampung Asiki, Jair District, in the Boven Digoel Regency.
- Mr. Betera planted several banana trees near his home, in a plot of land owned by PT TSE. On 16 May 2020, Mr. Betera found his banana trees ruined. *Komnas HAM* found that this was due to vehicle traffic into and out of PT TSE.
- Angered by this destruction, Mr. Betera went to file a complaint at the nearest police station in Camp 19. He did not go through with his complaint as the police guarding the post was unavailable.
- Mr. Betera then went to the offices of PT TSE carrying a bow, arrow, and a hunting rifle. He left his weapons outside of the office, went inside and did not find anyone in the office. Mr. Betera then returned outside.
- Outside of the office, Mr. Betera met Mr. [REDACTED] a police officer, who knew Mr. Betera personally. Mr. [REDACTED] then tried to confiscate Mr. Betera's weapons. A scrimmage ensued, and Mr. [REDACTED] reportedly struck Mr. Betera several times.

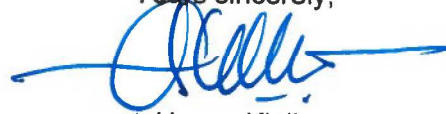
- Mr. Betera returned home after the incident, and later in the afternoon he became ill and was then taken to the Asiki Klinik, in the premises of PT TSE. Mr. Betera died soon after.
- Based on their investigation, *Komnas HAM* recommended, among others, that the Head of the Papua Regional Police, Inspector General [REDACTED], disciplines Officer [REDACTED] for using excessive force against a civilian.
- On 10 July 2020, Inspector General [REDACTED] released a statement regarding the detention of Officer [REDACTED] and that he will be tried in accordance with the Indonesian Penal Code.

To conclude, allow me to reiterate that the Indonesian Government has been and will continue to guarantee the right to the freedom of peaceful assembly and the freedom of expression. As a state party to the ICCPR, we believe that the exercise of this rights and freedoms shall not contravene prevailing laws and regulations, and shall be in line with the limitation provided in the Covenant.

Madam and Sir, please rest assured that Indonesia remain steadfast in upholding its unwavering commitment to the promotion and protection of human rights, particularly concerning the rights of human rights defenders, the right to freedom of opinion and expression, and the rights to freedom of peaceful assembly and of association.

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

Yours sincerely,



Hasan Kleib

Ambassador/Permanent Representative