



PERMANENT MISSION OF THE
REPUBLIC OF INDONESIA TO THE UNITED NATIONS
WORLD TRADE ORGANIZATION (WTO)
AND OTHER INTERNATIONAL ORGANIZATIONS
IN GENEVA

Geneva, 22 March 2021

No. 44/POL-II/III/2021

Dear Madam and Sir,

I wish to acknowledge receipt of your Joint Communication, Ref. No. AL IDN 1/2021 of 26 January 2021. I appreciate the fact that during these challenging times, mandate holders are still able to perform the mandates entrusted to them by the Human Rights Council. As a member of the Council, Indonesia will continue its commitment to work together with mandate holders in advancing the promotion and protection of human rights.

Regarding your request for the observations of the Government of the Republic of Indonesia on matters raised in the Joint Communication, I have transmitted the Joint Communication in question to the relevant authorities in Indonesia, which was followed-up by preliminary discussions on the subject matter raised.

- Ms. Fionnuala Ni Aoláin**, Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism
- Ms. Elina Steinerte**, Vice-Chair of the Working Group on Arbitrary Detention
- Ms. Agnes Callamard**, Special Rapporteur on extrajudicial, summary or arbitrary executions
- Mr. Michael Fakhri**, Special Rapporteur on the right to food
- Mr. Balakrishnan Rajagopal**, Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination
- Mr. Felipe Gonzales Morales**, Special Rapporteur on the human rights of migrants
- Mr. Femand Varennes**, Special Rapporteur on minority issues
- Mr. Joseph Cannataci**, Special Rapporteur on the right to privacy
- Ms. E. Tendayi Achiume**, Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance
- Ms. Mama Fatima Singhateh**, Special Rapporteur on the sale and sexual exploitation of children, including child prostitution, child pornography and other material
- Mr. Nils Melzer**, Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment
- Ms. Siobhan Mullaly**, Special Rapporteur on trafficking in persons
- Ms. Dubravka Simonovic**, Special Rapporteur on violence against women
- Mr. Pedro Arrojo-Agudo**, Special Rapporteur on the human rights to safe drinking water and sanitation
- Ms. Elizabeth Broderick**, Chair-Rapporteur of the Working Group on Discrimination against women and girls

Furthermore, after carefully studying and discussing the issues addressed in the Joint Communication with the Secretariat, we concluded that there were several matters that require further clarification, to enable the Indonesian government to respond to the Joint Communication.

Allow me to share a brief outline of our observations, as follows:

1. Joint Communication AL IDN 1/2021 is the first SPHM Letter of Allegation (AL) that our Government has ever received, whereby we are requested to provide observations on very specific issues/allegations that are happening outside of our jurisdiction.
2. While we agree, to an extent, with your observation that “States have the obligation to take a positive preventive measures to protect the right to life... meaning that a State’s responsibility to protect may thus be invoked extra-territorially in circumstances where that particular State has the capacity to protect the right to life against an immediate or foreseeable threat to life”, we see that there remains a disconnect between this noble aspiration and the feasibility of turning this aspiration into reality.

For the most part, we face the challenge of gaining access to, and information on, the situation in the “Al-Hol and Roj camps” in North-East Syria, where, based on the information that you received, our nationals “...are currently deprived of their liberty”.

3. From our preliminary consultation with our relevant embassies, it has been brought to our attention that there is an extreme difficulty of having direct contact with the non-States entities who have de facto control over the camps -mainly due to security and pandemic-related concerns. Moreover, it has been virtually impossible to receive verifiable information on, among others, the number of Indonesian nationals detained in the camps; their health conditions; and their living situations in the aforesaid camps.
4. Thus, it becomes quite puzzling that in the Joint Communication, the Indonesian Government is asked to provide observations on the specific handling of the detained persons, e.g. “the legal basis for their transfer and detention”; “how the collection of biometric data has complied with medical ethics, the adequate provision of information and with the people’s right to informed consent”; “specific measures taken to protect women and girls against acts of gender-based violence they may face within the detention facilities and in the camps...”, etc.
5. The short answer to all these questions is that we do not yet have sufficient information to be able to provide observations on the subject matter under such setting.
6. We strongly believe that these allegations and questions should first and foremost be addressed to the State having jurisdiction over the Al-Hol and Roj Camps. We also believe that it is not constructive to hastily place upon my Government, the burden of responsibility to answer allegations regarding incidents that is supposedly committed by non-State actors at the Al-Hol and Roj camps, which is not only located outside of our territory, but is also virtually inaccessible to the international community.
7. In this connection, I would also like to draw your attention to the 60-day time frame that you have given to my Government to respond to this extremely complex issue. We understand that such a timeframe is more of an established practice taken by the mechanism under normal situations. However, we believe that the complexity of the subject matter and the current situation of pandemic warrants a more flexible approach on the part of mandate holders.
8. I therefore like to reiterate that on this matter, the inability of States to respond within the 60-day time frame, must not be equated with any insinuation of non-cooperation. I hope that you can take these factors into consideration in the future.
9. We also recommend that caution be exercised in advocating sensitive concepts that have yet to gain consensus in the UN, i.e. the concept of “responsibility to protect” (R2P), that has been quite extensively advocated throughout the Joint Communication.

10. Lastly, we are of the view that the subject matter could be addressed more thoroughly if you and other relevant mandate holders can also provide information on the accountability of State actors that are directly involved in creating the turmoil in Syria, turning it into a haven for violent extremism and terrorism. This information will facilitate further efforts to address related situations, including the issue of foreign fighters and their families, that has continued to be an international challenge.

In conclusion, I wish to reiterate that despite the highly irregular nature of Joint Communication AL IDN 1/2021, the Indonesian Government remains committed to look further into the issues highlighted in your letter. In this light, I would be grateful if your offices can provide our Mission with additional information, namely:

1. Any information that you may have on Indonesian nationals detained in the Al-Hol and Roj camps, including the total number of persons as well as their identities; and
2. Any information that you may have on the contact persons that can assist us in providing consular services to the detained Indonesian nationals.

This information will be very crucial in helping my Government plan the necessary measures to ensure the protection of the detained Indonesian nationals.

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

Yours sincerely,



Grata E. Werdaningtyas
Ambassador/Deputy Permanent Representative