



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

Geneva, 9 April 2021

No. 49/POL-II/IV/2021

Dear Madam and Sir,

I wish to acknowledge receipt of your Joint Communication, Ref. No. AL IDN 4/2021 of 22 February 2021. I appreciate the continuing efforts of mandate holders in communicating and highlighting issues of common concern to the Indonesian Government. As a member of the Human Rights Council, please rest assured of Indonesia's continued commitment to support the work of the mandate holders in advancing the promotion and protection of human rights, especially during these challenging times.

I have transmitted the Joint Communication to the relevant authorities in Indonesia. At this juncture, I would like to provide you with the following information on some of the issues presented in the Joint Communication.

On the Special Autonomy Law

The Special Autonomy Law (Law No. 21/2001) was enacted to accommodate the aspirations of people in Papua to have a more meaningful voice in decision-making regarding development, as well as in managing the Province's natural resources. The Law accommodates local particularities to enable more inclusive participation in the governance of development in the Provinces. Overall, the Special Autonomy Law aims to accelerate development and improve welfare in Papua, taking into account the aspirations of the people in Papua.

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

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

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

On the demonstrations against the Special Autonomy Law

As guaranteed by Article 28 of Indonesia's 1945 Constitution, the Indonesian Government has consistently facilitated the right to peaceful assembly and right to the freedom of expression. As a full-fledged democracy, the right to organize and to participate peacefully in demonstrations is ingrained in the daily life of Indonesians. A brief scan through Indonesian media outlets, especially prior to the COVID-19 pandemic, can attest to this fact. Further, throughout the implementation of large-scale social restrictions at the national and local levels, an almost innumerable number of webinars discussing the issue of the Special Autonomy Law, including those that are critical of the matter, have been, and continues to be held, without any interruption.

On this note, I wish to therefore categorically reject your assessment in page 3 of the Joint Communication, in which you stated "[i]n this regard, we express serious concern at what appears to be an attempt to silence critical views about the implementation of the Special Autonomy Law through peaceful assembly". Please note that the restrictions imposed on most of the mass public gatherings referred to in your letter has nothing to do with the substance of the demonstrations, but is strictly implemented based on the social restrictions/COVID-19 prevention guidelines imposed during this time of pandemic. On the other hand, it is also very important to note that any public assembly aimed to promote separatism in Indonesia is against Indonesia's national laws, and is therefore illegal. **We reiterate our principled position that the promotion of separatism does not fall under the category of peaceful assembly.**

As you are aware, the exercise of the right to the freedom of assembly and freedom of expression is not without limitation. These limitations are clearly set out in Article 19(3) of the ICCPR, to which Indonesia is party to. The Indonesia Government has been and will continue to guarantee the right to the freedom of peaceful assembly and the freedom of expression insofar as those rights do not contravene prevailing laws and regulations, especially as it pertains to the protection of public health and public.

Government policies to minimize the spread, and mitigate the impacts of, COVID-19, therefore, should not be automatically construed as infringing the rights to freedom of peaceful assembly and of association. A more realistic view point on the nexus between rights and COVID-19 is therefore necessary in today's context.

On ensuring a safe and enabling environment for human rights defenders

The 1945 Constitution of Indonesia guarantees the protection of human rights and equality before the law for all Indonesians, regardless of his or her socio-cultural, religious or economic background. These rights extend to everyone, including to human rights defenders.

Indonesia subscribes to the definition contained in the Declaration on Human Rights Defenders, which states that human rights defenders refer to "individuals, groups and associations ... contributing to ... the effective elimination of all violations of human rights and fundamental freedoms of peoples and individuals."

With regard to the protection of human rights defenders as a whole, please note that as a traditional co-sponsor of all HRC resolutions on the Mandate of the Special Rapporteur on the Situation of Human Rights Defenders, Indonesia firmly believes that human rights defenders, in all their forms and professions, are key partners in the advancement of human rights. Therefore,

their right to carry out legitimate work in an enabling environment, and to be free from threats, attacks, reprisals and acts of intimidation must be protected, especially in a time of pandemic.

As per the usual practice, I will bring the other questions contained in the Joint Communication to the attention of the relevant stakeholders, and will revert back to you in due course. Please be mindful that the pandemic has made multi-stakeholder coordination in preparing a comprehensive response to your joint communication very difficult. Nevertheless, we remain committed to do our best to constructively engage with you on all issues of mutual concern.

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

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

Yours sincerely,



Grata E. Werdaningtyas
Ambassador/Chargé d'Affaires