



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

Geneva, 20 February 2022

No. 26/POL-II/II/2022

Special Procedures Mandate Holders,

Pursuant to your Joint Communication Ref. No. AL IDN 11/2021 of 22 December 2021 regarding allegations of the use of force in the Indonesian provinces of Papua and West Papua, I have the honour to transmit herewith, my government's response to the aforesaid communication.

In connection with the use of the term "indigenous people" throughout your communication, please note that Indonesia supports the promotion and protection of indigenous peoples worldwide, as intended by the the UN Declaration on the Rights of Indigenous Peoples. However, as Indonesia has declared when it supported the aforesaid Declaration, especially against the backdrop of our core demographic composition -which 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, to promote respect towards the diversity of demographics across the world, I respectfully request that these recognized terms be used in future communications addressed to the Indonesian Government.

As a member of the Human Rights Council, rest assured of Indonesia's continued commitment to work together with you and other mandate holders in advancing the promotion and protection of human rights.

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

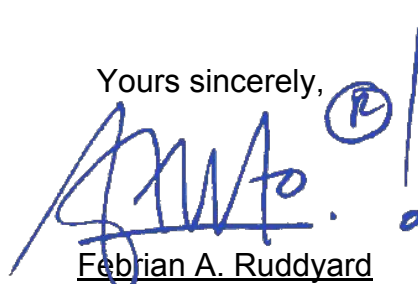
Mr. Morris Tidball-Binz, Special Rapporteur on extrajudicial, summary or arbitrary executions.

Ms. Cecilia Jimenez-Damary, Special Rapporteur the human rights of internally displaced persons

CC: Chair of the Coordinating Committee of the SPMH

Please accept, Special Procedures Mandate Holders, the assurances of my highest consideration

Yours sincerely,



Febrian A. Ruddyard

Ambassador/Permanent Representative

**Reply of the Government of Indonesia
to the Joint Communication of the Special Procedures Mandate Holders
Ref. No. AL IDN 11/2021 of 22 December 2021**

A. Introduction

Pursuant to your Joint Communication, Ref. No. AL IDN 11/2021 of 22 December 2021, including our responses to previous communication, Ref. No. IDN 4/2021, IDN 2/2021, IDN 4/2020, IDN 5/2020, IDN 1/2020, IDN 7/2019, IDN 6/2019, IDN 3/2019, and IDN 7/2018, the Government of Indonesia (GoI) would like to reiterate once again the assurance that the fate and welfare of the people in the Provinces of Papua and West Papua have been and will always be our top priority.

The GoI has made clear on numerous occasions that the use of excessive force, extra-judicial killings, enforced disappearance, and torture have no place in our society. As will be stated in our clarifications below - including what has been emphasized in our previous communications - the GoI has exhaustively demonstrated national efforts, **based on the rule of law**, in addressing alleged cases according to applicable laws, emphasizing victim's justice and ending impunity.

Under President Joko Widodo's administration, the priority to accelerate development and welfare in Papua goes hand in hand with the necessity to ensure stability and peace for the community. In the past, many innocent civilians, including health workers and construction workers, have fallen victims to threats and violence by the armed criminal groups. Thus, despite being far from ideal, the situation in several areas currently still warrants the deployment of security forces.

The GoI took note of the concerns regarding the rights of the population who have been displaced due to various reasons, including internal conflicts between tribes and security operations. Their fundamental rights, including the right to health and education, continue to be guaranteed through central and local government programs for social assistance and health services. Although there are still many challenges on the ground, mainly due to the geographical context and security situation, there has never been a deliberate attempt as alleged, primarily based on discrimination, to prevent the entry of various social assistance to those in need.

As mentioned earlier, under applicable national and international law, this security situation warrants the deployment of military - police forces to secure and defend the people. Noting the concern of the Mandate Holders, the GoI would like **to assure that the rules of engagement and procedures for operation** in Papua adhere with the framework of the international human rights norms. Series of training for police, prosecutor, and judge are conducted regularly to raise their awareness on human rights, including those embedded in ICCPR. We recommend that the Mandate Holders look at Annex.1 of Indonesia's Second Periodic Report for the ICCPR.

The GoI also took note of the concerns raised regarding accusations of racism and expressly rejected allegations of the pervasive culture of racism within the police and military units. Past claims of violence related to alleged racism in Papua and West Papua (no longer "Irian Jaya") have been clarified with full respect to the law.

In most alleged abuse of power, there have been investigations, and punishments to the perpetrators have been handed down. This shows that Indonesia, as the State Party of the International Covenant on Civil and Political Rights (ICCPR), is committed to guaranteeing fundamental rights, primarily those listed by the Mandate Holders in their communication.

In responding to various issues of concern raised by the Mandate Holders, the GoI has coordinated with multiple parties and made every effort to provide accurate clarification. We took this process as a total commitment to providing clear and sound clarifications regarding the concerns raised. Some of the cases are part of the current investigation. Accordingly, the GoI is unable to comment upon it other than to indicate that our law enforcement officials are working hard to identify and hold accountable those who engaged in violence and other criminal activities.

The GoI would also like to emphasize that a follow-up of this communication will not stop once our reply has been sent. The domestic process will continue to ensure that the fundamental rights of the people of Papua continue to improve.

The GoI continues to respect the mandates given by the UN Human Rights Council to Mandate Holders. We stand ready to engage and support the implementation of their tasks as long as it follows their respective mandates and code of conduct. We deem that the Mandate Holders must uphold the constructive approach and genuine dialogue in cooperation with member states.

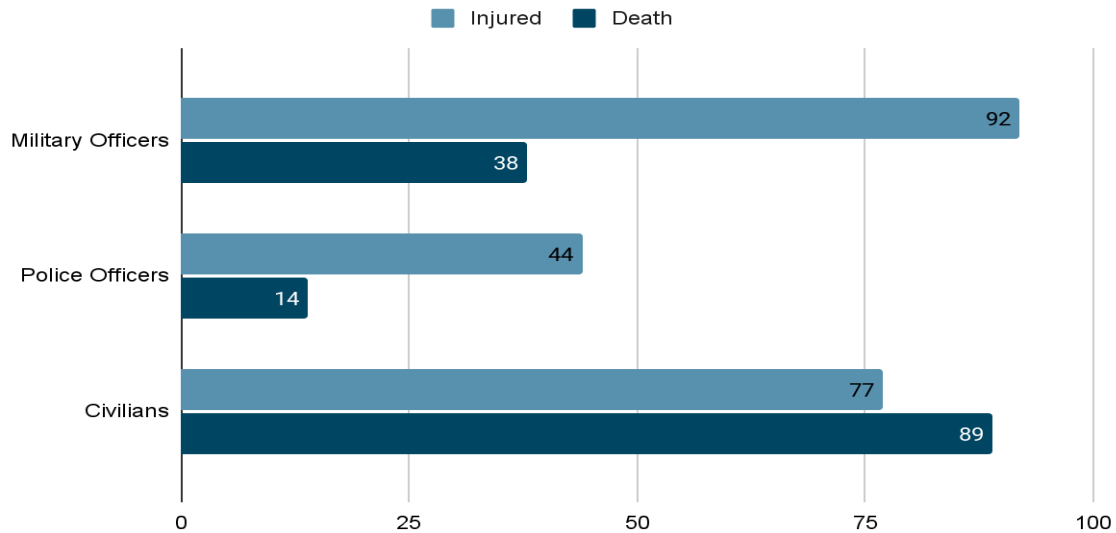
Thus being said, we are pleased to provide the following information regarding the specifics in the letter.

B. Clarifications regarding allegations of extra-judicial killings, enforced disappearances, torture, and excessive use of force

Once again, it is worth noting for the Mandate Holders to understand that several regions in the Province of Papua and West Papua are still haunted by the terror of armed criminal groups. This includes places mentioned in the communication.

To achieve their agenda and spreading terror, the armed criminal groups have sporadically carried out attacks not only towards police and military personnel, but also to civilians including **women, children, health workers, construction workers, local election officer, and teachers.** They have attacked and destroyed not only police stations or military posts in remote areas, but also schools, health centres, non-military hub-airports, markets, residential areas, and other public facilities.

While it is not easy to identify the exact number of the victims, it is estimated that since 2014 attacks conducted primarily by the armed criminal groups have caused deaths and injuries with details as follows:



	Death	Injured
Military Officers	38	92
Police Officers	14	44
Civilians	89	77

The criminal groups' frequent aggressions also made it difficult for the Government to carry out various development programs and deliver basic needs to the people on the ground.

“A notorious example is the attacks on a health care facility in Kiwirok District, Pegunungan Bintang, on 13-14 September 2021. The group attempted to murder the health workers inside the building, ended with injuring many, several were tortured but survived. A nurse named [REDACTED] was brutally killed and tortures. Other public facilities were also attacked and burned in that aggression, including houses and schools”.

Against this background, we would like to reiterate once again to the Mandate Holders, that the places mentioned in the communications are zones where armed criminal groups frequently operate attacks. Instead of seeing the situation in conflict areas in Papua and West Papua as a set of Gol and security personnel failures in bringing welfare for the people – as the communication insinuates – we wish the Mandate Holders to see the situation with a bigger picture.

Hence, the following explanation should serve as clarifications and provide additional information to the various allegations conveyed through the Mandate Holders' communication.

1. Regarding the incident in Sugapa, 26 October 2021

On the same day of this incident, an armed criminal group launched an attack towards Sugapa Police Station, Sugapa Military District Command, and military officers on patrol. As self-defense,

the police and military officers launched a counterattack causing a gun clash with the criminal group. While there were no victims from the police nor military officers, it is dreadful that two children had to be the victims of the attack.

Following that day, the father of the children, Mr. Markus Majau reported the death of his two children to Intan Jaya District Police Station.

- The case has been under investigation to bring the perpetrators - whose bullets injured and killed the children - to justice.

2. On the allegation of enforced disappearance of Mr. Samuel Kobogau

After months of investigation, military police in Papua have declared seven military personnel as suspects in relation to the disappearance of Mr. Samuel Kobogau. The seven suspects will further undergo a military trial process to be held responsible for their unauthorized and unlawful conduct.

As part of the investigation to find the victim, in early February 2022, police excavated some areas around Holomama, a military post in Intan Jaya, where Mr. Kobogau was reportedly buried. However, until the submission of this reply, his body has not been discovered.

- The military police are also frequently providing updates of investigation to the family of Mr. Kobogau.

3. Regarding the images of six suspects on 28 September 2021

The arrest, detention, and subsequent judicial proceedings of 6 (six) Papuans on 28 September 2021 are the legal process arising from the attack and murder of 4 (four) members of military personnel on 2 September 2021 in Kokas Village, Aifat Selatan (South Aifat) District, Maybrat Regency, West Papua Province.

The six suspects are part of an armed criminal group, militia of *Komite Nasional Papua Barat* (National Committee for West Papua/KNPB) in the Maybrat Region led by Silas Ky (fugitive) and Manfret Fatem (fugitive). They are primarily charged with premeditated murder or alternatively premeditated maltreatment.

Due to security reasons, the blindfolding of the suspects was a needed temporary action during the capture of the suspects. Immediately after arriving at Sorong Selatan (South Sorong) Police Station, the police removed the blindfold. The pictures of the blindfolded six suspects were taken right before the police removed the blindfolds.

After being arrested and interviewed, the police decided to release three suspects, and continue the legal process towards three other suspects, [REDACTED] (21 years old), [REDACTED] (18 years old), and a juvenile (14 years old).

- The three suspects are now in trial, with the juvenile being tried in Juvenile Court pursuant to Law No. 11 of 2012 on Juvenile Criminal Justice System.

It is important to highlight that the case demonstrates the practice of KNPB to use and train children to participate in criminal activities.

4. Regarding the incident of Mr. Patianus Kogoya on 3 June 2021

The alleged murders of Mr. Patianus Kogoya, Mrs. Paitena Murib (not the wife of Mr. Patianus Kogoya), and Mr. [REDACTED] (not Mr. Erialek Kogoya) are still **under police investigation**. The Police have been collecting evidence, including by performing an **autopsy** and **interviewing witnesses**. The Police are also planning to conduct careful examinations of the crime scene, however the security situation poses a challenge to the execution of this plan.

- But so far, witness investigation leads that the criminal group West Papua National Liberation Army was the one who executed and attacked the mentioned victims.

We would also like to highlight that the allegation in your letter contains several essentially **inaccurate** information:

1. It was mentioned that the security members allegedly killed the victims were members of **the 613 Raider Battalion/Garuda Raja Alam** and of **the Battalion 315 Garuda Infantry** unit, while the military group that was on duty for that area was the **Battalion 715 Raider Infantry**.
2. Mrs. Paitena Murib **was not the wife** of Mr. Patianus Kogoya. She was the wife of another head of village - Aminggaru Village, which at the time of the murder some buildings in the village were burned by the separatist group.
3. It was Mr. Nelinus Kogoya, not Erialek Kogoya, the third victim of the incident.

We urge the Mandate Holders to cross-check, clarify, and examine any information received, to prevent the use of Mandate Holders by criminal groups as a channel to spread misinformation, incite hatred, and aggravate the security situation on the ground.

5. Military's rules of engagement and precise procedures of the army and police units engaged in counter-insurgency

Prior to joining the security operations in Papua, the relevant personnel are guided with **Operation Order Rumeksa 21 No. 01**. It lays out, among others, the rules and procedure of intentional use of lethal force:

- Only if it is absolutely unavoidable to protect human life;
- Carried out as self-defense or to protect other people from unlawful attacks to their honor and property;
- Launched with careful control and aimed to make the opponent surrender;
- Not excessive, avoiding excessive physical or material lost;
- Not to inflict pain but to ensure protection to anyone considered *persons hors de combat* or wounded and sick;
- Not to harm anyone who is defenseless; and
- To avoid inhumane and brutal attacks.

In addition to the Operation Order, all military personnel are equipped with **two pocket books**: the Guide Book to Implement Human Rights and the Rules on the Conduct of Hostilities based on International Humanitarian Law.

Indonesia's military continues to integrate and implement international humanitarian law within its organization, including in training programs, technical cooperation, capacity building programs, standard operating procedures, and rules of engagement.

With multiple partners, including the International Committee of the Red Cross (ICRC), the military held and engaged in various dialogues on contemporary issues of international humanitarian law. In 2021, in cooperation with the ICRC, the military officers in Regional Military Command (KODAM) XVII Cendrawasih Papua participated in a seminar regarding military involvement in security operations and it will continue this year with KODAM XVIII Kasuari of West Papua. Considering the different nature of military and police, this seminar would strengthen each role in carrying out various security operations.

Similarly, the Police also actively engage with relevant stakeholders to increase its capacity and ensure compliance on its conduct. In March 2022, the Police and the ICRC will hold a Workshop on International Norms and Standards in the Use of Force and Law Enforcement Operations to local police in Papua and West Papua. This is a maintained practice as a regular effort to increase the capacity and awareness of police to fully comply with the law.

Clarifications:

We wish to call on the Special Rapporteurs' awareness that "Iryan Jaya" or "Irian Jaya" as mentioned on page 7 of your letter is no longer used to refer to Papua Province and West Papua Province since the enactment of **Law No. 21 of 2001** on Special Autonomy for the Papua Province.

C. Allegations related to internal displacement, social and humanitarian aid, and obstruction to aid organizations

Internal displaced persons (IDPs) in Provinces of Papua and West Papua are victims of different causes. They fled from their homes not only because of **criminal groups' aggressions**, but also because of **social conflict between tribes, conflict coming out of local or regional elections, natural disaster**, and even because of a **house fire** that burned at least 200 houses.

The Gol has conducted many efforts to data the IDPs, provide humanitarian care for the IDPs, and prepare programmes to repatriate the remaining IDPs. Below are several examples of Gol's measures that have been taken to provide humanitarian care and repatriate IDPS:

1. Maybrat Regency

IDPs in Maybrat Regency fled their homes in South Aifat District because of armed criminal group attacks on 2 September 2021 and 20 January 2022. They fled to the homes of their relatives who live in other districts or regencies, started on 1 September 2021, a day before the attacks because of the intimidation and campaign by the armed

group. In this case, IDPs have not stayed in temporary camps but in houses of their relatives.

Representatives of the National Commission of Human Rights (Komnas HAM) had also met the IDPs on 8 December 2021, in which one Commissioner was part of the visit. Moreover, the central and regional authorities have provided trauma healing programmes for the IDPs, conducted by professional psychologists.

- As for humanitarian aid, so far the Maybrat Regency has sufficient funds to take care of the IDPs from South Aifat District. And for the repatriation process, most of the IDPs have come back to their homes.

2. Pegunungan Bintang Regency

IDPs in Bintang Regency are people who fled because of the armed criminal group attack in Kiwirok District, on 13 September 2021. Initially hundreds of IDPs stayed at places provided by the local authorities in collaboration with local churches. About half of them have been repatriated to their homes, and the remaining IDPs are mostly staying at their relatives' houses in Oksibil District.

- The Ministry of Social Affairs have provided basic needs for the IDPS, such as clothes, foods, blankets, mattresses, kitchenware, etc.

3. Intan Jaya Regency

IDPs of Intan Jaya Regency are people who fled because of a series of attacks conducted by armed criminal groups in districts of Intan Jaya Regency since February 2021. There are hundreds of IDPs who stay at their relatives' houses in other districts/regency, churches, and government buildings.

- The Ministry of Social Affairs have provided basic needs equal to almost 1.5 billion of Rupiah for the IDPS, such as clothes, school set for children, entertainment set for children, foods, blankets, mattresses, kitchenware, etc.

4. Nduga Regency

IDPs of Nduga Regency are people who fled because of attacks conducted by armed criminal groups in Yal District, Nduga Regency, in December 2018. IDPs have stayed at their relatives' houses in other districts/regency, churches, and government buildings.

- The Ministry of Social Affairs have provided basic needs equal to almost 5 billion of Rupiah for the IDPS, such as clothes, school set for children, entertainment set for children, foods, blankets, mattresses, kitchenware, etc.

5. Yahukimo Regency

IDPs of Yahukimo Regency are people who fled because of social conflict triggered by the death of the late Yahukimo Regent in Jakarta. IDPs have stayed at churches, and government buildings in Elelim District, Yahukimo Regency. Houses were burned.

- *The Ministry of Social Affairs have provided basic needs equal to millions of Rupiah for the IDPS, such as clothes, school set for children, entertainment set for children, foods, blankets, mattresses, kitchenware, etc.*

6. Yalimo Regency

IDPs of Nduga Regency are people who fled because of social conflict stimulated by the decision of Indonesian National Court on Yalimo Regent election result. IDPs have stayed at churches, and government places in Elelim District, Yahukimo Regency. Houses, shops, cars were burned.

- *The Ministry of Social Affairs have provided basic needs equal to millions of Rupiah for the IDPS, such as clothes, school set for children, entertainment set for children, foods, blankets, mattresses, kitchenware, etc.*

In addition, we would also like to reiterate that the Gol **has never restricted access to Red Cross, local Christian churches, nor Komnas HAM.**

- Halts of requests for their personnel to come to some areas are due to security reasons, since those areas are still categorized as prone to the security and safety of civillians, as well as used by the armed groups as shooting zones.

The ICRC has had longstanding cooperation with Indonesia, its national police and armed forces, mainly in the form of a series of capacity building. ICRC was also heavily involved in drafting the national armed forces' Standard Operating Procedures and Rules of Engagement.

Moreover ICRC, together with the **Indonesian Red Cross**, have played an important role in handling the COVID-19 pandemic in Papua and West Papua. Since 2020, together with the national police, national armed forces, and other government institutions; ICRC and Indonesian Red Cross have conducted programmes in many isolated places in Papua and West Papua to boost vaccination rates, particularly among native Papuans. ICRC have also been involved in managing IDPs situations, such as in Nduga, Intan Jaya, and Lanny Jaya.

The engagement of **Komnas HAM** in the humanitarian measures for the IDPs has been mentioned in the earlier section of this response. The duties of Komnas HAM are guaranteed by law, hence the Gol is obligated to facilitate Komnas HAM in carrying out its duties. The **churches** play integral roles in Papua and West Papua's social construction. The Gol considers church leaders its valuable partners and continuously engages them, including in humanitarian measures in the region. Church buildings are also protected zones, and unfortunately the criminal armed groups often take advantage of this principle.

D. Closing

Based on the explanations and clarifications provided, the Gol would like to express our concern that most of the allegations of cases raised have considerable weaknesses in terms of data accuracy. As a result, some of the narratives chosen in the Mandate Holders' communication

letters become **misleading, unbalanced and corner certain parties**. The highest standard for the Mandate Holders to act **independently and impartially** needs to be upheld to avoid prejudging the outcome of the legal process and the government's complete handling of it.

Our consistency in responding to Mandate Holders communications, which now counted as 11 replies from 11 joint communications in 2021, demonstrates the commitment of the Gol to work constructively with Mandate Holders to find solutions to issues of mutual concern.

Therefore, we urge the Mandate Holders to establish the facts, based on objective, reliable information emanating from relevant, credible sources, that they have duly cross-checked to the best extent possible an in-depth assessment for any case reported to them before further seeking clarification from member states, as stated with Code of Conduct (Res 5/2). We would like to emphasize that any disproportionate and factually incorrect reporting or public expression regarding the situation in Papua and West Papua provinces is counter-productive, potentially falls into the pit of sensationalism, and only aggravates conflicts and disrupts any ongoing legal process.

We look forward to remaining in contact and engaging constructively with Special Procedures and other UN officials regarding Indonesia's international human rights obligations. The Gol is committed to preventing future human rights abuses and also committed to taking actions, as appropriate, to address past wrongs.