



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

No: 112/POL-II/VIII/2023

Geneva, 9 August 2023

Dear Madame and Sirs,

With reference to your letter Ref.: AL IDN 3/2023 dated 5 May 2023, I have the honor to transmit herewith my Government's response to the Joint Communication of Special Procedures that provide clarifications to the allegations of the lack of adequate and prompt investigations into several cases in the Provinces of Papua.

As you will find in the attached response, cases involving civilians in Papua, whether causing death or injury, have undergone an investigative and judicial process following our national law. While highly appreciating the commitment of mandate holders in carrying out their duties, we simultaneously call for caution in raising unfounded cases in Papua in your Communication, which often leads to a public misperception regarding the actual situation on the ground.

Evidently, in the case of names raised in the Joint Communication (except for the alleged case of Mr. Uakhele Giban, which has yet to be clarified), all of them are entirely criminal cases. It is important to note that punishments were imposed on civilians, and officials deemed to have committed violations have also been sentenced.

Based on this, I emphasize the highest commitment of the Government of Indonesia to fulfilling its human rights obligations and implementing law enforcement following national law and international human rights principles.

Please accept, Madame and Sirs, the assurances of my highest consideration.

Yours sincerely,

Febrian A. Ruddyard
Ambassador/ Permanent Representatives

Morris Tidball-Binz, **Special Rapporteur on extrajudicial, summary or arbitrary executions**
Aua Baldé, **Chair-Rapporteur of the Working Group on Enforced or Involuntary Disappearances**
José Francisco Cali Tzay, **Special Rapporteur on the rights of indigenous peoples**
Paula Gaviria, **Special Rapporteur on the human rights of internally displaced persons**
K.P. Ashwini, **Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance**

**Reply of the Government of Indonesia
to the Joint Communication of the Special Procedures Mandate Holders
Ref.: AL IDN 3/2023 of 5 May 2023**

1. Introduction

The Government of Indonesia ("Gol") wishes to begin responding to the Mandate Holders' Joint Communication, Ref.: AL IDN 3/2023 of May 5, 2023, by underlining our unwavering commitment to upholding human rights principles. Further, the Gol would like to reiterate that the well-being of the people in the Papua region has been and will always be the Gol's top priority.

The Gol 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. The 1945 Constitution of Indonesia guarantees human rights and equality before the law for all Indonesians, regardless of their socio-cultural, religious, or economic background. As will be stated in our clarifications below, including what has been emphasized in our previous communications, the Gol 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.

In this matter, in some cases, the legal process is still ongoing. The Gol always strives to ensure that the trial goes well and fulfills the sense of justice, especially for the victims' families, following the principle of a fair trial.

In this matter, the legal process for some of the cases is still ongoing. The Gol always strives to ensure that the entire trial process goes well and fulfills the sense of justice, especially for the victims' families, in accordance with the **principle of a fair trial**.

Having said this, we would like to clarify and share the information regarding the issues raised in the Joint Communication.

2. Information and Clarification of the Alleged Shooting of Uakhele Giban

This letter was submitted when information regarding an incident on behalf of Mr. Uakhele Giban, which is claimed to have occurred on July 5, 2022, has yet to be found or recorded. More information is needed from credible sources to verify this incident.

3. Information and Clarification of the Alleged Killings of Arlod Lokbere, Irian Nirigi, Lemaniol Nirigi, and Atis Tini

Both TNI (Indonesian National Armed Force) and POLRI (Indonesian National Police) have confirmed that members of Infantry Brigade (Brigif) R/20/IJK/3 committed the murder and mutilation of Arlod Lokbere (found on August 26, 2022), Lemaniol Nirigi (found on August 27, 2022), Atis Tini (found on August 29, 2022), and Irian Nirigi (found on August 31, 2022) on August 22 2022 at around 21.47 WIT in Mimika Baru District, Mimika Regency, Papua.

There were 3 (three) civilian perpetrators and 6 (six) TNI soldiers who were also arrested for allegedly being involved in the murder. The investigation revealed that this case started with a firearms transaction agreement between the victims and the perpetrators on Jalan Budi Utomo, Mimika Regency, Central Papua. The victims then abused the perpetrators because it turned out that the firearms being sold were fake, then a fight occurred, which ended in the victim's death.

The military defendants have been processed per applicable criminal and army laws in Indonesia. They were convicted under the article on premeditated murder along with mutilation, which was carried out together (*deelneming*) (Article 340 jo. Article 55 (1) 1 of the Indonesian Penal Code/*Kitab Undang-Undang Pidana*) and the article on intentional failure to report which harms the interests of the service (Article 121 paragraph (1) of the Military Criminal Code/*Kitab Undang-Undang Pidana Militer*).

3.1 Table of the Legal Process for Defendants from the Military

No.	Defendants	Court Decisions	Status
1	██████████ ██████████	Life imprisonment and an additional sentence of dismissal from military service	The case is in the appeal process
2	██████████ ██████████	The Prosecution process was declared null and void because the Defendant passed away based on Article 77 of the Indonesian Penal Code	
3	██████████	Subject to principal criminal sentence of life imprisonment and an additional sentence of dismissal from military service	The case is in the cassation process
4	██████████ ██████████	Subject to principal criminal sentence of life imprisonment and an additional sentence of dismissal from military service	The case is in the cassation process
5	██████████ ██████████	Life imprisonment and an additional sentence of dismissal from military service	The case is in the cassation process
6	██████████ ██████████ ██████████ ██████████	Life imprisonment and an additional sentence of dismissal from military service	The case is in the cassation process

The following civilian defendants were tried at the Timika District Court and Jayapura High Court:

1. [REDACTED]
2. [REDACTED]
3. [REDACTED]
4. [REDACTED]

Furthermore, the Indonesian National Human Rights Commission – which follows the case closely – confirmed that the same Panel of Judges and Public Prosecutors conducted the trial of above cases.

4. Information and Clarification of the Alleged Use of Force against [REDACTED]

Based on further investigation, the Mandate Holder's claim that Mr. [REDACTED] did not seem to be armed or to pose any threat when running out of the internet café is **invalid**. [REDACTED] was convicted in a case of theft with violence in October 2022. The case was registered at the Nabire District Court with Decision Number 10/Pid.B/2023/PN Nab. The First Trial Session of the case was held on January 17, 2023, and the Court Decision on February 8, 2023.

Based on the police report, a group of people, including [REDACTED], broke the glass in front of a cell phone shop, Amelia Cell Counter, in Ikebo Market, Dogiyai Regency, and stole items. [REDACTED] other Perpetrators fled and put up a fight, causing injury to some passersby, among them a few members of the Indonesian military. Finally, the perpetrators were taken to the Dogiyai Police Sector Office, Central Papua Province, and subjected to legal proceedings per the applicable law and regulations.

5. Conclusion

Based on the explanations and clarifications provided, the GoI would like to express its concern that the allegations raised by the Mandate Holders have considerable weaknesses in terms of data accuracy. As a result, some of the narratives chosen in the communication letters **need to be more accurate and balanced**. The allegations also **neglected the possibility of criminal circumstances surrounding the cases**, thus only putting fault on certain parties. The highest standard for the Mandate Holders **to act independently and impartiality** needs to be upheld to avoid disrupting the ongoing legal process and prejudging the outcome.

The GoI strives to ensure that law enforcement does not discriminate and must provide a sense of justice for all people. Law enforcement should also be responsible, provide certainty to every member of society, be impartial and not quickly intervene. By placing the law in its place, it can protect all citizens without intervention by and from any party, including state officials.

Indonesia's law enforcement officials have carried out various law enforcement processes against all parties who have perpetrated violence in Papua to ensure full

respect and protection for the people of Papua. Prosecuting military members or individuals who commit violence and crime, including in the alleged killings in Mimika Regency, demonstrates that impunity is not tolerated in Indonesia.

The Gol continues its efforts to maintain security and safety for the people of the Papua region from all kinds of threats and disturbances, especially those carried out by separatist armed groups. Based on records and field information from security forces and law enforcement officials in the Papua region, various incidents that have had a detrimental impact on local communities are a pattern of operations or activities of the KKB/OPM, which aim to trigger outbreaks of violence.

Furthermore, we emphasize that any disproportionate and factually incorrect reporting or public statement regarding the situation in the Papua region is counter-productive, potentially falls into the pit of sensationalism, and only aggravates conflicts and disrupts any ongoing legal process.

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 the Member States.

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

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