



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

No: 153/POL-II/X/2023

Geneva, 30 October 2023

Dear Madame and Sirs,

I have the honor to transmit herewith my Government's response that clarifies the allegations as made in the Joint Communication of Special Procedures's letter Ref.: AL IDN 4/2023 dated 17 August 2023.

As you will find in the attached response, among the myriad concerns and allegations directed towards the Indonesian Government, the procedural aspects of investigations and the upholding of the rule of law have not been exempt. As emphasized in our Government's clarification, we aspire to foster a comprehensive understanding of the complexities in Papua Provinces, serving as a constructive foundation for the Special Procedures Mandate Holders in their efforts to promote the realization of human rights in Indonesia.

In numerous instances, incidents mentioned in the letter have occurred within contexts that significantly diverge from preconceived notions about human rights violations in Papua. These contexts include disturbances and killings by armed criminal groups; unsanctioned demonstrations, induced mainly by misinformation and propaganda, escalating into violence; police station investigations conducted within the confines of legal authority rather than arbitrary detention allegations, and even instances of violence between community groups, actions that are unequivocally deemed unacceptable but far from the violations of human rights by law enforcement.

Based on this, I sincerely hope that future interactions and engagements by the mandate holders will demonstrate a greater level of objectivity. In the meantime, the Indonesian Government remains resolutely committed to fulfilling its human rights obligations.

This commitment includes ensuring that law enforcement practices adhere to both national and international laws and principles, including in Papua Provinces, to protect all citizens from the perils of violence and criminal activities.

Lastly, I would like to take this opportunity to underscore the imperative for related UN human rights mechanisms to play a more active role in amplifying the grievances of the Palestinian people, whose current plight defies the standards of our modern world. The ongoing situation in Gaza represents just a fraction of the systematic illegal occupation imposed by Israel, profoundly affecting the realization of Palestinian human rights, including their fundamental right to independence. As integral components of the UN human rights mechanism, we duly hope that mandate holders assume an active stance in condemning Israel's blatant violations of international and humanitarian law. In line with their respective mandates, we encourage the mandate holders to play a role in issuing public condemnation and gathering facts about human rights violations against Palestinians, ultimately ensuring that Israel is held accountable for its actions.

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**

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

K.P. Ashwini, **Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance**

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

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

**Reply of the Government of Indonesia
to the Joint Communication of the Special Procedures Mandate Holders
Ref.: AL IDN 4/2023 of 17 August 2023**

In response to the allegations that the Special Procedures Mandate Holders have brought to our attention in the Joint Communication, we would like to, once again, raise the current situation in Papua Provinces to ensure an objective and comprehensive understanding of the challenges that the Government of Indonesia is facing on the ground.

Undoubtedly, the dedicated efforts aimed at promoting and safeguarding human rights in Papua face significant hurdles due to the prevailing threat posed by armed criminal groups. Between 2010 and 2022, these groups were accountable for 226 out of 346 reported violent incidents, resulting in the tragic loss of 497 lives, primarily among innocent civilians. The victims included religious leaders, healthcare professionals, educators, students, construction workers, and children. Regrettably, the Indonesian National Police, military personnel, and law enforcement officers frequently find themselves as the primary targets of these violent acts.

In 2023, a disconcerting series of events has unfolded, attributed to armed criminal groups in Papua. These include the incineration of five civilian residences in Central Papua, the destructive fire at the Tanah Merah market in South Papua, the abduction of three motorbike taxi drivers in Puncak Jaya, Central Papua, and several assaults on civilians across the Papua Province. Alarmingly, over the past six months, three separate incidents have resulted in the tragic loss of seven members of the armed forces.

We deeply regret that concerns about these events have escaped the attention of the mandate holders, including in their communications to our Government.

The Government of Indonesia (GoI) as the duty bearer, has the **responsibility to ensure the safety and security of its citizens**. In light of the acts of terror perpetrated by armed criminal groups in Papua, it becomes imperative to employ a security approach in various regions affected by these groups. Nevertheless, it is crucial to underscore that these **security measures are implemented with a steadfast commitment to upholding and respecting fundamental human rights principles as clearly mandated by the ICCPR**.

The GoI remains steadfast in its commitment to combat impunity and actively supports all efforts to address this issue. This commitment is upheld through various means, including by strengthening legal instruments and their implementations, enhancing the quality of human resources, and reforming military, police, and other law enforcement institutions. In instances where acts of violence involve law enforcement personnel, these cases are thoroughly and exhaustively investigated, ensuring accountability. Military officers who have violated human rights face severe consequences, including life sentences and discharge from the military service, through a transparent court process accessible by the public and media.

It is important for the Special Procedures Mandate Holders to fully comprehend the genuine security situation in Papua, laying the foundation for subsequent engagement, communication, and dialogue with relevant and concerned parties. The Gol fundamentally embraces the continuation of conversation on this important matter, grounded on its commitment to improving the protection and promotion of human rights in Indonesia.

A. Freedom of Opinion and Expression; and Freedom of Peaceful Assembly and Association as Constitutional Rights in Indonesia

1. Freedom of peaceful assembly and association are guaranteed in our Constitution (*Undang-Undang Dasar 1945/UUD 1945*) and the laws and regulations deriving from it. Both are interlinked, guaranteed, implemented, and periodically evaluated through the following national frameworks:
 - UUD 1945 Article 28 E. It ensures the safeguard of the freedom of opinion and expression, which is exercised in a responsible manner.
 - Law No. 9 of 1998 on Freedom to Express and Opinion in Public also allows and governs the implementation of freedom to peaceful assembly.
 - Law No. 2 of 2002 on the Indonesian National Police guarantees the safety and security of the people to express opinions peacefully in public spaces. It is further strengthened by the Chief of Indonesian National Police Regulation No. 7 of 2012 to ensure the smooth implementation of Law No. 2 of 2002 daily.
 - Law No. 17 of 2013 on Civil Society Organization. This law provides a better framework for regulating civil society organizations to play a more significant role in national development and strengthens their governance, functions, and responsibilities.
2. It is imperative to recognize that while these freedoms are fundamental, they are not absolute and must be exercised responsibly, considering the rights and freedoms of others and the maintenance of public order. This limitation aligns with Article 19 (3) of the ICCPR, which states that: *“the exercise of the rights provided for in paragraph 2 (on freedom of expression) of this article carries with it special duties and responsibilities. It may therefore be subject to certain restrictions, but these shall only be such as are provided by law and are necessary: a) for respect of the rights or reputations of others; b) for the protection of national security or of public order, or of public health or morals.”*
3. According to **the Law No 9/1998 Articles 6, 15, 16, 17, and 18** the Gol is committed to providing a broad avenue to carry out peaceful protests, provided that **they comply with procedures, do not infringe on the rights and freedoms of others, and do not disturb the public order.**

B. Information and Clarifications on the Concerns of the Special Procedures Mandate Holders

Alleged Incident in February 2023

1. Detailed Information:

- On Thursday, 23 February 2023, at 11.30 a.m., the Indonesian police officers responded to a report of an allegation of child abduction in Sinakma Street, Wamena, Papua.
- Police officers talked to the 2 (two) suspects, [REDACTED] and [REDACTED] both denied the allegation, stating that it was simply a misunderstanding.
- When the police officers ordered the suspects to come to the Jayawijaya Regional Police to settle the issue further, the negotiation failed, and the crowd in the area started to do violent acts.
- The crowd attacked police officers and started to burn the houses around Trans Kimbim Street, creating an extremely chaotic situation.
- Police officers took necessary actions to stop the unrest and restore public order.
- After this incident, 11 (eleven) people were found dead in Trans Kimbim Street, Wamena. Two of them were identified to be non-Papuans while the nine others are Papuans.

2. Investigation Status:

- The Police received 4 (four) reports related to this incident, namely:
 - 1) Allegation of spreading propaganda and misinformation.
 - 2) Allegation of the burning of 7 houses and stores.
 - 3) Allegation of the killing of 2 non-Papuans; and
 - 4) Allegation of the killing of 9 Papuans.
- The Police has conducted an investigation on the video evidence, witness interviews, ballistic tests on the guns found in the area, as well as forensic investigations.
- Two perpetrators of the misinformation spread have been identified as [REDACTED] and [REDACTED] (currently under the List of Missing Persons).
- Reports concerning the burning of houses and stores, as well as the killing of 2 non-Papuans and 9 Papuans: investigation is still ongoing, and perpetrators are still being identified.

Alleged Incident in July 2023

3. Detailed information:

- On 13 July 2023, two local media, Dogiyai News and Dogiyai Bersatu, conveyed the news on social media regarding an act of killing allegedly done by the police. The victims were said to be [REDACTED]
[REDACTED]

4. Investigation Status:

- Investigation process is still ongoing.
- The Regional Police of Dogiyai, in coordination with the Cyber Unit, is still investigating the validity of a document found during the investigation, which contains more names and detailed data of victims.
- The document was distributed by the spokesperson of the National Committee for West Papua (KNPB) in the Dogiyai Region, [REDACTED] through the two local media.
- However, the Regional Police of Dogiyai **has not received** any reports from the families of the said victims. It is **highly unusual** that the families of victims do not make any reports to the police following such incident.
- While the data is still under investigation, the evidence found on the ground regarding the news supported the high probability of this case as being a hoax, commonly spread by armed criminal groups.

Allegation on Use of Force Against Protesters in Jayapura in May 2022

5. Detailed information:

- On 10 May 2022, a public protest against the plan of the establishment of new provinces in Papua was conducted by hundreds of students and members of the Papuan Peoples Petition.
- The notification letter submitted to the police did not meet the requirement to obtain a permit to conduct a peaceful protest. According to the Law no. 9 of 1998, the coordinator of the protest has to submit the letter directly to the police and undergo a clarification process to further explain about the technicalities, method, number of the people involved, and other relevant information that needs to be collected by the police.
- However, an unknown individual submitted the notification letter, and hence **the clarification process could not take place**.
- During the protest, protesters started throwing stones at the police, which further shows that **the protest was not conducted in a peaceful manner**.
- Therefore, the police dispersed the protesters in accordance with its Standard Operating Procedures (SOP).

6. Investigation Status:

- On 7 May 2022, [REDACTED], the coordinator of the protest stated on his social media that he would still stage the protest despite the police warning that it would be unprocedural.
- Given that the protest turned to violence by the protesters and was highly fueled by social media posts, an investigation has been conducted concerning the social media propaganda of [REDACTED].

7. Findings:

- It is evident that the **demonstration was not conducted in accordance with proper procedures and should not have been**

organized initially. Beyond the procedural concerns, security forces had to disperse the protesters due to the violent turn of events, **which included instances of stone-throwing.**

- Following the protest, fake information was spread on social media that a victim was found dead because of a rubber bullet. The flow of invalid information or hoaxes fueling hatred in the community has become a great challenge for the Gol in creating stability in the region.

Allegation on the Use of Force against Protests in Jayapura, Nabire Town, Sorong City, and Nabitre Town in June and July 2022

8. Detailed Information:

- Regrettably, protests from June to July 2022, aiming to oppose the Special Autonomy Law and the formation of new provinces in Papua have disrupted public order.
- On several occasions, some of the protesters brought flags and banners featuring symbols of the separatist movement, which is an illegal act by Indonesian law.
- Some of the protests were unprocedural, in which they were conducted without the permission from the police.

9. Investigation Status:

- To maintain the public order, the police had to seek clarifications from the protesters regarding the objective of the protest.
- Any evidences found in the area of unpeaceful protests had to be collected by the police for the purpose of investigation.

10. Findings:

- The procedure for seeking clarifications from the protesters adhered to our established SOP. Upon the completion of information collection, the protesters were immediately released. This stands in stark contrast to the claim of arbitrary detention.

Allegation on the Use of Force Against Protesters on 1 April 2023 in Denpasar, Bali Province

11. Detailed Information:

- On 1 April 2023, there was a clash between two groups: the Alliance of Papuan Students in Bali (AMP-KK Bali) and the civil society organization Patriot Garuda Nusantara (PGN).
- The conflict arose when 30 students of AMP-KK Bali who were doing a protest were blocked by the members of PGN. Both parties started to push and throw stones and other things at each other.
- The police who came at the time of conflict had given first aid to the victims before sending them to the nearest hospital. The area was cleared to ensure no further conflict.

12. Investigation Status:

- The clash occurred between the members of AMP-KK Bali (a student group) and PGN (a civil society organization). **It is therefore inaccurate to label it as a conflict between the police and the protesters.**
- The police facilitated a dialogue and mediation process that involving the two groups, along with relevant stakeholders, including the head of district and traditional leaders/figures in the area.

13. Findings:

- The PGN reported to the police that at least 5 (five) members of PGN were severely injured, including bone friction, dislocation, and open wounds. On the other side, the number of victims from the AMP-KK Bali was unknown because the group refused to talk to the police.

C. The Fight against Impunity in Indonesia

1. Incidents involving law enforcement personnel committing acts of violence are subjected to thorough and comprehensive investigations. An internal mechanism is in place to investigate and penalize security personnel based on the category of its violation: 1) an ethical code breach, 2) a breach of disciplinary rules, or 3) a violation of criminal law.
2. With the adoption of the Police Chief's Regulation No. 2/2022, the superior is obligated to administer strict supervision to the conduct of their staffs. When a violation is found, the superior is obliged to report the violation to the relevant division, based on the type of the violation. Failure to report the incident will make the superior responsible for the conduct.
3. When the findings of the investigation suggest that the conduct is a criminal act, such as killings and tortures, the incident will further be prosecuted under the General Court - the same mechanism in place for civilians violating the criminal law.
4. There is also a mechanism for the possession of guns. Each gun owned and possessed by security personnel will be registered and associated with the personnel. This would enable tracking when there is a reported case of shooting toward civilians and eventually lead to the responsibility process.
5. The GoI consistently maintains open channels of communication through ongoing dialogues with community leaders to address grievances and explore avenues for peaceful resolution whenever conflict arises.

D. Developments to Advance the Fulfilment, Protection, and Promotion of the Rights of Papuans

1. The Gol maintains a steadfast commitment to promoting stability and prosperity for all Papuans. This commitment is integral to advancing the fulfilment, protection, and promotion of human rights in Papua provinces.
2. It is imperative, therefore, to evaluate the ongoing developments in the region, encompassing both civil and political rights as well as economic, socio-cultural, and developmental rights.

Civil and Political Rights

3. The people in Papua enjoy the same rights and privileges as all other Indonesian citizens, including political rights. Free and fair democracy is exercised in Papua, as shown by the high voter participation rate during 2019 National Election in Papua and West Papua Province of 94% and 88%, respectively.
4. This was notably exemplified during the 2019 National Election, where the voter's participation rate for the Papua province is 94% while in West Papua province was 88%, ranking among the highest in Indonesia.
5. Under its special autonomy status, no person other than ethnic Papuans are eligible to hold the position of governor in Papua. This distinctive provision grants Papuans the freedom to vote, govern their region, and shape their own future, a privilege not extended to other Indonesian provinces.
6. The exercise of the freedom of peaceful assembly in Papua is reflected by the significant number of public protests conducted in the past 4 years. Official documents indicate that since 2020, at least 26 permits for demonstration in Papua have been issued. These peaceful protests complied with the procedures set forth in our national legal framework, were not conducted at the expense of the rights and freedoms of others and did not cause any disturbance to the public order.
7. Any foreign journalist intending to make reporting in Indonesia must obtain a journalist visa. Below are the figures of journalist visa requests to provinces of Papua granted from 2015-2022:
 - 2022: 13 requests granted, 1 administrative issue;
 - 2020 - 2021: COVID-19 restriction
 - 2019: 7 requests granted, 4 administrative issues;
 - 2018: 11 requests granted, 1 administrative issue;
 - 2017: all 21 requests granted;
 - 2016: 15 requests granted, 4 administrative issues;
 - 2015: all 32 requests granted.

Economic, Socio-Cultural, and Developmental Rights

8. Focused efforts have been initiated to accelerate development in the eastern region of Indonesia, including Papua, through the construction of more than 4.300 km of road, ten airports, ports, hundreds of schools, and power generation facilities to ensure regional connectivity and maximize the region's economic potential.
9. The infrastructure development and Special Autonomy status have enabled significant development, statistically proven through various categories. The Human Development Index (HDI) in the provinces of Papua has increased from being at a "low" level in 2010 to "medium" in 2022.
10. There has also been a significant decline in the percentage of the population living in poverty, from 36,80% in 2010 to 26,86% in 2021 in Papua Province and from 34,88% in 2010 to 21,84% in 2021 in West Papua Province.
11. The Province of Papua and West Papua have been developed into five provinces. The expansion of the administrative region in Papua was aimed at accelerating the public service in each province, enabling a more focused and detailed development program, establishing more effective and efficient governance, and strengthening the effort to eliminate development and prosperity gaps among regions.
12. Recently, in May 2023, the President of the Republic of Indonesia issued a Presidential Regulation to accelerate development in Papua through the 2022-2041 Papua Development Acceleration Master Plan (RIPP). This plan contains a comprehensive development agenda in Papua for the next 20 years.

E. Conclusions

1. The freedom of opinion and expression, as well as the freedom of peaceful assembly and association are firmly guaranteed in our Constitution UUD 1945 and our national legal frameworks, which encompass national laws and regulations. The exercise of these rights in Indonesia is guided by the international human rights instruments, particularly the ICCPR.
2. We would like to reiterate that Indonesia, as one of the largest democracies, staunchly upholds the rights to peaceful assembly, provided they adhere to the procedures set forth by national law, respects the rights and freedoms of others, and do not cause any disturbance to the public order.
3. Recognizing the complex security situation on the ground, we urge the Special Procedures Mandate Holders **to maintain their impartiality and genuine intent**, while equally consider the views of all stakeholders, including the government and civil society.

4. In closing, Indonesia is deeply committed to engaging in discussions and dialogues with the UN human rights mechanisms, including the Special Procedures Mandate Holders. We value the attention and constructive support of the mandate holders in advancing the fulfilment, protection, and promotion of human rights in Indonesia.
