



Permanent Mission  
of the Republic of Indonesia to the  
UN, WTO, and Other International  
Organizations  
in Geneva

Geneva, 21 November 2024

No: 212/POL-II/XI/2024

Dear Sirs and Madams,

I have the honor to convey my Government's response to your Joint Communication Ref. AL IDN 2/2024, dated 20 March 2024.

Consistent with our earlier response to Joint Communication No. AL IDN 4/2023, we wish to reaffirm the Government's steadfast commitment to combating impunity. This includes conducting thorough investigations into any isolated cases of alleged misconduct. We respectfully request careful consideration of the reports concerning Papua, which must take into account the significant challenges posed by the activities of armed criminal groups. It is vital to ensure an objective perspective, particularly regarding security measures, which are firmly governed by adherence to fundamental human rights principles and international law, as outlined in the ICCPR and CAT.

Based on the attached detailed explanations regarding the alleged cases, they underscore our commitment to upholding the rule of law, ensuring accountability for perpetrators, maintaining zero tolerance for impunity, and safeguarding the impartiality of our judicial system, especially concerning military operations.

We also wish to emphasize the challenges faced by law enforcement and government officials on the ground. Our comprehensive approach, which integrates development and security strategies, remains crucial to ensuring the safety, welfare, and brighter future of the people in these provinces.

In conclusion, we take your communication with the utmost seriousness and view it as a valuable component of international human rights cooperation. Rest assured, the Government of Indonesia will persist in its efforts to protect and fulfill the human rights of all its citizens, particularly those in the Provinces of Papua.

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

Yours sincerely,

**Nur Rakhman Setyoko**  
Ambassador / Chargé d'affaires

Morris Tidball-Binz, **Special Rapporteur on extrajudicial, summary or arbitrary executions**  
Aua Baldé, **Chair-Rapporteur of the Working Group on Enforced or Involuntary Disappearances**

Margaret Satterthwaite, **Special Rapporteur on the independence of judges and lawyers**

José Francisco Cali Tzay, **Special Rapporteur on the rights of Indigenous Peoples**

Nicolas Levrat, **Special Rapporteur on minority issues**

**Reply of the Government of Indonesia  
to the Joint Communication of the Special Procedures Mandate Holders  
Ref.: AL IDN 2/2024 of 20 March 2024**

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Regarding Special Procedures Mandate Holders' letter No. AL IDN 2/2024 dated 20 March 2024, the Government of Indonesia (GoI) wishes to offer additional information and clarification concerning the cases and allegations raised in the Joint Communication.

We would like to begin by underscoring a crucial point articulated in our response to Joint Communication No. AL IDN 4/2023, that the GoI's efforts to uphold and protect human rights in Papua have encountered significant challenges due to the threat posed by the activities of armed criminal groups. While we have previously elaborated on the security situation on the ground which has necessitated the GoI's security measures in various regions of Papua to ensure the safety and security of its citizens, it is imperative to further emphasize that these security measures are strictly governed by respect for fundamental human rights principles and international law, including those principles delineated in the ICCPR and CAT.

**A. Information and Clarifications on the Concerns of the SPMH**

***Part I – Further to Allegation Letters IDN 3/2023 and IDN 4/2023***

***Allegation of the Enforced Disappearance and Killing of Mr. Uakhele Giban***

Based on an initial field investigation, no murder case involving Mr. Uakhele Giban was found in Suru-Suru District. Both the Indonesian National Armed Forces (TNI) and the Indonesian National Police found no evidence of such a murder occurring on July 5, 2022. The Indonesian government provides open access for the public to report any criminal acts committed by both civilians and law enforcement officers and upholds the principle of equality before the law and witness protection. All reports received will be processed and followed up with a comprehensive investigation.

Reports of murder or violence by law enforcement officers must be approached with caution and their validity needs to be ensured. False propaganda and information are often disseminated by criminal armed groups to cover their acts of violence. We encourage the SPMH **to verify the information** they receive to ensure that the engagement remains constructive and objective.

***Allegation of the Killings of Messrs. Arlod Lokbere, Irian Niriqi, Lemianiol Niriqi, and Atis Tini***

The case of Mr. [REDACTED] was adjudicated in Military Court III of Surabaya, resulting in Decision No. 37-K/PMT.III/AD/XII/2022 dated January 24, 2023. The defendant was found guilty of:

1. Premeditated murder (Article 340 of the Criminal Code)
2. Willfully failing to report something that should have been reported to the proper authorities (Article 121, paragraph (1) of the Military Criminal Code)

Mr. [REDACTED] was sentenced to life imprisonment and dismissed from military service.

After receiving the Decision from the Military Court III Surabaya, the defendant appealed to the Military High Court. Considering that the charges were alternative in nature, the appeal process resulted in Decision No. 4-K/PMU/BDG/AD/II/2023 dated April 12, 2024, which indicated a modification of the primary charges to:

1. Murder committed in conjunction with or preceded by another crime to facilitate unlawful acquisition of property (Article 339 of the Criminal Code)
2. Willfully failing to report something that should have been reported to the proper authorities (Article 121, paragraph (1) of the Military Criminal Code)

Mr. [REDACTED] sentence was revised to 15 years of imprisonment and remained dismissed from military service. Considerations of the panel of judges include the following points:

- At the time of the murder, Mr. [REDACTED] was not present at the scene as he was attending an official duty. He only received a report from a civilian defendant, Mr. [REDACTED], that the victim had been killed and the money had been taken by Mr. [REDACTED], another civilian defendant.
- The murder was not orchestrated by Mr. [REDACTED] but was instead, the initiative of Mr. [REDACTED] and Mr. [REDACTED]. Mr. [REDACTED] also seized the victim's property.

Regarding the legal proceedings against the four civilian defendants, the outcomes are as follow:

1. Mr. [REDACTED], Mr. [REDACTED], and Mr. [REDACTED] received life imprisonment.
2. Mr. [REDACTED] was sentenced to 18 years imprisonment.

The four defendants are currently in the process of appealing against the decision. Conclusions cannot yet be drawn to compare the outcomes of the Military Court with those of the Civil Court until the appeal process is complete. Nonetheless, when considering the sentences imposed, it is essential to consider the degree of involvement of each individual in the incident of the killing.

### **Incidents of Alleged Unlawful Killings of 11 People in February 2023 and of Three People in July 2023**

In regard to the development of the investigation of the riots in Sinakma District, Jayawijaya Regency which resulted in 11 fatalities in February 2023, the Papua

Regional Police Chief has investigated 16 personnel from the Jayawijaya Regional Police. In parallel, both the National Human Rights Commission (Komnas HAM) and Komnas HAM Papua have also established an independent investigative team to look into the case.

Moreover, regarding the alleged killing of Mr. Yosua Keiya and Mr. Yakobus Pekei, the Papua Regional Police Chief has directly mandated senior officers from the Papua Regional Police to investigate the incident that occurred on July 13, 2023. The process of identifying the perpetrators is still ongoing. Komnas HAM is also continuing its investigation into this case.

## ***Part II – New Allegations***

### ***Alleged Killing of Five Papuans in Fakfak Regency***

The joint security forces conducted a raid on location of the murder of the Head of Kramomongga District, Mr. [REDACTED] in Kramomongga District on August 15, 2023. During the raid, the perpetrators resisted, resulting in 2 Mobile Brigade (Brimob) members being injured by machete strikes to their left hands.

It is important to underscore that the non-conductive situation necessitated the joint security forces to act in self-defense. Some suspected perpetrators were forcibly arrested with a tough approach, while others fled into the forest. The joint security forces later found 4 suspected perpetrators dead due to gunfire.

The arrested perpetrators are currently undergoing legal proceedings. On March 25, 2024, the trial for the murder of the Head of Kramomongga District and the burning of government facilities in Kramomongga District commenced. The defendants are currently detained at Fakfak Penitentiary awaiting further trial, which includes examining witnesses by the Public Prosecutor's Office. The defendant Mr. [REDACTED] is accused of assault and murder using a machete.

### ***Alleged Torture of 12 Papuans in Nduga***

Damai Cartenz Task Force conducted an operation to detain five individuals suspected to be sympathizers of an armed criminal group led by [REDACTED] on September 17, 2023.

During the process, members of the Damai Cartenz apprehended three suspects at the residence of [REDACTED] and [REDACTED]. It was found that both pastors defended the three suspects by continuously shouting, despite being advised to remain calm as they were only temporarily detained for questioning. The pastors' disregard for the instructions and continuous shouting led to an incident of violence.

Following the incident, the Chief of Nduga Police met directly with the Regional Secretary (Sekda) of Nduga and the Chairperson of the Regional People's Representative Council (DPRD) to explain the situation. The Chief of Nduga Police, along with the Sekda and the DPRD Chairperson, also visited the families of the five arrested individuals and other residents at the houses where the arrests were made.

The Chief of Nduga Police, representing the police officers, had also held a meeting with [REDACTED] (Chairman of the Kingmi Synod of Nduga District) and apologized for the violent actions committed by the members of the Damai Cartenz Task Force.

**Alleged Lack of Independence and Impartiality of Military Courts in Charge of Adjudicating on the Killing of Two Civilians**

In the case of the killing of two civilians named Eden Armando Bebari and Ronny Wandik, the Military Court III-14 of Denpasar has adjudicated the case involving defendants [REDACTED] and [REDACTED] with charges in murder (Article 338 of the Penal Code). The Military Prosecutor's demand was for the defendants to be sentenced to 2 years imprisonment and dismissal from military service as an additional penalty.

The Military Court judge declared that both defendants were proven to have committed the act of killing; however, there were several justifying reasons that could absolve them from legal liability (as regulated in Article 50 and Article 51 paragraph (1) of the Indonesian Penal Code), which are as follows:

1. They were performing state duties under official orders based on Law No. 34 of 2004 concerning the Indonesian National Armed Forces, which has the primary duty to uphold national sovereignty, defend the integrity of Indonesian territory, and protect the entire nation from threats to national integrity.
2. The area was a region with high security concerns, in which the armed criminal groups themselves declared the area a battle zone. The location of the incident is an area where civilians are prohibited from entering.
3. The two civilians were found to be undercover members of the armed criminal group. A witness, who is [REDACTED], also stated that he had warned Mr. Wandik not to enter the area but his advice was not heeded.

Considering these reasons, both defendants were released from all legal charges.

**B. Preventing the Excessive Use of Force, Torture, and Ill-Treatment**

The Gol upholds a strong commitment to prevent the excessive use of force, torture, and ill-treatment by law and security enforcement. This commitment is reflected

through the national frameworks of both the Indonesian National Police (Polri) and National Armed Forces (TNI) to prioritize the safety and security of Indonesian citizens.

The Chief of Polri has enacted Regulation No. 8 of 2009, which governs the implementation of human rights principles and standards in the execution of the national police's mandate in handling criminal matters. Since 2010, Polri has collaborated with the National Human Rights Institution (Komnas HAM) to develop four handbooks to ensure that all personnel possess a thorough understanding of human rights principles and standards within the specific contexts and situations relevant to their duties, such as handling civil unrest, crowd control, and situations where the use of firearms is permissible but limited. These handbooks serve as guidelines for four units: the Patrol Unit (Sabhara), the Mobile Brigade Corps (Brimob), the Criminal Investigation Unit (Reskrim), and the Detainees and Evidence Unit (Tahti).

The handbooks are based on fundamental principles derived from national human rights principles and international instruments, including the Basic Principles on the Use of Force and Firearms, the UN Code of Conduct for Law Enforcement Officials, and the Principles on the Effective Prevention and Investigation of Extrajudicial, Arbitrary and Summary Executions.

Regarding the military, all military personnel are required to undergo pre-deployment training to enhance their comprehension of human rights and humanitarian law. TNI is currently collaborating with the Regional Office of the UN High Commissioner for Human Rights to revise and enhance the human rights curriculum. Furthermore, the TNI provides each personnel with rules of engagement based on the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials and the UN Code of Conduct for Law Enforcement Officials.

The TNI also participates in civil operations, including disaster relief and community development initiatives, as well as the provision of essential services in remote areas to promote positive relations with the local population.

On the issue of combating torture, the following measures have been implemented:

1. CAT principles are already reflected in Law no. 39/1999 on Human Rights (Human Rights Law).
2. The new Penal Code has incorporated provisions that criminalize torture, aligning with the definition stipulated in the UN Convention against Torture.
3. Additional articles related to torture offenses have been included, in accordance with principles aimed at preventing and eliminating torture in law enforcement activities.
4. Numerous collaborations, trainings, and workshops for law enforcement personnel have been undertaken, including in collaboration with external partners such as the Convention against Torture Initiative and the Association

- for the Prevention of Torture. Law enforcement officers are also provided with an anti-torture module.
5. The Ministry of Law and Human Rights is working together with the Cooperation for the Prevention of Torture (KuPP), comprising of six national human rights institutions: Komnas HAM, the National Commission on Violence against Women, the National Commission for Child Protection (KPAI), the Witness and Victims Protection Agency (LPSK), the Ombudsman, and the National Commission for Disabilities (KND).
  6. In 2019 and 2022, Indonesia hosted regional seminars under the Convention Against Torture Initiative (CTI). These seminars, attended by law enforcement officials and policymakers, aimed to strengthen regional commitments against torture and promote the mainstream application of the Mendez principles on investigative interviewing.

### **C. The Fight against Impunity and Ensuring Impartiality and Independence of the Court in Indonesia**

Indonesia maintains a rigorous policy against impunity for any misconduct by security forces, demonstrating a steadfast commitment to accountability and the rule of law. Despite the relatively lower number of incidents involving security forces compared to acts by armed criminal groups, all cases are thoroughly investigated.

As outlined in our previous response, internal mechanisms within respective institutions are in place to investigate and sanction law enforcement officers for any misconduct during their duties. These mechanisms are guided by the principles of fair trial to ensure justice for victims. Cases involving criminal misconduct are further processed by the General Court.

To uphold impartiality and independence within the Indonesian judicial system, the Supreme Court has introduced SIWAS (Monitoring Information System), which acts as a whistleblowing platform to monitor and report any ethical violations, procedural breaches, or maladministration by judges or civil servants in the Supreme Court and its subordinate courts. This channel is accessible to both public and internal officers.

The channel is managed by the Supreme Court Monitoring Body, mandated to oversee internal monitoring mechanisms within the Supreme Court. In 2023, SIWAS received 4,138 complaints. Upon receiving a complaint, the Body conducts thorough examination and clarification processes. Judges or civil servants found guilty receive disciplinary measures. In 2022, the Body imposed 271 disciplinary actions for offenses ranging from severe to minor. Cases involving criminal elements, such as corruption and bribery, are referred for criminal proceedings.

Furthermore, to enhance judges' understanding of human rights issues and the application of human rights principles, the Supreme Court has conducted numerous training programs. Between 2018 and 2021, human rights training sessions were provided to 1,672 judges and judge candidates from all judicial branches across

Indonesia. In 2021, in collaboration with the Norwegian Center for Human Rights, the Supreme Court organized human rights training for 29 judges from district courts.

#### **D. Conclusions**

In conclusion, it is crucial for the Special Procedure Mandate Holders to have a thorough understanding of the complex security landscape in several areas of Papua, where the activities of armed criminal groups undermine the enjoyment of human rights of our citizens. The security measures implemented in these areas are carefully designed to safeguard the safety and security of Indonesian citizens, which is a primary obligation of the Government of Indonesia as a duty bearer.

Security personnel deployed in these regions have received comprehensive pre-deployment training to ensure they understand fundamental human rights principles. They are guided by various manuals to prevent human rights violations, including excessive use of force, torture, and ill-treatment. Furthermore, any misconduct by security officers undergoes thorough investigation and appropriate penalties are imposed following the principles of fair trial, ensuring justice for the victims.

We appreciate the genuine commitment of the Special Procedures Mandate Holders and other UN human rights mechanisms to support and provide constructive feedback to the Government of Indonesia in implementing human rights principles. The Government of Indonesia remains steadfast in its commitment and efforts to uphold, protect, and promote human rights throughout the country, including all provinces in Papua.

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