

**NATIONS UNIES**  
**HAUT COMMISSARIAT DES NATIONS UNIES**  
**AUX DROITS DE L'HOMME**

**PROCEDURES SPECIALES DU**  
**CONSEIL DES DROITS DE L'HOMME**

**Mandates of the Special Rapporteur on extrajudicial, summary or arbitrary executions and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment.**

**UNITED NATIONS**  
**OFFICE OF THE UNITED NATIONS**  
**HIGH COMMISSIONER FOR HUMAN RIGHTS**

**SPECIAL PROCEDURES OF THE**  
**HUMAN RIGHTS COUNCIL**

REFERENCE: UA G/SO 214 (33-27) G/SO 214 (53-24)  
IDN 7/2012

27 July 2012

Dear Mr. Yusup,

We have the honour to address you in our capacities as Special Rapporteur on extrajudicial, summary or arbitrary executions and Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment pursuant to Human Rights Council resolutions 17/5 and 16/23.

In this connection, we would like to draw the attention of your Government to information we have received regarding the increasing climate of violence in Papua and West Papua, Indonesia, including unlawful killings by both State authorities (police and military forces) and non-State actors and excessive use of force.

According to information received:

30 April 2012

The incident of concern reportedly occurred at around 12:00 p.m. when prison guards at Class II.A. of the Abepura Correctional Facility were bringing detainees back to their cells. Mr. Selfius Bobii, one of the detainees, asked the Head of the Correctional Facility's Security Unit (KPLP), Mr. A, for a permit to hold a creative activity with prison inmates. His request was dismissed, which led to an argument between him and the Head of KPLP. Subsequently, the prison guards were instructed to put Mr. Bobii in solitary confinement. Prison inmates, who were witnessing the argument, shouted at the prison guards and requested that Mr. Bobii be returned to his cell.

After the guards had placed Mr. Bobii into solitary confinement, about 20 of them allegedly took 41 prisoners out of their cells, and tortured and ill-treated them for more than two and a half hours, from 12:30 to 3:15 p.m. Prison guards allegedly beat, kicked and hit detainees with their fists, wood blocks and iron sticks. They also allegedly whipped prisoners with thick ropes and dragged them to the yard, where they were asked to walk while guards were beating and kicking them and

stepping on some of the prisoners' fingers and toes. As a result, it is reported that two prisoners named Messrs. Hendrik Kenelak and Otto Ikinia fainted and another, Mr. Parmen Wenda, had his arm broken.

15 May 2012

On 15 May 2012, at around 5:30 p.m., four young Indonesian men from the Wolani tribe of Degeuwo – named Messrs. Selvius Kegepe, aged 22; Lukas Kegepe (also known as Lukas Tobeta), aged 20; Amos Kegepe, aged 22; and Yulianus Wagepa (also known as Yulianus Kegepe), aged 24 – went to a billiard centre in Lokasi Emas 45 (a gold panning location), Degeuwo, Paniai District, West Papua. Despite the owner's refusal to let them play, three of them started playing. Subsequently, the owner called the post commander of the Mobile Police Brigade (Brimob) at Lokasi 99.

At 7:00 p.m., the four men left the billiard room when they heard the Brimob officers outside. After Lukas Kegepe reportedly said, "It is thanks to me and to my land that you are able to eat today!" - literally translated as "You came looking for food on top of my thigh," referring thereby to mining companies illegally operating in the area - one of the Brimob officers hit him which caused heavy bleeding from his lower lip.

When he heard from his home that an altercation was taking place, Mr. Melianus Kegepe (also known as Melianus Gayampa), aged 23, indigenous Papuan of the Wolani tribe from Paniai and chieftain of his community, reportedly ran to the billiard centre. In an attempt to fight back, he was shot twice in the abdomen and immediately fell to the ground. Amos Kegepe was shot three times, twice in the left leg and in his right calf. Markus and Selvius Kegepe decided to run away, but the latter was shot three times, in the right arm, in the chest and in the right hip. When Lukas Kegepe managed to throw one of the officers to the ground, he ran away, and was shot in the waist.

According to a source, the perpetrators, who are under the command of the Paniai district police, have been identified as the Post Commander of Nomouwodide at Lokasi 99, who was the one who gave the orders, First Police Brigadier B. (equivalent First Sergeant), Second Police Brigadier C. (equivalent Second Sergeant) and Second Police Brigadier D. (equivalent Second Sergeant).

The incident reportedly occurred in an area where mining companies operate illegally and where other private businesses proliferate, including entertainment businesses such as the billiard centre mentioned below. The Mobile Police Brigade (Brimob), a paramilitary unit of the police, is responsible for the security of the mining area and is under the command of the Paniai district police. There have been concerns raised by indigenous communities about the impartiality of the Brimob, notably reports alleging the use of Brimob officers by companies to provide private security.

We are informed that the Degeuwo community and the victim's family filed a complaint and that the Papua Police sent a team to investigate the incident. Yet information received suggests that investigators have not collected testimonies from the alleged victims.

6 June 2012

In the afternoon of 6 June 2012, residents of Kampung Honai Lama village, Wamena, Papua reportedly chased and assaulted two military officers after the officers hit and injured a three-year-old boy who was playing by the side of the road as the officers drove by at high speed on their motorcycles. One of the officers, Mr. Pratu Ahmad Sahlan, was stabbed to death and the other, Mr. Prada Parloi Pardede, was severely injured.

In retaliation, two trucks of army battalion Yonif 756 Wamena allegedly arrived at Kampung Honai Lama village and military officers attacked villagers at 12:00 p.m. on the same day. The military officers reportedly opened fire at villagers, attacked some of them with bayonets, burned down houses and vehicles, and destroyed public property. The attack resulted in the death of a villager, Elinus Yoman. Sixteen individuals, Yeremia Kogoya, Pikenus Wenda, Lenius Wenda, Otniel Krebea, Yuri Bugi, Dapus Nirigi, Pianus Nirigi, Enos Lokmbere, Elianus Kalolik, Tius Hilapok, Pianus Nirigi, Enos Lokmbere, Elianus Kalolik, Tius Hilapok, Perius Seleken, and Jekson Gwijangge were injured. Among the injured, eight of them suffer from severe injuries after having been attacked with knives in the head, neck, back, knees, arms and other parts of the bodies. Many of the villagers have reportedly fled the area and are afraid to return to their homes.

7 June 2012

On 7 June 2012, at 8:30 a.m, Mr. Teyu Tabuni, a resident of Jayapura, Papua, was reportedly shot dead by police officers. This report has been contested by the police. According to its records, Mr. Tabuni's death was due to head injuries sustained from falling down while escaping from authorities trying to arrest him. We understand that the body of the deceased was to undergo an autopsy to establish the exact cause of death.

14 June 2012

According to a press release issued by the National Police, in the morning of Thursday, 14 June 2012, a Papuan police officer shot Mr. Mako Tabuni, the deputy chair of the National Committee for West Papua (KNPB), in Abepura, Jayapura regency, after he had taken a firearm belonging to one of the police

officers and had tried to escape when officers approached to arrest him. It is reported that one of the officers fired a warning shot, but that Mr. Tabuni pointed the firearm at the police. Thereafter, another police officer shot Mr. Tabuni in his left leg. Mr. Tabuni was taken to Bhanyangkara Police Hospital, where he reportedly died at 10:30 a.m., one hour after being shot.

6 July 2012

On 6 July 2012, the bodies of three individuals, including two civilians named 'Aco' and Ms. Nini Rosmini and a soldier, Warrant Officer Sunaryo, member of Paniai district military command, were found stabbed to death by locals in a house-shop near a gold mine in Ndeotadi which belonged to the soldier. The detailed identity of Aco is not yet known. The bodies reportedly had wounds caused by sharp weapons. The local population had alerted the police after having knocked at the shop's door which was locked at 8:00 a.m., although the shop was usually open at 6:00 a.m.

9 July 2012

On 9 July 2012, at around 6:30 a.m., Ms. Eva Cristianity was found stabbed to death on the streets of Jayapura - on the side of the street linking the Kodam building and Jayapura's Mayor Office - in the same district of Paniai, Papua. She was the wife of the First Sergeant Mohammad Mahdi of the Indonesian Regional Military Command XVII Cendrawasih assigned to Jayapura.

In this context, despite the commitment made by the Indonesian President in February 2012, we are informed that investigations of alleged abuses by security forces are not consistently carried out. Additionally, under the Indonesian Law on Military Tribunals, Law No. 31/1997, the military court has jurisdiction over crimes committed by military officers, although such crimes do not have a military nature such as murder, criminalized in article 338 of the Penal Code.

In light of the information received, we are gravely concerned about the reported increasing climate of violence, including killings committed by both State authorities and civilians including identified individuals in Indonesia.

While we do not wish to prejudge the accuracy of the allegations, we wish to appeal to your Government to seek clarification of the circumstances of the present cases as described above and wish to recall the relevant international principles and norms applicable to the present cases.

Under article 6(1) of the International Covenant on Civil and Political Rights (ICCPR), which Indonesia has acceded to on 23 February 2006, the Indonesian Government has the obligation to protect every individual's right to life and to ensure that no individual on its territory or subject to its jurisdiction is arbitrarily deprived of his or

her life. Such protection should apply to all individuals without discrimination on any grounds whatsoever in accordance with article 2(1) of the ICCPR.

In its General Comment on article 6, the Human Rights Committee stated that “[t]he protection against arbitrary deprivation of life which is explicitly required by the third sentence of article 6(1) is of paramount importance. The Committee considers that States parties should take measures not only to prevent and punish deprivation of life by criminal acts, but also to prevent arbitrary killing by their own security forces ... Therefore, the law must strictly control and limit the circumstances in which a person may be deprived of his [or her] life by such authorities.” (HRI/GEN/1/Rev.9, Vol. I, p. 177, para. 3).

The use of lethal force by law enforcement officials is strictly regulated under international law. In this regard, we would like to draw your Government’s attention the Code of Conduct for Law Enforcement Officials (adopted by General Assembly resolution 34/169) and the United Nations Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, Principle 4 which provides that, “Law enforcement officials, in carrying out their duty, shall, as far as possible, apply non-violent means before resorting to the use of force and firearms.” Furthermore, principle 5 provides that, “Whenever the use of force and firearms is unavoidable law enforcement officials shall, (a) Exercise restraint in such use and act in proportion to the seriousness of the offence and the legitimate object to be achieved; (b) Minimize damage and injury, and respect and preserve human life; (c) Ensure that assistance and medical aid are rendered to any injured or affected persons at the earliest possible moment and (d) Ensure that relatives or close friends of the injured or affected person are notified at the earliest possible moment.” (adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, Cuba, 27 August to 7 September 1990).

In respect of the reported deaths, we wish to underline that “[t]here shall be thorough, prompt and impartial investigation of all suspected cases of extra-legal, arbitrary and summary executions, including cases where complaints by relatives or other reliable reports suggest unnatural death in the above circumstances,” in accordance with principle 9 the Principles on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions (adopted by the Economic and Social Council resolution 1989/65). Principle 18 further requires Governments to “ensure that persons identified by the investigation as having participated in extra-legal, arbitrary or summary executions in any territory under their jurisdiction are brought to justice.” We wish to recall that the families and dependents of victims of extra-legal, arbitrary or summary executions shall be entitled to fair and adequate compensation within a reasonable period of time pursuant to principle 20.

Concerning the fact that military tribunals have jurisdiction over crimes committed by military officers which do not have a military nature, we emphasize the provisions of the Draft Principles Governing the Administration of Justice Through Military Tribunals. According to its principle 9, “[i]n all circumstances, the jurisdiction of military courts should be set aside in favour of the jurisdiction of the ordinary courts to

conduct inquiries into serious human rights violations such as extrajudicial executions, ... and torture, and to prosecute and try persons accused of such crimes.” (E/CN.4/2006/58). The scope of such principle has been included in the updated Set of Principles for the Promotion and Protection of Human Rights Through Action to Combat Impunity, according to which “[t]he jurisdiction of military tribunals must be restricted solely to specifically military offences committed by military personnel, to the exclusion of human rights violations, which shall come under the jurisdiction of the ordinary domestic courts or, where appropriate, in the case of serious crimes under international law, of an international or internationalized criminal court.” (E/CN.4/2005/102/Add.1, principle 29).

Finally, with regard to the incident on 30 April 2012 at the Abepura Correctional Facility, we would like to draw the attention of your Government to paragraph 1 of Human Rights Council Resolution 16/23 which “[c]ondemns all forms of torture and other cruel, inhuman or degrading treatment or punishment, including through intimidation, which are and shall remain prohibited at any time and in any place whatsoever and can thus never be justified, and calls upon all States to implement fully the absolute and non-derogable prohibition of torture and other cruel, inhuman or degrading treatment or punishment.”

In view of the urgency of the matter, we would appreciate a response on the initial steps taken by your Government to investigate and respond to the alleged violations in compliance with the forementioned international instruments.

Moreover, it is our responsibility under the mandates provided to us by the Human Rights Council to seek to clarify all cases brought to our attention. Since we are expected to report on these cases to the Human Rights Council, we would be grateful for your cooperation and your observations on the following matters, when relevant to the case under consideration:

1. Are the facts alleged in the summary of the cases accurate? Please provide the details, and where available the results, of any investigation, medical examinations, and judicial or other inquiries carried out in relation to these cases to corroborate or refute the allegations.

2. When relevant, please indicate which branches of the police, security forces or armed forces were involved in the alleged incidents and what instructions they have received/issued in relation to the aforementioned cases. Kindly specify how these comply with international standards set forth *inter alia* in the Code of Conduct for Law Enforcement Officials and the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials.

3. Has a complaint been lodged by or on behalf of the alleged victims? In that case, what action has been undertaken upon receipt of the complaints?

4. Please provide the full details of any judicial proceedings and prosecutions which have been undertaken. Have penal, disciplinary or administrative sanctions been imposed on the alleged perpetrators?

5. Please indicate whether compensation has been provided to the victims or their families.

We undertake to ensure that your Government's response to each of these questions is accurately reflected in the report we will submit to the Human Rights Council for its consideration.

While waiting for your response, we urge your Government to carry out a prompt, thorough and impartial investigation into the alleged violations. In the event that your investigations support or suggest the above allegations to be correct, the accountability of any person responsible of the alleged violations should be ensured. We also request that your Government adopt effective measures to prevent the recurrence of these acts.

Please accept, Mr. Yusup, the assurances of our highest consideration.

Christof Heyns  
Special Rapporteur on extrajudicial, summary or arbitrary executions

Juan E. Méndez  
Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment