

Mandates of the Working Group on the issue of human rights and transnational corporations and other business enterprises; the Chair-Rapporteur of the Working Group on the use of mercenaries; the Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment; the Special Rapporteur on the situation of human rights defenders; and the Special Rapporteur on extrajudicial, summary or arbitrary executions

REFERENCE: AL
IDN 3/2015:

7 July 2015

Excellency,

We have the honour to address you in our capacities as Chairperson of the Working Group on the issue of human rights and transnational corporations and other business enterprises; Chair-Rapporteur of the Working Group on the use of mercenaries; Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment; Special Rapporteur on the situation of human rights defenders; and Special Rapporteur on extrajudicial, summary or arbitrary executions pursuant to Human Rights Council resolutions 26/22, 24/13, 19/10, 25/18, and 26/12.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning allegations relating to the beating, abduction and murder of Mr Indra Pelani, a 22 year old Indonesian farmer, youth worker and trade unionist. He had been working closely with Friends of the Earth Indonesia (WALHI), to try to resolve land disputes arising from the business activities of a paper mill company, Asia Pulp and Paper (APP), a member of the Sinar Mas Group of companies. Mr Pelani, the deceased victim, was a member of Tebo Farmers Union (SPT) and part of a network of people monitoring the paper mill's controversial activities in the forestry and agriculture sector. His farming community has been engaged in a decade-long conflict over the ownership of 2,000 hectares of farmland with Wira Karya Sakti (WKS), a pulpwood supplier owned by APP.

According to the information received:

On 27 February 2015, Mr **Indra Pelani** and Mr **Nick Karim** of Friends of the Earth Indonesia (WALHI) were travelling together on a motorcycle to a rice harvest near the village of Lubuk Mandarsah, Central District of Ilir, Tebo, Jambi Province. When they attempted to pass a check post at a pulpwood acacia plantation owned by Wira Karya Sakti (WKS), they got into an argument with private security officers who became violent. Mr Pelani was severely beaten while

Mr Karim managed to flee to get help. When Mr Karim returned with approximately 30 villagers, Mr Pelani had disappeared and the security guard on duty denied all knowledge of the incident. Mr Pelani was found dead on 28 February 2015 during a police search. His severely beaten body had been dumped just over five kilometers from the site of the attack with his hands and feet bound with rope and a t-shirt stuffed in his mouth. It has been stated in the press that seven officers of the Rapid Reaction Unit (Unit Reaksi Cepat) of APP's security force have surrendered themselves to the police for beating **Mr Indra Pelani** to death. It is also alleged that this is not the first time the parent company APP has been connected to violence. In 2010, police allegedly killed a farmer during a rally protesting land that was taken over by APP, and in 2012 a man was alleged to have been found dead in a canal in an area owned by another APP supplier company.

Serious concerns are expressed about the alleged beating, abduction and murder of **Mr Indra Pelani** and the violence against **Mr Nick Karim**. Concern is expressed that the murder and violence are directly related to their activities in defense of human rights and the environment. Concern is also expressed because this is not the first time the parent company APP has allegedly been connected to incidences of violence.

While we do not wish to prejudge the accuracy of these allegations, we would like to stress your Excellency's Government's obligation to act with due diligence under international human rights law to investigate the case and hold accountable the perpetrators. We call for an independent and impartial investigation into the case and for steps to be taken to prevent further abuses against environmental activists and human rights defenders in Indonesia, including by private security forces. We have written to APP to express our concerns about, and to request more information on, the allegations described above.

In connection with the above alleged facts and concerns, please refer to the **Reference to international human rights law Annex** attached to this letter which cites international human rights instruments and standards relevant to these allegations.

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. We would therefore be grateful for your observations on the following matters:

1. Please provide any additional information and/or comment(s) you may have on the above-mentioned allegations.
2. Please provide the details, and where available the results, of any investigation, judicial or other inquiries carried out in relation to the abduction and murder of Mr. Pelani including any penal or disciplinary sanctions.. If this information does not exist, please provide details on any planned investigation in relation to the abduction and murder of Mr. Pelani.

3. Please provide any information on the measures put in place to ensure that the defenders of human rights and the environment in Indonesia, and organizations, trade unions and any other associations that the defenders are associated with or members of; may operate in a safe and supportive environment and carry out their legitimate activities without fear of intimidation or harassment whatsoever.
4. Please indicate which measures, including policies, legislation, regulations and adjudication, the Government has put in place to prevent, investigate, punish and redress human rights abuses related to the activities of business enterprises within its territory and/or jurisdiction?
5. Please indicate if the Government has provided any guidance to business enterprises operating in Indonesia on their expected human rights due diligence process. Such a process allows companies to identify, prevent, mitigate and account for how they address their impacts on human rights (as per the Guiding Principles on Business and Human Rights, Principles 17-21)

We would appreciate receiving a response within 60 days.

While awaiting a reply, we urge that all necessary interim measures be taken to halt the alleged violations and prevent their re-occurrence and in the event that the investigations support or suggest the allegations to be correct, to ensure the accountability of any persons responsible for the alleged violations.

Your Excellency's Government's response will be made available in a report to be presented to the Human Rights Council for its consideration.

Please accept, Excellency, the assurances of our highest consideration.

Margaret Jungk
Chairperson of the Working Group on the issue of human rights and transnational corporations and other business enterprises

Elzbieta Karska
Chair-Rapporteur of the Working Group on the use of mercenaries

John Knox
Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment

Michel Forst
Special Rapporteur on the situation of human rights defenders

Christof Heyns
Special Rapporteur on extrajudicial, summary or arbitrary executions

Annex

Reference to international human rights law

In connection with above alleged facts and concerns, we would like to refer to article 3 of the Universal Declaration of Human Rights and article 6 (1) of the International Covenant on Civil and Political Rights (ICCPR), acceded to by Indonesia on 23 February 2006, which provides that every individual has the right to life and security of the person, that this right shall be protected by law, and that no person shall be arbitrarily deprived of his or her life.

The Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions, (resolution 1989/65 Economic and Social Council) recall States' duty to conduct thorough, prompt and impartial investigations of all suspected cases of extra-legal, arbitrary and summary executions and the obligation to bring to justice all persons identified by the investigation as having participated in those executions. They also provide for the effective protection through judicial or other means of individuals and groups who are in danger of extra-legal, arbitrary or summary executions. 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.

We would also like to refer to the Guiding Principles on Business and Human Rights, which were unanimously endorsed by the Human Rights Council in its resolution (A/HRC/RES/17/4) in 2011. These Guiding Principles are grounded in recognition of:

1. "States' existing obligations to respect, protect and fulfil human rights and fundamental freedoms";
2. "The role of business enterprises as specialized organs of society performing specialized functions, required to comply with all applicable laws and to respect human rights"; and
3. "The need for rights and obligations to be matched to appropriate and effective remedies when breached".

These Guiding Principles apply to all States and to all business enterprises, both transnational and others, regardless of their size, sector, location, ownership and structure.

The Guiding Principles recognize the important and valuable role played by independent civil society organizations and human rights defenders. In particular, Principle 18 underlines the essential role of civil society and human rights defenders in helping to identify potential adverse business-related human rights impacts. Principle 26 underlines how States, in order to ensure access to remedy, should make sure that the legitimate activities of human rights defenders are not obstructed.