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

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

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

**Mandates of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on the rights to freedom of peaceful assembly and of association; the Special Rapporteur on extrajudicial, summary or arbitrary executions; and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment.**

REFERENCE: AL G/SO 214 (67-17) Assembly & Association (2010-1) G/SO 214 (33-27) G/SO 214 (53-24)  
IDN 6/2012

24 July 2012

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; Special Rapporteur on the rights to freedom of peaceful assembly and of association; 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 resolution 16/4, 15/21, 17/5, and 16/23.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the harassment of members of the West Papua National Committee (KNPB) in the exercise of their right to freedom of peaceful assembly in two separate events, resulting in the **death of Messrs Theorelli Karoba, Yesa Mirin and Panuel Tablo**, and the **arrest and detention of 45 individuals**, several of whom were physically assaulted by security forces.

According to the information received:

On 1 May 2012, Mr. Theorelli Karoba was reportedly shot dead in front of the military base Koramil in Abepura after attending a peaceful demonstration, organized by the KNPB, to commemorate 1 May 1963, the day West Papua (then known as West New Guinea) became a province of Indonesia and which is considered as "Annexation Day" by those West Papuans who seek independence. The victim was travelling in a truck to Waena when gunfire was reportedly heard from the direction of the military base.

On 4 June 2012, members of the KNPB, travelling in a convoy of eleven trucks, were on their way to Abepura to hold a peaceful protest in front of the office of the local autonomy parliament when they stopped in Kampung Harapan to pick up

additional participants in the protest. The police present in the locality then ordered the protestors to disperse because the organizers of the protest did not have a permit. According to the information received, the organizers did request in advance a permit to the Papua Regional Police, in compliance with Law No. 9 Year 1998 regarding the Freedom to Express Opinion in Public. However, the police refused to issue a permit, allegedly with no justification.

When arriving in Telaga Maya, the protestors were blocked by armed security officers in armoured vehicles, allegedly from the Jayapura District Police, Sentani Sub-District Police, and the Indonesian Military, who ordered them to disperse. The coordinator of the demonstration then called on the protestors to return home. The protestors were marching back home, followed by security officers. When the protestors reached Kampung Harapan, they attempted to sit down to rest, but the security officers refused and opened fire to intimidate and disperse them. Chaos reportedly ensued. The security officers fired again at the protestors, shooting indiscriminately and killing Mr. Yesa Mirin and Mr. Paniel Tablo. 45 female and male protestors were arrested and brought to Sentani Sub-District Police Station. They were all released on 7 June without charges. Many protestors were seriously injured due to the use of excessive force by security forces against them.

Among the 45 protestors detained were:

- Mr. **Jekson Wenda**, who was shot in his back, stabbed in his right arm, and kicked in the stomach;
- Mr. **Ericson Suhuniap**, who was reportedly beaten around 10 times on his head, slapped four times on his ears, stabbed in his right thigh, and suffered a burn injury;
- Mr. **Enos Yoal**, who was beaten on his eyes, mouth and neck, strangled and stomped by security officers;
- Mr. **Efesus Payage**, who was beaten on his arms and stomped by security officers. His head was injured, requiring ten stitches;
- Mr. **Yobet Bahabol**, who was beaten on his head, sustaining head injuries, and stomach, stomped by security officers, and stabbed in his left and right ankles; and
- Mr. **Jursen Suhuniap**, who was beaten and stomped by security officers, requiring ten stitches to his head.

Many protestors ran away to the nearby lake and mountains for their safety. They were followed by the security officers who searched for them. Several hours later, the protestors left their hiding places. It is reported that a number of protestors are still in hiding fearing for their lives.

Grave concerns are expressed that the death of Messrs Theorelli Karoba, Yesa Mirin and Paniel Tablo, and the ill-treatment, arrest and detention of the aforementioned

protestors, may be linked to the exercise of their rights to freedom of peaceful assembly and of opinion and expression.

While we do not wish to prejudge the accuracy of these allegations, we wish to appeal to your Excellency's Government to seek clarification of the circumstances regarding the cases of the persons named above. We would like to stress that each Government has the obligation to protect the right to physical and mental integrity of all persons. This right is set forth inter alia in the Universal Declaration of Human Rights (UDHR), the International Covenant on Civil and Political Rights (ICCPR), which Indonesia acceded to on 23 February 2006, and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT).

Under article 3 of the UDHR and article 6 of the ICCPR, every individual has the right to life and security, this right shall be protected by law and no individual shall be arbitrarily be deprived of his or life.

The deprivation of life by the authorities of a State is a matter of the utmost gravity. In this regard, we would like to draw the attention of your Excellency's Government to principle 4 of the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, 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).

Concerning the reported deaths, there shall be thorough, prompt and impartial investigation of all suspected cases of extrajudicial executions in line with principle 9 of the Principles on Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions, adopted by Economic and Social Council resolution 1989/65.

We would also like to refer to article 19 of the ICCPR, which provides that "[e]veryone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice."

Similarly, we would like to draw the attention of your Excellency's Government to article 21 of the ICCPR, which provides that "[t]he right of peaceful assembly shall be

recognized. No restrictions may be placed on the exercise of this right other than those imposed in conformity with the law and which are necessary in a democratic society in the interest of national security of public safety, public order (ordre public), the protection of public health or morals of the protection of the rights and freedoms of others.”

In this context, we would like to refer to Human Rights Council resolution 15/21, and in particular operative paragraph 1 that “[c]alls upon States to respect and fully protect the rights of all individuals to assemble peacefully and associate freely... including persons espousing minority or dissenting views or beliefs, human rights defenders, trade unionists and others, including migrants, seeking to exercise or to promote these rights, and to take all necessary measures to ensure that any restrictions on the free exercise of the rights to freedom of peaceful assembly and of association are in accordance with their obligations under international human rights law.”

We would also like to refer to the first thematic report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association (A/HRC/20/27), which provides that “[t]he exercise of the right to freedom of peaceful assembly should not be subject to prior authorization by the authorities, but at the most to a prior notification procedure, which should not be burdensome. In case an assembly is not allowed or restricted, a detailed and timely written explanation should be provided, which can be appealed before an impartial and independent court” (para. 90). In addition, “States should facilitate and protect peaceful assemblies, including through negotiation and mediation. Wherever possible, law enforcement authorities should not resort to force during peaceful assemblies and ensure that, “where force is absolutely necessary, no one is subject to excessive or indiscriminate use of force” (Council resolution 19/35, para. 6)” (para. 89). The Special Rapporteur further calls on States, inter alia, “[t]o ensure that administrative and law enforcement officials are adequately trained in relation to the respect of the rights to freedom of peaceful assembly and of association; [t]o ensure that law enforcement authorities which violate the rights to freedom of peaceful assembly and of association are held personally and fully accountable for such violations by an independent and democratic oversight body, and by the courts of law; and [t]o ensure that victims of violations and abuses of the rights to freedom of peaceful assembly and of association have to the right to an effective remedy and obtain redress” (para. 84 (h) (i) and (j)).

Finally, as 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 be grateful for your cooperation and your observations on the following matters:

1. Are the facts alleged in the summary of the case accurate?
2. Has a complaint been lodged by or on behalf of the above-referenced victims?

3. Please provide the details, and where available the results, of any investigation, medical, judicial or other inquiries carried out in relation to this case. If no inquiries have taken place, or if they have been inconclusive, please explain why.
4. Please advise if Mr. Wenda, Mr. E. Suhuniap, Mr. Yoal, Mr. Payage and Mr. Bahabol and Mr. J. Suhuniap have received medical care for their injuries, including access to independent and qualified medical professionals.
6. Please indicate the legal basis of the use of force, and arrest and detention, of peaceful protestors, and how these measures are compatible with international norms and standards, as contained, inter alia, in the International Covenant on Civil and Political Rights, the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials and the Declaration on Human Rights Defenders.
7. Please provide the full details of any prosecutions which have been undertaken. Have penal, disciplinary or administrative sanctions been imposed on the alleged perpetrators, particularly those who have been identified as having killed or injured the above-referenced victims.
8. Please indicate whether compensation has been provided to the victims or the family of the victims.

We would appreciate a response within sixty days. Your Excellency's Government's response will be made available in a report to the Human Rights Council for its consideration.

While waiting for your response, we urge your Excellency's Government to take all necessary measures to guarantee that the rights and freedoms of the above mentioned persons are respected and, 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 Excellency's Government adopt effective measures to prevent the recurrence of these acts.

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

Frank La Rue  
Special Rapporteur on the promotion and protection of the right to  
freedom of opinion and expression

Maina Kiai

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