

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; and the Special Rapporteur on the situation of human rights defenders

REFERENCE: AL
TLS 1/2016:

8 March 2016

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; and Special Rapporteur on the situation of human rights defenders pursuant to Human Rights Council resolutions 25/2, 24/5, and 25/18.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the **intimidation of the members of a human rights organization in an attempt to restrict their rights to freedom of peaceful assembly and freedom of expression.**

The **Asosiasaun Hukum, Hak Asasi dan Keadilan** (the Law, Human Rights and Justice Association), also known as **HAK**, was established in 1996 and is a human rights organization that works on transitional justice issues.

According to the information received:

The Asosiasaun Hukum, Hak Asasi dan Keadilan's (HAK's) office is located approximately 200m from the Indonesian Embassy and is a place where human rights defenders often gather.

On 22 January 2016, police visited the offices of the HAK and questioned HAK's staff about whether they planned to undertake any action, such as a demonstration, during the visit of the President of Indonesia scheduled for 26 January 2016. The Director of HAK responded that they did not have any plans to do so, but if they did decide to organize a demonstration, they would notify the police with four

days' notice, as required by the Law on the Freedom of Assembly and Demonstration (Law 1/2006).

On 25 January 2016, an intelligence officer telephoned the HAK office and inquired whether they were planning to organize a demonstration. The Director of HAK reiterated that they had no such plan and he quoted article 42 of the Constitution of Timor Leste, which provides the right to freedom of peaceful assembly.

Also on 25 January 2016, the police informed the public that they would immediately intervene in any protests throughout the visit of the President of Indonesia in order to ensure the President's safety. On the evening of the 25 January, HAK issued a press statement calling for justice to be brought for past crimes. On 26 January 2016, at a press conference, HAK publicly criticized the police statement made to the public the day before.

At approximately midday on 26 January 2016, security officers visited HAK's offices and discussed the Indonesian President's visit with them. One HAK staff member was wearing a "free West Papua" t-shirt. The security officers forced the staff member to remove it and confiscated the t-shirt, noting down the name of the individual. The bags of three human rights defenders present at the HAK offices were searched.

At approximately 2 p.m. on the same day, two security officers arrived at the HAK offices and requested to use the office to provide security to the Indonesian President, but HAK's staff refused this request.

As a result of these events, on 27 January 2016, several of HAK's staff did not go to work the next day and one individual did not sleep in his own home out of fear of harassment. HAK's staff have filed a complaint to the Office of the Prosecutor about the above allegations.

Reportedly, during the visit of the President of Indonesia and the meeting of the Community of Portuguese Speaking Countries similar attempts to restrict the rights to freedom of assembly and freedom of expression were made against three other non-governmental organizations.

Serious concern is expressed that the above allegations may be an attempt to intimidate and restrict the legitimate exercise of the members of HAK's rights to freedom of peaceful assembly and freedom of expression. Concern is also expressed for the confiscation of the t-shirt belonging to a member of HAK, restricting his legitimate right to freedom of expression.

Additional concern is expressed for what appears to be the beginning of a crackdown on civil society during official visits and meetings, as well as about the broader effect of the above-mentioned allegations, which may have a “chilling effect” on human rights defenders and civil society as a whole, particularly those with dissenting opinions, exercising their rights to freedom of peaceful assembly, freedom of association and freedom of expression.

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

As it is our responsibility, under the mandates provided to me by the Human Rights Council, to seek to clarify all cases brought to my attention, we would be grateful for your observations on the following matters:

1. Please provide any additional information and comment which you may have on the above mentioned allegations.

2. Please provide information on the reason for visiting and calling the HAK offices to inquire about whether they intended demonstrate during the visit of the President of Indonesia in light of the above allegations.

3. Please explain how the restrictions placed on the rights to freedom of peaceful assembly and freedom of expression contained in the public notice issued on 25 January 2016 are compatible with international human rights norms and standards, including the Universal Declaration on Human Rights and International Convention on Civil and Political Rights.

4. Please provide information on the legal basis for the confiscation of a HAK staff member’s “free West Papua” t-shirt and how it is compatible with international norms and standards, including the Universal Declaration on Human Rights and the International Covenant on Civil and Political Rights.

5. Please provide information about any measures adopted to ensure that the legitimate rights to freedom of peaceful assembly and freedom of expression are respected and that the physical and psychological integrity of human rights defenders and those exercising these rights is guaranteed in Timor Leste, especially during official visits and meetings.

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 person(s) 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.

David Kaye
Special Rapporteur on the promotion and protection of the right to freedom of opinion
and expression

Maina Kiai
Special Rapporteur on the rights to freedom of peaceful assembly and of association

Michel Forst
Special Rapporteur on the situation of human rights defenders

Annex
Reference to international human rights law

In relation to the allegations contained in the letter we wish to draw your Excellency's Government's attention to articles 19 and 20 of the Universal Declaration of Human Rights and articles 19 and 21 of the International Covenant on Civil and Political Rights (ICCPR) acceded by Timor Leste in 2003, which respectively guarantee the rights of every individual to freedom of opinion and expression and the right to peaceful assembly.

We also wish to draw the attention of your Excellency's Government to operative paragraph 2 of Human Rights Council resolution 24/5 which "reminds States of their obligation to respect and fully protect the rights of all individuals to assemble peacefully [...] 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 like to refer your Excellency's Government to the fundamental principles set forth in the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, also known as the UN Declaration on Human Rights Defenders. In particular, we would like to refer to articles 1 and 2 of the Declaration which state that everyone has the right to promote and to strive for the protection and realization of human rights and fundamental freedoms at the national and international levels and that each State has a prime responsibility and duty to protect, promote and implement all human rights and fundamental freedoms.

Furthermore, the following provisions of the UN Declaration on Human Rights Defenders are relevant in this case:

- article 5 (b), which provides for the right to form, join and participate in non-governmental organizations, associations or groups; and
- article 6 points b) and c), which provides for the right to freely publish, impart or disseminate information and knowledge on all human rights and fundamental freedoms, and to study, discuss and hold opinions on the observance of these rights.