

Mandates of the Working Group on Arbitrary Detention; the Special Rapporteur on the rights of indigenous peoples; 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
IDN 4/2016.

2 May 2016

Excellency,

We have the honour to address you in our capacities as the Vice-Chair on Communications of the Working Group on Arbitrary Detention; Special Rapporteur on the rights of indigenous peoples; 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 24/7, 24/9, 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 allegations about the arbitrary arrest and degrading treatment of the following twenty persons: Mr. **Yupi Sobolim**, Mr. **Unyil Kobak**, Mr. **Erson Suhun**, Mr. **Lendeng Omu**, Mr. **Leni Busup**, Mr. **Natu Dapla**, Ms. **Panggrasia Yeem**, Mr. **Petrus Katem**, Mr. **Idelfonsius Katop**, Mr. **Yohakim Gebze**, Mr. **Gento Emerikus Dop**, Mr. **Charles Sraun**, Mr. **Emilianus Nemop**, Mr. **Rikardo Pisakai**, Mr. **Oktovianus Warip**, Mr. **Petrus P. Koweng**, Mr. **Lukas Arawok**, Mr. **Simon Taulemi**, Mr. **Paustinus K. Metemko**, and Mr. **Moses Pasim**.

The above named persons are either activists supporting the West Papua National Committee (KNPB), members of the KNPB or members of People's Regional Parliament (PRD).

The KNPB is a West Papua movement pushing for a referendum on Papua's political status that has been under increased pressure in the last four years. More than 40 members of the KNPB have been assassinated and a large number of its members have been arrested. In April 2016, the KNPB mobilized its members to participate in demonstrations across Papua to support the candidacy of the United Liberation Movement for West Papua (ULMWP) to be a full member of the Melanesian Spearhead Group (MSG). Several of these demonstrations were reportedly responded to by reprisals by the police.

The rights to freedom of peaceful assembly and freedom of expression of indigenous Papuans were the subject of joint allegations letters sent on 24 March 2016 (see case no. IDN 1/2016); 9 October 2015 (see case no. IDN 8/2015); 1 May 2014 (see A/HRC/27/72, case no. IDN 2/2014); 23 September 2013 (see A/HRC/25/74, case no. IDN 4/2013); and 24 July 2012 (see A/HRC/22/67, case no. IDN 6/2012). We acknowledge receipt of your reply of 25 September 2012. We regret that no other reply was received to these allegations.

According to the information received:

12 April 2016, Dekai junction, Papua Province

On 12 April 2016, around 8 am, West Papuan activists in support of the West Papua National Committee (KNPB) distributed leaflets in Dekai. The leaflet was an invitation to attend a demonstration organized by KNPB to support the effort of United Liberation Movement for West Papua to be a full member of the Melanesian Spearhead Group. At around noon that day, three police security vehicles and the Mobile Brigade of the police arrived at the location. They pointed guns at members of the KNPB and shouted to them not to run. Some of the activists succeeded to escape. The police arrested Mr. Yupi Sobolim, Mr. Unyil Kobak, Mr. Erson Suhun, Mr. Lendeng Omu, Mr. Leni Busup and Mr. Natu Dapla.

They were taken to the Police Station in Yakuhimo where they were allegedly tortured and subjected to a series of inhuman and degrading treatments. Their heads and faces were beaten with a hammer, they were ordered to strip, eat money and dirt, do push-ups and to sing the Indonesian anthem. Their feet were tied and they were dragged across the floor while the police trampled them with boots. The police allegedly proceeded with threats to torture, to hang and to kill them. They were all released later the same day.

The police also confiscated one KNPB flag, 7 motorcycles and 3 million Indonesian Rupiah (equivalent to 228 USD) that had been donated by passer-by supporting the initiative.

13 April 2016, Merauke, Papua Province

At approximately 8:00 am on 13 April 2016, around 100 police officers came to the joint offices of the Parliament of People of Merauke Regency (PRD) and Secretariat of West Papua National Committee (KNPB). The police were fully armed and were accompanied by two police vehicles meant to control demonstration.

The police entered the building and arrested 14 persons, namely: Ms. Panggrasia Yeem; Mr. Petrus Katem; Mr. Idelfonsius Katop; Mr. Yohakim Gebze; Mr. Gento

Emerikus Dop; Mr. Charles Sraun; Mr. Emilianus Nemop; Mr. Rikardo Pisakai; Mr. Oktovianus Warip; Mr. Petrus P. Koweng; Mr. Lukas Arawok; Mr. Simon Taulemi; Mr. Paustinus K. Metemko; and Mr. Moses Pasim. They are all members of the West Papua National Committee (Komite Nasional Papua Barat, KNPB) and People's Regional Parliament (Parlemen Rakyat Daerah, PRD) of Merauke Regency.

The above named persons were brought to Merauke police station for further interrogation. They were all released later the same day.

The police also confiscated equipment, including six motorcycles, one hard disc, two loud speakers, one phone, one donation box, one whiteboard, one box Referendum's stimulation and several posters.

Grave concern is expressed about the alleged excessive use of force, violence, harassment and arbitrary arrest as measures of retaliation and intimidation against the legitimate exercise of the rights to freedom of expression and peaceful assembly of West Papuan activists. Serious concern is expressed about what appears to be a crackdown on individuals and organisations that support the West Papua movement in the country.

Concern is further expressed about the broader impact of the above allegations, and the deterrent effect they may have on the rights of freedom of expression, peaceful assembly and association in the country.

In connection with the above alleged facts 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 us by the Human Rights Council, to seek to clarify all cases brought to our attention, we would be grateful for your observations on the following matters:

1. Please provide any additional information and any comments you may have on the allegations described in this letter.
2. Please provide information concerning the legal grounds for the arbitrary arrest, use of force and the humiliating treatment against Mr. Yupi Sobolim, Mr. Unyil Kobak, Mr. Erson Suhun, Mr. Lendeng Omu, Mr. Leni Busup and Mr. Natu Dapla, and explain how these are compatible with international human rights norms and standards, in particular articles 7, 9, 14, 19 and 21 of the ICCPR.
3. Please provide information concerning the legal grounds for the arbitrary arrest of Ms. Panggrasia Yeem; Mr. Petrus Katem; Mr. Idelfonsius Katop; Mr. Yohakim Gebze; Mr. Gento Emerikus Dop; Mr. Charles Sraun; Mr. Emilianus Nemop; Mr. Rikardo Pisakai; Mr. Oktovianus Warip; Mr. Petrus P. Koweng; Mr. Lukas Arawok; Mr. Simon Taulemi; Mr. Paustinus K. Metemko; and Mr. Moses

Pasim, and explain how these are compatible with international human rights norms and standards, in particular articles 9, 14, 19, 21 and 22 of the ICCPR.

4. Please provide the details, and where available the results, of any investigation, medical examination, judicial or other inquiries which may have been carried out in relation to the above allegations. If there have been no such investigations or inquiries, please explain why.

5. Please provide information about whether any compensation has been given as a result of the above allegations.

6. Please provide information about the legal grounds for confiscating equipment and other assets belonging to the above-mentioned persons and their organizations, including information about whether these items have been returned.

7. Please provide information about any measures adopted to ensure that the legitimate rights to freedom of expression and freedom of peaceful assembly and association respected and that the physical and psychological integrity of Papuans, and others exercising these rights, is guaranteed.

We would appreciate receiving a response within 60 days.

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

In addition, we would like to draw your Excellency's Government's attention to paragraph 23 of the methods of work of the Working Group on Arbitrary Detention, according to which, "after having transmitted an urgent appeal or an allegation letter to the Government, the Working Group may transmit the case through its regular procedure in order to render an opinion on whether the deprivation of liberty was arbitrary or not". Such appeals —considered by the Working Group to be of a purely humanitarian nature — in no way prejudge any opinion the Working Group may render. The Government is required to respond separately for the urgent action procedure and the regular procedure.

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.

José Guevara
Vice-Chair on behalf of the Working Group on Arbitrary Detention

Victoria Lucia Tauli-Corpuz

Special Rapporteur on the rights of indigenous peoples

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 connection with above alleged facts and concerns, we wish to draw your Excellency's Government's attention to the prohibition of arbitrary deprivation of liberty and the prohibition against torture, cruel, inhuman and degrading treatment, as set forth in articles 5, 9 and 10 of the Universal Declaration of Human Rights (UDHR) and articles 7, 9 and 14 of the International Covenant on Civil and Political Rights (ICCPR), ratified by Indonesia on 23 February 2006.

We would also like to remind your Excellency's Government of the rights to freedom of opinion and expression, and freedom of peaceful assembly, as contained in articles 19 and 20 of the ICCPR. We would like to remind your Excellency's Government that any restriction to this right shall be provided by law; may only be imposed for one of the grounds set out in article 19 and subparagraphs (a) and (b) of paragraph 3 and must conform to the strict tests of necessity and proportionality.

Furthermore, we would like to refer to Human Rights Council resolution 24/5, and in particular its operative paragraph 2, in which the Council "reminds States of their obligation to respect and fully protect the rights of all individuals to associate and assemble peacefully, ... including persons espousing minority or dissenting views or beliefs...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 also wish to refer to 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, 2, 5, 6 and 12 of the Declaration.

We would like to refer to the first report of the Special Rapporteur on freedom of peaceful assembly and association, in which he calls on Member States to "ensure the protection of those monitoring and reporting on violations and abuses in the context of peaceful assemblies" (A/HRC/20/27, para. 94).

We would also like to refer in particular to Article 3 of the UN Declaration on the Rights of Indigenous people which Your Excellency's Government voted in favour of and was adopted by the HR Council on 13 September 2007. Article 3 states that "Indigenous peoples have the right to self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development."

Finally, we would like to recall the Join Report of the Special Rapporteur on the right to freedom of peaceful assembly and association and the Special Rapporteur on summary executions on the proper management of assemblies (A/HRC/31/66).