

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

PROCEDURES SPECIALES DU
CONSEIL DES DROITS DE L'HOMME

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

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

REFERENCE: AL G/SO 214 (67-17) Assembly & Association (2010-1) G/SO 214 (107-9)
IDN 4/2013

23 September 2013

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 16/4, 15/21, and 16/5.

In this connection, we would like to draw the attention of your Excellency's Government information we have received concerning the **alleged arbitrary dispersal and arrests of 71 peaceful protestors** (please see Annex 1).

According to the information received:

On 16 September 2013, the West Papua National Committee (Komite Nasional Papua Barat, KNPB), a coalition of NGOs calling for a referendum for the people of West Papua, held demonstrations in the cities of Jayapura and Sorong of Papua to honour the International Day of Democracy which falls on 15 September.

It is alleged that the demonstrations, held without obtaining a permit from the Papua Regional Police, despite the notification made by KNPB prior to the day of protests in accordance with Article 10 of Law No. 9 Year 1998 on Freedom to Express Opinion in Public, were met by arbitrary arrests and detention of protestors.

It is reported that in Jayapura, by 7 a.m., officers from the Sentani Sub-District Police already started arresting individuals who were gathering at two meeting points, in Sentani-Abe and in Sektor Toladan, at which nine protestors were arrested. Additionally, over ten protestors were taken to the Jayapura Doyo Baru District Police Station and their demonstration equipment was confiscated.

It is further alleged that the police started arresting protesters from 9 a.m. onwards in Sorong. Twenty-five protestors were arrested and taken to the Sorong Kota Sub-District police station, as they were holding a banner “Indonesia, open up the space for democracy in Papua. Stop violence.”

It is also reported that the grounds on which the police denied the permit request was also arbitrary. Police cited that KNPB has always been “disturbing public order while conducting demonstrations”, without citing a single demonstration that was held in such a manner.

The total number of individuals allegedly arrested in relation to their involvement in the demonstrations in Jayapura and Sorong is 71. The names of those arrested are listed in Annex.

It is further reported that all those arrested were released the same day.

Grave concerns are expressed with regard to the arbitrary dispersal, arrests and detention of peaceful protestors exercising their legitimate rights to freedom of opinion and peaceful assembly, as well as to the allegation that their request to hold the demonstrations in question were dismissed on arbitrary grounds.

We would like to appeal to your Excellency’s Government to take all necessary steps to secure the right to freedom of opinion and expression in accordance with fundamental principles as set forth in article 19 of the International Covenant on Civil and Political Rights, which provides that “Everyone 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.”

We would also like to refer to article 21 of the International Covenant on Civil and Political Rights, which provides that "The 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 addition, we would like to refer to Human Rights Council resolution 21/16, and in particular operative paragraph 1 that “reminds States of their obligation to respect and fully protect the rights of all individuals to assemble peacefully and associate freely, online as well as offline, including in the context of elections, and 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 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, and in particular articles 1 and 2 which state that “everyone has the right individually or in association with others, 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, inter alia, by adopting such steps as may be necessary to create all conditions necessary in the social, economic, political and other fields, as well as the legal guarantees required to ensure that all persons under its jurisdiction, individually and in association with others, are able to enjoy all those rights and freedoms in practice”.

Furthermore, we would like to bring to the attention of your Excellency's Government the following provisions of the Declaration:

- article 5 point a) which establishes that for the purpose of promoting and protecting human rights and fundamental freedoms, everyone has the right, individually and in association with others, at the national and international levels, to meet or assemble peacefully; and

- article 12 paras 2 and 3 of the Declaration which provide that the State shall take all necessary measures to ensure the protection by the competent authorities of everyone, individually and in association with others, against any violence, threats, retaliation, de facto or de jure adverse discrimination, pressure or any other arbitrary action as a consequence of his or her legitimate exercise of the rights referred to in the Declaration. In this connection, everyone is entitled, individually and in association with others, to be protected effectively under national law in reacting against or opposing, through peaceful means, activities and acts, including those by omission, attributable to States that result in violations of human rights and fundamental freedoms, as well as acts of violence perpetrated by groups or individuals that affect the enjoyment of human rights and fundamental freedoms.

Moreover, since 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 above summary of the case accurate?
2. Please provide the details on how the actions undertaken by public officials are compatible with the international norms and standards of the right to freedom of opinion and expression and the right to freedom of peaceful assembly..

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 legitimate rights to freedom of opinion and assembly exercised by peaceful protestors exercising 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
Special Rapporteur on the rights to freedom of peaceful assembly and
of association

Margaret Sekaggya
Special Rapporteur on the situation of human rights defenders

Annex 1.

1. Noldi Hika
2. Oni Tepmul
3. Fiktor Hisage
4. Joniel Mimin
5. Topianus Kulka
6. Matius Kongop
7. Jon Keduman
8. Agus Wepsa
9. Carles Pawika
10. Alen Halitopo
11. Jhon Suhun
12. Maris Tabuni
13. Rudi Wenda
14. Abel Wantik
15. Esau Tabuni
16. Yosua Wenda
17. Marius Wenda
18. Elinus Wenda
19. Esoni Tabuni
20. Erius Wandikbo
21. Yulinus Tabuni
22. Maikel Tabuni
23. Sikolon Tabuni
24. Das Tabuni
25. Orius Tabuni
26. Arius Kombo
27. Yupiter Wandikbo
28. Tina Wenda
29. Kanius Tabuni
30. Agus Kosay
31. Ucak Logo
32. Jon Komba
33. Tony Kobak
34. Jimi Buruai
35. Ogram Wanimbo
36. Nus Wanimbo
37. Oteka Tabuni
38. Regi Wenda
39. Ripka Kobak
40. Nias Wanimbo
41. Kipas Tabuni
42. Soa Mabel
43. Denius Tabuni

44. Mulu Kobak
45. Martinus Yohame
46. Yeskiel Kosay
47. Gusti Prabu
48. Steven Peyon
49. Yulius Wondiwoy
50. Beni Giban
51. Jekson Manaman
52. Tinus Mabel
53. Marten Wenda
54. Isak Senik
55. Zet Sigap
56. Belkin Heluka
57. Oto Toto
58. Obaya Itlay
59. Ruvia Yewen
60. Yahya Heluka
61. John Wetapo
62. Kelaus Heluka
63. Arnos Kepno
64. Khias Kogoya
65. Oto Mayor
66. Geby Mambrasar
67. Siryani Wanane
68. Natalis Surabut
69. Kantius Heselo
70. Nikson Kabarek
71. Mina Malak