

**Mandates of 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 IDN 1/2017

17 March 2017

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment and Special Rapporteur on extrajudicial, summary or arbitrary executions, pursuant to Human Rights Council resolutions 25/13 and 26/12.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the **alleged torture and cruel, inhuman and degrading treatment of Mr. Edison Hese gem by police officers of the Jayawijaya District Police, Papua that led to his death in custody.**

Mr. Edison Hese gem was a 20 years-old farmer living in Jayawijaya regency, Papua, Indonesia. He belonged to the indigenous Papuan of the Dani Tribe.

According to information received:

On 11 January 2017, Mr. Edison Hese gem was violently arrested by six police officers of the Jayawijaya District Police, Jayawijaya regency, Papua. According to the police, Mr. Hese gem was arrested for being drunk and for attempting to steal a dog. Following his arrest during which he was repeatedly beaten, Mr. Hese gem was brought to the police station of the airport (Polsek Kp3). Throughout the night and while being detained at Polsek Kp3, Mr. Hese gem was severely tortured by the police officers, resulting in bruises on his face and an injury on the back of his head.

In the early morning of 12 January 2017, Mr. Hese gem was sent to the Jayawijaya general hospital by the police. There, he was subjected to further violence by police officers while he was being taken to the emergency room: he was kicked on his lower back and was repeatedly hit on his head by rifle butts. After receiving medical care, Mr. Hese gem was escorted back to Polsek Kp3 where he suffered more ill-treatment at the hands of the police. He fell unconscious and was hospitalised once again. On 13 January 2017, Mr. Hese gem died in Jayawijaya hospital.

According to the post-mortem examination carried out by the Bhayangkara Police Hospital in Jayapura City, Mr. Hese gem's death was caused by a strong impact to his cerebellum.

On 14 January 2017, the head of the Papuan regional Police admitted in a public statement that the police officers had used excessive force during the arrest and inside the hospital, but contended that the fatal injury was a result of an uncontrolled fall from a fence, as Mr. Hese gem allegedly attempted to escape.

**Grave concern is expressed about the alleged torture inflicted on Mr. Edison Hese gem by Polsek Kp3 police officers and his subsequent death in custody.**

In connection with the above alleged facts and concerns, please refer to the **Annex on Reference to international human rights law** 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:

Please provide any additional information and/or comment(s) you may have on the above-mentioned allegations.

1. Has a complaint been lodged? If there has been a complaint, has any judicial or administrative proceeding been launched for the case?
2. Please provide the details, and where available the results, of any investigation, medical examinations, and judicial or other inquiries which may have been carried out in relation to this case. If no inquiries have taken place, or if they have been inconclusive, please explain why.
3. In the event that the alleged perpetrators are identified, please provide the full details of any prosecutions which have been undertaken. Have penal, disciplinary or administrative sanctions been imposed on the alleged perpetrators?
4. Please indicate any remedial action taken vis à vis Mr. Hese gem's family.
5. Please provide information on measures taken by your Excellency's Government to prevent the excessive use of force by law enforcement officials.

We would appreciate receiving a response within 60 days.

While awaiting a reply, we urge your Excellency's Government to carry out an expeditious, independent and transparent inquiry into the circumstances surrounding Mr. Hese gem's death, with a view to taking all appropriate disciplinary and prosecutorial action, to ensuring accountability of any person guilty of the alleged violations, and to compensating his family. We further urge you that all necessary interim measures be taken to prevent the re-occurrence of the human rights violations herewith alleged.

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.

Nils Melzer  
Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment

Agnes Callamard  
Special Rapporteur on extrajudicial, summary or arbitrary executions

**Annex**  
**Reference to international human rights law**

While we do not wish to prejudge the accuracy of these allegations, we would like to draw the attention of your Excellency's Government to the relevant international norms and standards that are applicable to the issues arising from the situation described above.

We would like to remind your Excellency's Government of Articles 2 and 16 of the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), ratified by Indonesia on 28 October 1998, which codify the absolute and non-derogable prohibition of torture and other ill-treatment.

In this connection, we would like to draw the attention of your Excellency's Government to the United Nations Standard Minimum Rules for the Treatment of Prisoners 2015 (the Mandela Rules). In particular, Rule 43 prohibits, in all circumstances, disciplinary sanctions that amount to torture or other cruel, inhuman or degrading treatment or punishment, including corporal punishment.

We would also like to refer to articles 3 and 6 (1) of the Universal Declaration of Human Rights (UDHR) and the International Covenant on Civil and Political Rights (ICCPR), to which Indonesia acceded on 23 February 2006, and which guarantee the right of every individual to life and security and provide that these rights shall be protected by law and that no one shall be arbitrarily deprived of his life.

In addition, we would like to draw your Excellency's Government's attention to relevant international principles and norms governing the use of force by law enforcement authorities. Under international law any loss of life that results from the excessive use of force without strict compliance with the principles of necessity and proportionality is an arbitrary deprivation of life and therefore illegal. The Code of Conduct for Law Enforcement Officials, General Assembly resolution 34/169 of 17 December 1979 and the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials (adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, 27 August to 7 September 1990), though not binding, provide an authoritative interpretation of the limits on the conduct of law enforcement forces. According to these instruments law enforcement officials shall, as far as possible, apply non-violent means before resorting to the use of force and firearms. They may use force and firearms only if other means remain ineffective or without any promise of achieving the intended result. Force used must be proportionate to the legitimate objective to be achieved.

We would further like to recall that when the State detains an individual, it is held to a heightened level of diligence in protecting that individual's rights. When an individual dies as a consequence of injuries sustained while in State custody, there is a presumption of State responsibility. In order to overcome the presumption of State responsibility for a death resulting from injuries sustained in custody, there must be a

thorough, prompt and impartial investigation of all suspected cases of extra-legal, arbitrary and summary executions (principle 9 of the Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions). This obligation includes identifying and bringing to justice those responsible; granting adequate compensation to the victim or his family; and taking steps to end impunity and the recurrence of such executions.

The full texts of the human rights instruments and standards recalled above are available on [www.ohchr.org](http://www.ohchr.org) or can be provided upon request.