

Mandates of the Special Rapporteur on minority issues; 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 6/2017

8 September 2017

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on minority issues; 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 34/6, 34/18, 32/32 and 34/5.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the **excessive use of force by police officers against Papuan villagers - some of them minors - during protests in Oneibo Village.**

According to the information received:

On 1 August 2017, workers of a construction company, PT. Dewa Krisna, in Oneibo village, situated in Waghete District, Deiyai Regency, Papua Province, refused to lend a car to take a victim of drowning, an indigenous Papuan, to the nearby hospital. The young man subsequently died.

In protest, a group of dozen of villagers walked to the workers' camp at around 1:30pm and started tearing down facilities, including workers' tents in the company's compound. At around 4.30 pm a truck with fully armed mobile brigade police officers, carrying automatic combat rifles, arrived in Oneibo Village. The officers belonged to a special police unit, named Mobile Police Brigade (BRIMOB). When the villagers saw the police arriving, they began to throw rocks and sticks at them. The BRIMOB officers did not attempt to calm down the situation or disperse the crowd with warning shots, but immediately opened fire, releasing indiscriminate shots at the crowd, despite the presence of many children.

Mr. Yulianus Pigai – 27 years old - was shot by several bullets which penetrated his thighs and his stomach. He died while he was being taken to Waghete Hospital. To date, no autopsy has been performed to establish the cause of his death.

Mr. Martinus Pekey, 51 years old, died in his house allegedly due to the considerable shock he experienced as he witnessed the shooting

Five indigenous Papuans were seriously injured by bullets, including Mr. **Delian Pekei**, Mr. **Yohanes Pakage**, Mr. **Amos Pakage**, Mr. **Marius Dogopia**, Mr. **Titus Pekei**.

The other five injured victims were minors: Mr. [REDACTED], Mr. [REDACTED], Mr. [REDACTED], Mr. [REDACTED], Mr. [REDACTED]. Apart from Mr. Titus Pekei, all victims were brought to the Uwibutu general hospital where they received medical treatment.

On the same day, the Spokesperson of the Regional Police for Papua issued a statement stating the police had complied with existing regulations and that the security forces had used rubber bullets and had fired warning shots. However, an internal investigation, opened on 11 August 2017 by the Chief of the Regional Police for Papua, alleged that the police personnel involved in the incident had violated the standard procedure for dealing with the unrests.

We express grave concern about the excessive use of force, especially the use of lethal force, by law enforcement officials in responding to protests, leading to the killing of one individual, Mr. Yulianus Pigai, the death of Mr. Martinus Pekey, and injuring of ten other, including five minors. We are concerned such repression will have a dissuasive effect on protestors while exercising their legitimate rights in Indonesia. We are also concerned that the alleged acts appear to have been committed in connection with the minority and indigenous identities of the Papuan protesters.

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 be grateful for your observations on the following matters:

1. Are the facts alleged in the summary of the case accurate?
2. Please provide the details, and where available, the results of any investigation and judicial or other inquiry undertaken in relation to these allegations, especially in relation to allegations of extra-judiciary killing of Mr. Pigai and the injury of ten individuals, including five minors. If no inquiries have taken place, or if they have been inconclusive, please explain why.
3. Please provide information about the directives issued by the Government to law-enforcement personnel concerning the precise circumstances in which the use of lethal force is authorized, and indicate how these directives comply with the international human rights obligations of Indonesia under the ICCPR,

as well as the requirements of the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials.

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.

Fernand de Varennes
Special Rapporteur on minority issues

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

Annalisa Ciampi
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 right of every individual to life and security and not to be arbitrarily deprived of his life, and the right not to be subjected to cruel treatments, as set forth in article 6(1) and 7 of the International Covenant on Civil and Political Rights (ICCPR), acceded by Indonesia on 23 February 2006, as well as the right to the rights to freedom of opinion and expression, and freedom of peaceful assembly, as contained in articles 19 and 21 of the ICCPR.

Moreover, the Principles on Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions, in particular principle 9, recall the duty to conduct thorough, prompt and impartial investigations of all suspected cases of extra-legal, arbitrary and summary executions. A failure to investigate and bring perpetrators of such violations to justice could in and of itself give rise to a separate breach of the ICCPR.

In addition, 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 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. They may use force and firearms only if other means remain ineffective or without any promise of achieving the intended result.

We would further like to refer to the joint report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association and the Special Rapporteur on extrajudicial, summary or arbitrary executions on the proper management of assemblies that provide practical recommendations for the proper management of assemblies (A/HRC/31/66).

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 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).

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 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 articles 1, 2 and 5 and refer to the report of the former Special Representative of the Secretary-General on the situation of human rights defenders to the General Assembly in 2006 (A/61/312), where the Special Representative urges States to ensure that law enforcement officials are trained in and aware of international human rights standards and international standards for the policing of peaceful assemblies and to investigate allegations of indiscriminate and/or excessive use of force by law enforcement officials.

Recognizing that the Papuan community is a minority in Indonesia, we would like to bring to your Excellency’s Government attention the international standards regarding the protection of the rights of persons belonging to minorities, in particular to article 27 of the ICCPR and the 1992 Declaration on the Rights of Persons Belonging to national or Ethnic, Religious and Linguistic Minorities, which refers to the obligation of States to protect the existence and the identity of minorities within their territories and to adopt the measures to that end (article 1) as well as to adopt the required measures to ensure that persons belonging to minorities can exercise their human rights without discrimination (article 4).