

**Mandates of the Special Rapporteur on extrajudicial, summary or arbitrary executions; the Special Rapporteur on the rights of indigenous peoples; the Special Rapporteur on the human rights of internally displaced persons and the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance**

REFERENCE:  
AL IDN 6/2019

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Excellency,

We have the honour to address you in our capacities as the Special Rapporteur on extrajudicial, summary or arbitrary executions; the Special Rapporteur on the rights of indigenous peoples; the Special Rapporteur on the human rights of internally displaced persons and the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, pursuant to Human Rights Council resolutions 35/15, 33/12, 32/11 and 34/35.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the **forced displacements of thousands of indigenous peoples in the Nduga Regency of the Papua province due to military operations in the region. We further would like to draw attention to the situation of the internally displaced persons in various regencies of the Papua province**, including the fact that several individuals have died as a result of the security operations or displacement.

Allegations of use of excessive force, torture and killings against indigenous Papuans by the police or military have been the subject of previous special procedures communications, including most recently IDN 3/2019, IDN 7/2018, IDN 1/2017, IDN 1/2016 and IDN 8/2015. While we welcome the initial reply received on 11 March to IDN 3/2019 as well as an acknowledgement of receipt for communication IDN 1/2017 received on 22 March 2017, we regret that no substantive response has been received to date on the other communications.

According to the information received:

Ongoing security force operations in multiple districts of the Nduga Regency have caused the forced displacement of thousands of indigenous peoples. The displaced people originate from thirteen districts in the Nduga Regency that have been affected by military operations, namely the districts Mbuwa, Dal, Mbulmu Yalma, Mapenduma, Yigi, Nirkuri, Kageam, Paro, Mebarok, Gesekema, Jengelo, Amala and Kilimid. Since the first security force operations took place in December 2018, 407 internally displaced persons have reportedly sought shelter in the neighbouring district of Kwiyawagi. As the armed attacks continued, many displaced persons also fled towards the regencies of Jayawijaya, Mimika and Lani Jaya. In early March 2019, reports suggested that approximately 2000 persons forcibly displaced from Nduga have sought refuge in the regency of Jayawijaya

alone. It has been reported that the persons displaced live with families from the Nduga Regency, who have built temporary accommodations, mostly in the areas of Wouma, Ilekma, Hom-Hom and Welesi.

### *Military operations and internal displacement in the Nduga Regency*

On 4 December 2018, the Indonesian security forces launched a military operation in various districts of the Nduga Regency (Mbua, Dal and Mbulmuyalma) after members of the armed separatist organization TPN-PB (West Papua National Liberation Army) reportedly killed at least 17 government contractors, who were working on the construction of the Trans Papua Road. The Indonesian President and Vice-President had allegedly given the direct order to launch the military operations in the Nduga Regency with the goal to prosecute the perpetrators of the killings. The chairperson of the Indonesian Parliament, Mr. Bambang Soesatyo, allegedly demanded that the armed separatist group must be killed.

It has been reported that the central government has deployed troops from Papua and from other parts of Indonesia to the Nduga Regency. Aerial and ground attacks have allegedly been carried out in areas inhabited by indigenous communities, endangering the protection of civilians. At least nine indigenous Papuans have been killed, while at least five indigenous Papuans – among them two children– have been reported missing since the commencement of the military operations on 4 December 2018. While local communities and faith based groups have responded by distributing food and non-food items in a few areas, the rugged terrain has prevented access to remote areas. There are also concerns regarding the decreasing capacity of local communities to continue with the assistance.

Military members have launched further operations in other parts of the Nduga Regency, such as in the districts of Mapenduma, Jigi, Nirkuri, Kageam, Paro, Mepworok, Gesekema, Jengelo, Alama and Kilunid. Indigenous Papuans living in the affected areas have fled into the forests, where they are exposed to the extreme weather conditions in the highlands and risk starvation. Many displaced villagers continue to hide in the jungle, living in small groups in improvised huts. The men leave the shelter during the night and walk long distances to collect sweet potatoes and taro.

The harsh climate and food scarcity in the central Papuan Highlands have particularly affected women and children. According to the information received, at least thirteen displaced persons died due to exhaustion, starvation and hypothermia after fleeing their villages. Among them were women and at least seven children under the age of nine. One woman and her two newborn babies died as she gave birth in the jungle. Reportedly, the military has occupied a clinic in the Mapenduma district where a military outpost has been established, after the military expanded its operations on 19 December 2018. The presence of the military in health facilities prevent sick and injured indigenous peoples from

accessing health services, as many displaced persons are traumatised and afraid of security forces.

The Indonesian military continues to deny access for humanitarian organisations, journalists, human rights defenders and observers to the Nduga Regency.

### **Internally displaced persons in Wamena**

According to the information received, civil society organisations have formed a solidarity group to support the internally displaced persons in Wamena, the main city of the Jayawijaya Regency. On 8 February 2019, this group established a temporary school for 613 internally displaced children from the Nduga Regency. The school also functions as a distribution point for lunch for internally displaced children. The Education Department of Nduga Regency is currently trying to arrange permission for the temporary school. Representatives of the local government in the Jayawijaya Regency have visited the school, but have reportedly not taken any initiative to support the internally displaced persons in Wamena, who are also in need of food, hygiene and water purification equipment, medication and clothing.

Allegedly, security force personnel have subjected members of this solidarity group to intimidation. Between 10 and 14 February 2019, members of the police and military repeatedly tried to access the temporary school premises. The volunteers prevented their entry, arguing that children were severely traumatized due to the security force's attacks on their home villages. On 15 February 2019, the chief of the Jayawijaya 1702 Military Command allegedly scolded members of the solidarity group for having established the temporary school. The chief argued that the Nduga Regency is safe and that the temporary school in Wamena would only draw public attention to the situation in Nduga Regency. Allegedly, he suggested that the children should either be brought to Kenyam District of Nduga Regency or should attend existing schools in the Jayawijaya District.

On 18 February 2018, a delegation of the World Council of Churches (WCC) visited the internal displaced persons from the Nduga Regency in Wamena. A petition, signed by 906 villagers and internally displaced persons was handed over to the WCC delegation during their visit to Wamena.

While we do not wish to prejudge the accuracy of these allegations, we wish to express our serious concern regarding the forced displacement of thousands of indigenous Papuans, because of ongoing military operations in thirteen districts of the Nduga Regency, regions inhabited primarily by indigenous communities. We also wish to express our concern regarding the current situation of the displaced persons in the regencies of Jayawijaya, Mimika and Lani Jaya, where they face starvation and hypothermia, among other risks. Particularly, we are seriously concerned about the situation of the 613 internally displaced children in Wamena.

We wish to also condemn the reported killings of at least 17 government contractors by members of the armed separatist organization TPN-PB.

We further express our most serious concern about the alleged killings of nine indigenous Papuan and the reported disappearance of five indigenous Papuans, including two children as a result of the military operations and deaths of others following their displacement. We are concerned that the military operations by Indonesian security forces in indigenous communities in Papua, together with the alleged killings and disappearances of indigenous Papuans, may be linked to racial discrimination and appear to reflect a broader pattern of racism and intolerance targeting indigenous Papuans. Finally, we wish to express our serious concern regarding the lack of government support to the internally displaced indigenous Papuans. We are also concerned about the allegations that the Indonesian military is denying access for **humanitarian organisations, journalists, human rights defenders and independent observers** into the Nduga Regency.

**We call on your Excellency's government to urgently allow access to humanitarian organisations, journalists, human rights defenders and independent observers to affected areas.**

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.

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 therefore be grateful for your observations on the following matters:

1. Please provide any additional information and/or comment(s) you may have on the above-mentioned allegations.
2. Please provide the details, and where available the results, of any investigation carried out in relation to the allegations of killings and disappearances of the indigenous Papuans during the security operations.
3. In cases where the alleged perpetrators have been identified, please provide the full details of any prosecutions which have been undertaken. Please provide information on all penal, disciplinary or administrative sanctions that has been imposed, including justification for the length of any imprisonment terms.
4. Please provide detailed information on measures taken to protect the human rights of indigenous peoples throughout the country, including in West Papua and Papua province, including their right to life, liberty and security, to be protected against arbitrary displacement and to be free from discrimination.

5. Please indicate what measures your Excellency's Government has taken to ensure the full respect and protections of internally displaced persons and of persons belonging to an indigenous group, specifically in relation to the indigenous Papuans.
6. Please provide information on measures taken by the Government to guarantee that internally displaced persons in the province of Papua receive humanitarian assistance. Please indicate what measures your Excellency's Government is taking to provide support for those forced to flee, and specifically how you will ensure that durable solutions according to international standards are achieved for these IDPs meaning they no longer have specific assistance and protection needs linked to the displacement and can enjoy their human rights without discrimination resulting from their displacement.
7. Please provide information on the measures taken by the Government to allow the safe return of the displaced persons to their homes in the Nduga Regency.
8. Please indicate what measures your Excellency's Government has taken to eliminate racial discrimination against Papuans in law and in practice. Please also describe what measures the Government has taken to ensure the full respect and protection of indigenous peoples, especially those belonging to the Papuan community.

We would appreciate receiving a response within 60 days. After this time, this communication and any response received from your Excellency's Government will be made public via the communications reporting [website](#). They will also subsequently be made available in the usual report to be presented to the Human Rights Council.

While awaiting a reply, we urge that all necessary interim measures be taken to ensure the necessary assistance and protection is given to all those displaced, in particular vulnerable groups such as children, women and elder persons. We also urge your Excellency's Government 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.

We may publicly express our concerns in the near future as, in our view, the information upon which the press release will be based is sufficiently reliable to indicate a matter warranting immediate attention. We also believe that the wider public should be alerted to the potential implications of the above-mentioned allegations. The press release will indicate that we have been in contact with your Excellency's Government's to clarify the issues in question.

Please accept, Excellency, the assurances of our highest consideration.

Agnes Callamard  
Special Rapporteur on extrajudicial, summary or arbitrary executions

Victoria Lucia Tauli-Corpuz  
Special Rapporteur on the rights of indigenous peoples

Cecilia Jimenez-Damary  
Special Rapporteur on the human rights of internally displaced persons

E. Tendayi Achiume  
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**Annex**  
**Reference to international human rights law**

In connection with above alleged facts and concerns, we would like to draw your Excellency's Government's attention to the applicable international human rights norms and standards, as well as authoritative guidance on their interpretation.

We would like to draw your Excellency's attention to the following principles: Article 6(1) of the International Convention on Civil and Political Rights (ICCPR), to which Indonesia acceded on 23 February 2006, provides that every individual has the right to life and that no person shall be arbitrarily deprived of his or her life. In General Comment No. 31, the Committee has observed that there is a positive obligation on States Parties to ensure protection of Covenant rights of individuals against violations by its own security forces. Permitting or failing to take appropriate measures or to exercise due diligence to prevent, punish, investigate and bring perpetrators to justice could give rise to a breach of the Covenant (CCPR/C/21/Rev.1/Add.13).

Article 5 of the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), ratified by Indonesia in 1999, guarantees the right of everyone, without distinction as to race, colour, or national or ethnic origin, to equal treatment before tribunals and all other organs administering justice. It also guarantees equality before the law, to security of person and protection by the State against violence or bodily harm, whether inflicted by government officials or by any individual group or institution. It is worth recalling that any distinction, exclusion, restriction or preference based on race, colour, descent, or national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life constitute racial discrimination (Article1). Article 2 of the Convention requires States to implement affirmative measures to ensure the adequate development and protection of certain racial groups or individuals belonging to them, with a view to guaranteeing them the full and equal enjoyment of human rights and fundamental freedoms. States have a responsibility to combat prejudices, which lead to racial discrimination and to promote understanding, tolerance and friendship among nations and racial or ethnical groups (Article7).

We furthermore wish to refer to the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), adopted by the General Assembly in 2007 with the affirmative vote of Indonesia, which elaborates upon existing binding rights in the specific cultural, historical, social and economic circumstances of indigenous peoples. In particular, we would like to recall article 7 of the UNDRIP which provides that indigenous individuals have the rights to life, physical and mental integrity, liberty and security of person.

We would also like to refer your Excellency's Government to the 1998 Guiding Principles on Internal Displacement, which are of particular relevance to the case at hand, as they establish that all authorities shall respect their obligations under international law,

including human rights and humanitarian law, to prevent and avoid conditions that might lead to displacement of persons. We moreover stress that according to the Guiding Principles, every human being shall have the right to be protected against being arbitrarily displaced from his or her home including due to gross human rights violations, discrimination and fear of persecution (Principle 6). As stated in Principle 3, national authorities have the primary duty and responsibility to provide protection and humanitarian assistance to internally displaced persons. We would like to particularly draw your attention to Principle 9, which highlights that States are under a particular obligation to protect against the displacement of indigenous peoples and other groups with a special dependency on and attachment to their lands.

It is necessary that those persons internally displaced are assisted and supported by the government until such time that they achieve durable solutions. Guiding Principle 28 establishes that “[c]ompetent authorities have the primary duty and responsibility to establish conditions, as well as provide the means, which allow internally displaced persons to return voluntarily, in safety and with dignity, to their homes or places of habitual residence, or to resettle voluntarily in another part of the country. Such authorities shall endeavor to facilitate the reintegration of returned or resettled internally displaced persons.” Where return to places of origin is deemed unsafe, alternative solutions must be found in consultations with affected communities and until such time that safe and dignified return is possible. Moreover, Guiding Principle 29 states that “[c]ompetent authorities have the duty and responsibility to assist returned and/or resettled internally displaced persons to recover, to the extent possible, their property and possessions which they left behind or were dispossessed of upon their displacement. When recovery of such property and possessions is not possible, competent authorities shall provide or assist these persons in obtaining appropriate compensation or another form of just reparation.”. Furthermore, Principle 8 of the Pinheiro Principles explicitly calls on states to alleviate the situation of displaced persons living in inadequate housing. In regard to the requirement to ensure durable solutions for IDPs, we furthermore recall the provisions of the IASC Framework on Durable Solutions for Internally Displaced Persons.

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.