

Mandates of the Special Rapporteur on extrajudicial, summary or arbitrary executions; the Working Group on Enforced or Involuntary Disappearances; 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

Ref.: AL IDN 3/2023
(Please use this reference in your reply)

5 May 2023

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on extrajudicial, summary or arbitrary executions; Working Group on Enforced or Involuntary Disappearances; Special Rapporteur on the rights of indigenous peoples; Special Rapporteur on the human rights of internally displaced persons and Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, pursuant to Human Rights Council resolutions 44/5, 45/3, 51/16, 50/6 and 43/36.

In this connection, we would like to bring to the attention of your Excellency's Government allegations we have received concerning the lack of an effective and prompt investigation into:

- the shooting of Mr. Uakhele Giban, an indigenous Papuan, on 5 July 2022 in Suru Suru district, Yahukimo regency, by agents of the Indonesian security forces of the Damai Cartenz Unit;
- the alleged killings of Arlod Lokbere, Irian Nirigi, Lemaniol Nirigi, and Atis Tini, indigenous Papuans, in Mimika Regency, Nduga, in the Indonesian province of Papua on 22 August 2022, reportedly by members of the Indonesian Army from Brigif 20;
- and the shooting of [REDACTED] an indigenous Papuan minor, on 15 April 2022.

These cases appear to occur in the context of ongoing practices of excessive use of force, extrajudicial killings, and torture of indigenous Papuans by Indonesian police, military or joint security forces.

Previous allegations of use of excessive force, extra-judicial killings and torture of indigenous Papuans by the police, military or joint security forces have been the subject of previous Special Procedures communications, including [IDN 11/2021](#), [IDN 4/2021](#), [IDN 2/2021](#), [IDN 5/2020](#), [IDN 1/2020](#), [IDN 6/2019](#), [IDN 3/2019](#) and [IDN 7/2018](#).

We take this opportunity to thank your Excellency's Government for its responses¹ to these communications but regret that no concrete answers have been provided in relation to the identification and bringing to justice of potential perpetrators of the human rights crimes outlined in these communications. In addition, we regret that your Excellency's Government indicated in its replies that the concept of indigenous peoples would not be applicable to Indonesia. We remain extremely concerned about the situation in Papua and West Papua, as described below, and the

¹ Replies to the indicated communications have been received on [20 February 2022](#); on [9 April 2021](#); on [17 May 2021](#); on [20 January 2021](#); on [1 July 2020](#); on [4 April 2019](#); on [8 March 2019](#); and on [14 December 2018](#), respectively.

allegations that despite repeated referrals of these cases to the Special Procedures mechanisms, reports of the lack of effective investigations into these cases of violations continues.

According to the information received:

Alleged shooting of Mr. Uakhele Giban

Mr. Uakhele Giban is a 42-year-old indigenous Papuan who has been living with his family in temporary housing in Suru Suru district, Yahukimo regency, since November 2021, after having been displaced from his home village by security forces fighting against the West Papua National Liberation Army (TPNPB). In order to sustain his life and that of persons associated with him, he offered river transportation services with his motorboat.

On 5 July 2022, Mr. Giban was transporting passengers on his boat in Suru Suru district. At 11.30 a.m., he finished one of his transportation services and disembarked the passengers at the riverbank near the end of the airstrip in Suru Suru. Since his engine failed to start, Mr. Giban began to undertake reparations along with persons associated with him.

At 1.30 p.m., a group of security officers of the Damai Cartenz Unit (a joint operation conducted by Indonesian National Armed Forces and Indonesian National Police to fight armed resistance groups in West Papua) approached the site where the men were repairing the boat. One of the officers aimed at Mr. Giban and shot him once. Mr. Giban fell into the river. His companions rushed to a temporary shelter and informed the community.

When persons associated with Mr. Giban arrived at the airstrip around 3.30 p.m., members of the Indonesian Security Forces had already cordoned off the scene. Since the persons associated with Mr. Giban did not have access to the crime scene, they went downstream to search for Mr. Giban.

To date, Mr. Giban's body has not been found, nor have state authorities conducted any search operations to locate him. It is believed that Mr. Giban may have been shot because of his ethnic identity.

The legal proceedings about the incident of remain unresolved to this day, nor has any perpetrator been identified. Agents of the Damai Cartenz Unit have not communicated the reason for the shooting to those associated with Mr. Giban or to the Papuan community. As a result of the incident, individuals associated with Mr. Giban continue to live in a forest hut with other internally displaced persons and have been unable to return to their villages. Witnesses to the shooting could not provide information about the incident due to ongoing military operations in Suru Suru District. Owing to the incident, the operation of education facilities, religious places of worship, and health services in the area have been suspended.

Alleged killings of Mr. Arlod Lokbere, Mr. Irian Nirigi, Mr. Lemaniol Nirigi, and Mr. Atis Tini

Mr. Arlod Lokbere, Mr. Irian Nirigi, Mr. Lemaniol Nirigi, and Mr. Atis Tini are indigenous Papuans who reside in Nduga in Papua, referred to as the Indigenous People of Papua (OAP).

On 22 August 2022, Mr. Irian, Mr. Lemaniol Nirigi and Mr. Arnold Lokbere left the house in a black Toyota Avanza PA1082WR. On the way, the driver asked for the car to be replaced with a red Toyota Astra Calya without a number plate.

The driver subsequently picked up Mr. Atis Tini at Kilometer 11 Kampung Kadun Jaya at around 7.45 p.m. They went to the Kamoro Jaya Village area, Wania District SP 1 Timika, where they were seen for the last time.

Since that day, they disappeared. Persons associated with them were not informed of their fate and whereabouts from 22 to 29 August 2022 and the Indonesian authorities reportedly refused to conduct search operations. As such, the burden of finding the missing persons fell solely on their entourage. From 26 August to 31 August 2022, they carried out their own searches.

On 26 August 2022, the human remains of Mr. Lokbere were found in the Pigapu River in Timika and were taken to Timika Hospital. On 27 August the body of Mr. Lemaniol Nirigi was found in the same river wrapped in a bag. On 29 August 2022, the remains of Mr. Tini were also found in river with only parts of the body recovered without clothing and in a damaged condition. On 31 August 2022, the remains of Mr. Irian Nirigi were found in the river and taken to Timika Hospital, where they were positively identified.

At the time of their discovery, the bodies of Mr. Lokbere, Mr. Irian, Lemaniol Nirigi, and Mr. Tini had been mutilated. The head, feet and hands had been severed and placed in a bag lined with heavy stones. The car with which the suspected killings took place was later identified with the license plate number MHKA6GJ6JKJ115394 after the perpetrators reportedly attempted to burn it to destroy evidence of the incident.

Subsequent investigations revealed that the scene of the incident was located in Mimika Baru District, Mimika Regency, while the bodies of the victims were thrown into the Pigapu Village River at the Pigapu Village Bridge, Iwaka District, Mimika Regency. On the day of the incident, the four individuals were instructed to come to a vacant lot in Jalan Budi Utomo Ujung, Timika City, to participate in a weapons exchange. In this context, Mr. Irian Nirigi was shot dead, Mr. Tini and Mr. Lemaniol Nirigi were beaten to death with an iron bar near a parked car, and Mr. Lokbere was stabbed to death by one of the perpetrators near a place of religious worship.

The killings are believed to have been committed by ten perpetrators, six of whom are believed to be members of the Indonesian Army from Brigif 20.

State authorities claimed in media reports that one of those allegedly killed was a sympathizer of an armed criminal group of the West Papuan National

Liberation Army that traded firearms and ammunition in Mimika. Persons associated with the individual denied this information.

From 2 to 4 September 2022, the National Human Rights Commission of the Republic of Indonesia conducted a site visit and participated in the reconstruction of the circumstances of the alleged killings by investigators from the Timika police. In addition, the four bodies were examined by a joint team of the Papua Regional Police after autopsy. However, the autopsy report was not handed out to persons associated with the allegedly killed individuals but was only read out for them by the head of the Timika Criminal Investigation Department during the funeral ceremony.

On 24 January 2023, Judge Panel III of the Surabaya High Military Court sentenced one of the alleged perpetrators, ██████████ to life imprisonment for premeditated murder under article 340 in conjunction with article 55(1) of the Indonesian Penal Code and discharged him from service with the Indonesian Armed Forces.

Alleged excessive use of force against Mr. ██████████

On 15 April 2022, at 10.30 a.m., 17-year-old indigenous Papuan ██████████ came to Bapouda village, Paniai Timur district, to connect to the Wi-Fi network of a local internet café. While there for about 30 minutes, he heard a gunshot. Individuals in the café panicked and rushed outside, including ██████████

At 11.00 a.m. the same day, officers from the mobile police brigade (Brimob) of the Brimob Command in Enrotali, Paniai Regency, opened fire on ██████████ when he exited the café. Shortly before the incident, the café owners had reported a theft to the local police. The police erroneously believed ██████████ to be the perpetrator of the robbery. ██████████ denied any involvement in the theft after the incident. As a result of what happened, ██████████ suffered two gunshot wounds to the waist, after which he was taken by police authorities to Uwibutu General Hospital in Madi City.

On 16 April 2022, members of the local police went to the hospital and prevented the doctors who were preparing the operation to remove the projectiles from Mr. Tebai's body. The officers insisted on attending the surgery, which the doctors refused. Eventually, the police officers left the Hospital.

On 17 April 2022, the doctors removed both projectiles. On 20 April 2022 at 8.00 a.m., ██████████ was released from the hospital. Subsequently, ██████████ was reportedly closely monitored by members of the Damia Cartenz joint security force. Witnesses did not report to the police due to fear of reprisals by Brimob officials. To date, no investigation has been launched into the shooting nor has any perpetrator been identified and sanctioned.

The reported incidents are believed to be related to the ongoing practice of disproportionate use of lethal force against indigenous Papuans by the Indonesian police and military, which reached a new level of escalation during the armed conflict between Indonesian security forces and *the Tentara*

Pembebasan Nasional Papua Barat (TPNPB) or West Papua National Liberation Army in 2022. In particular, the stigmatization of indigenous Papuans as separatists or independence supporters would reportedly fuel racially motivated acts of violence in West Papua. These killings are associated with high levels of impunity.

Given the difficulty to monitor events on the ground in the province, due to security restrictions, we do not wish to prejudge the accuracy and the veracity of these allegations. They appear however sufficiently reliable to indicate a matter that warrants the most serious attention on the part of your Excellency's Government.

We express our serious concern about the allegations of the killing of Mr. Uakhele Giban reportedly by members of the Indonesian security forces belonging to the Damai Cartenz Unit; the killing of Arlod Lokbere, Irian Nirigi, Lemaniol Nirigi, and Atis Tini allegedly by members of the Indonesian Army from Brigif 20; and the shooting that resulted in injuries to minor [REDACTED]. We are concerned that these individuals appear to have been targeted on account of their ethnicity. Intentional lethal use of firearms should only be made when strictly unavoidable in order to protect life. 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.

Should they be confirmed, these reported acts of violence appear to amount to violations of the Universal Declaration of Human Rights (UDHR), the International Covenant on Civil and Political Rights (ICCPR), the Convention on the Rights of the Child (CRC), and the International Convention on the Elimination of Racial Discrimination (ICERD), ratified by Indonesia on 23 February 2006, on 5 September 1990, and on 25 June 1999, respectively. We also refer to the Declaration on the Protection of all Persons from Enforced Disappearance and the 2019 Guiding principles for the search for disappeared persons.²

Given the circumstances, we would like to highlight that international human rights law norms apply at all times and in all circumstances, including during war, public emergencies, civil strife, or situations of internal disturbances or armed conflict. In particular, the right to life constitutes a norm of jus cogens and customary international law from which no derogation is permitted under any circumstances ([CCPR/C/GC/36](#), para. 2).

We raise grave concerns about the alleged excessive use of force against [REDACTED] particularly in light of the fact that these allegations follow the previously reported incident of alleged torture of seven children in the Puncak region of Papua and the death of one of those children, further underscoring the systemic persistence of these practices by military and police officials operating in Papua. In this regard, we note that minors enjoy special protection under article 24 of the ICCPR and under the CRC due to their status as children.

We remain alarmed, moreover, by the alleged widespread racial discrimination against indigenous Papuans by the Indonesian police, military, and security forces. We are further concerned about the documented high levels of impunity that appear to prevail in police and military institutions in the Papua region, the alleged mis-designation of civilians killed as belonging to illegal armed groups, and the internal

² CED/C/7.

displacement that would be caused by the intervention of Indonesian security forces in the fight against the National Liberation Army of West Papua (TPNPB).

We are troubled by the alleged failure of the Indonesian authorities to carry out prompt and coordinated search operations in the cases of Mr. Giban, as well as in the cases of Mr. Lokbere, Mr. Irian and Mr. Lemaniol Nirigi and Mr. Tini, thereby causing anguish to their relatives and placing the heavy burden of finding their loved ones on the families of the disappeared. In this context, it is of grave concern to us that Mr. Giban's body has allegedly not been located and recovered to date.

While we welcome the sentencing of [REDACTED] in relation to the killing of Mr. Lokbere, Mr. Irian and Mr. Lemaniol Nirigi, and Mr. Tini, we remain concerned that no steps appear to be taken to bring the remaining perpetrators to justice. In this connection, we underscore the importance of conducting investigations into all suspected unlawful deaths in line with international standards, particularly the *Principles on Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions* and the Revised United Nations Manual on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions (the *Minnesota Protocol on the Investigation of a Potentially Unlawful Death (2016)*).³ We underline that the relevant obligations include identifying and bringing to justice those responsible through criminal investigation and prosecution in civilian courts; granting adequate compensation to the victim or their families; and taking steps to ensure the non-recurrence of such executions and excessive use of force. In this respect we underscore the critical importance of the obligation to ensure in law and in fact the autonomy and independence of the authorities charged with the criminal investigation and prosecution of these cases. We reiterate that we stand ready to support your Excellency's Government efforts in this regard and remain available for any technical assistance we may be able to provide to the authorities concerned.

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 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 a detailed account of the shooting of Mr. Uakhele Giban who did not seem to pose any threat when he was shot while repairing his boat; of the investigation into his killing and its findings; and on the judicial proceeding initiated in this case and its outcome. Has anyone been brought to justice for this murder? If no inquiry has taken place or if inquiries have been inconclusive, please explain why.
3. Please provide detailed information on why the Indonesian authorities reportedly failed to conduct prompt, effective investigations, including active search, to determine the whereabouts of Mr. Uakhele Giban after

³ <https://www.ohchr.org/sites/default/files/Documents/Publications/MinnesotaProtocol.pdf>.

he was shot dead.

4. Please provide detailed account about the circumstances of the disappearance, subsequent killing of Mr. Arlod Lokbere, Mr. Irian Nirigi, Mr. Lemaniol Nirigi; about the steps that were taken to conduct independent, prompt and effective investigations, medical examinations, and judicial or other inquiries into these killings; and about the outcome of these proceedings. Has anyone else been brought to justice for these murders, besides [REDACTED]
5. Please provide detailed account of the circumstances and the reason for shooting by firearm of [REDACTED], who did not seem to be armed or to pose any threat when running out of the Internet café, about the investigation into his shooting and its outcome.
6. Please provide details on the compatibility of the measures taken to assess the use of lethal force against Mr. Uakhele Giban and [REDACTED] with the applicable principles of legality, proportionality and necessity.
7. Have investigations conducted in these killings been guided by the United Nations Manual on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions, commonly known as the *Minnesota Protocol*?
8. Please provide detailed information on whether the family members of the victims of these killings and shooting have had access to information about the investigations and to effective remedies.
9. More generally, in the context of the armed confrontation that has been opposing the armed forces and police of the Government of Indonesia, and the various indigenous armed groups, what are the rules of engagement and safeguards, including precautionary measures, to protect the right to life and security of the civilian population in West.
10. Please provide information on the efforts made to ensure that internally displaced persons in the provinces of Papua affected by armed conflict are protected against violations of their right to life and security.

We would appreciate receiving a response within 60 days. Past this delay, 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 prompt and detailed reply to this communication, we respectfully recommend your Excellency's Government to review the rules of engagement and modus operandi of its security forces (army and police) in Papua, in order to reduce to the strict minimum any violation of the right to life or harm that could be averted by using other methods; to establish or strengthen existing independent mechanism to investigate any allegation of violation of the right to life, to personal security, to integrity and to deprivation of liberty of Papuans, and to

ensure accountability for acts of violence, improve justice and regain confidence from local communities.

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

Morris Tidball-Binz

Special Rapporteur on extrajudicial, summary or arbitrary executions

Aua Baldé

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Annex

Reference to international human rights law

In connection with above alleged facts and concerns, we would like to refer your Excellency's Government to articles 3, 5, 7, and 8 of the Universal Declaration of Human Rights (UDHR); articles 2, 6, 7, 24 and 26 of the International Covenant on Civil and Political Rights (ICCPR); articles 2, 5 (a) and (b) and 6 of the International Convention on the Elimination of Racial Discrimination (ICERD) and articles 2 and 6 of Convention on the Rights of the Child (CRC), ratified by Indonesia in 23 February 2006, on 28 October 1998, on 5 September 1990, and on 25 June 1999 respectively.

Article 6(1) of the ICCPR 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 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).

We wish to refer to Human Rights Committee, general comment 36. It notes that the right to life is the supreme right from which no derogation is permitted (paragraph 2). It is most precious for its own sake as a right that inheres in every human being, but it also constitutes a fundamental right, whose effective protection is the prerequisite for the enjoyment of all other human rights and whose content can be informed and infused by other human rights. We note that the general comment indicates the obligation of the State to provide specific protection for children. In its paragraph 23, it states that "The duty to protect the right to life requires States parties to take special measures of protection towards persons in situation of vulnerability whose lives have been placed at particular risk because of specific threats or pre-existing patterns of violence", including children. The General Comments makes clear that the right to life must be respected and ensured without distinction of any kind, including race. Considering that [REDACTED] was a minor at the time of the reported violations, we would like to make specific reference to article 24(1) of the ICCPR, which provides that "Every child shall have, without any discrimination as to race, colour, sex, language, religion, national or social origin, property or birth, the right to such measures of protection as are required by his status as a minor, on the part of his family, society and the State."

In addition, we would like to draw your government's attention to Article 26 of the ICCPR, which states that "all persons are equal before the law and are entitled without any discrimination to equal protection of the law. In this regard, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. »

With regards to **excessive use of force**, the Code of Conduct for Law Enforcement Officials (1979) and the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials (1990) provide an authoritative interpretation of the limits on the conduct of law enforcement forces. Principle 4 provides that in carrying out their duties, law enforcement officials may use force and firearms only if

other means remain ineffective. Principle 5 adds that if the use of force is unavoidable, law enforcement officials shall exercise restraint and act in proportion to the seriousness of the offense and obliges the authorities to offer assistance and medical aid to any injured persons as soon as possible. Moreover, principles 9 reiterates that intentional lethal use of firearms may only be made when strictly unavoidable in order to protect life. Furthermore, firearms should never be used simply to disperse an assembly; Should lethal force be used, restraint must be exercised at all times and damage and/or injury mitigated, including giving a clear warning of the intent to use force and to provide sufficient time to heed that warning, and **providing medical assistance as soon as possible when necessary** (principles 5 and 10). Exceptional circumstances such as internal political instability or any other public emergency may not be invoked to justify any departure from these basic principles (principle 8).

There is a duty to conduct thorough, prompt and impartial **investigations** of all suspected cases of extra-legal, arbitrary or summary executions and the obligation to bring to justice all persons identified by the investigation as having participated in those executions as laid down in the Principles on Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions, adopted by the Economic and Social Council resolution 1989. The United Nations Revised Manual for the Effective Investigation of Extra-Legal, Arbitrary and Summary Executions (The Minnesota Protocol on the Investigation of Potentially Unlawful Death (2016) provides detail on the duty to investigate potential unlawful deaths “promptly, effectively and thoroughly, with independence, impartiality and transparency.” It notes the authorities must conduct an investigation as soon as possible and proceed without unreasonable delays. We remind that amongst other things, investigations into alleged unlawful killings should seek to determine who was involved in the death and their individual responsibility for the death and seek to identify any failure to take reasonable measures which could have had a real prospect of preventing the death. It should also seek to identify policies and systemic failures that may have contributed to a death and identify patterns where they exist (para. 25).

We further highlight that the arbitrary deprivation of life of an individual may cause his or her relatives mental suffering, which could amount to a violation of their own rights under article 7 of the Covenant. Furthermore, even when the deprivation of life is not arbitrary, failure to provide relatives with information on the circumstances of the death of an individual may violate their rights under article 7...Relatives of individuals deprived of their life by the State must be able to receive the remains, if they so wish and to dispose of those remains according to their own tradition, religion or culture (Human Rights Committee, General Comment 36, and A/HRC/16/48, page 15).

We also refer to the report on Medico-legal Death Investigations (MLDIs) (A/HRC/50/34) by the Special Rapporteur on extrajudicial, summary or arbitrary executions, indicating that the bereaved families and next of kin should be informed in a timely and appropriate manner about the investigation into the death of their loved one, its progress and its findings and that should be protected from any threat resulting from their participation in the investigation (paras. 92 and 94).

With regard to the reported refusal of state authorities to conduct search operations to locate **disappeared persons**, thereby shifting the heavy burden of undertaking such searches to the family members of the disappeared and persons

associated with them, we would like to draw attention to the United Nations Declaration on the Protection of all Persons from Enforced Disappearance. In particular, we recall articles 2, 3, 7, 13 and 19 indicating that no State shall practice, permit or tolerate enforced disappearances and that States should take effective legislative, administrative, judicial or other measures to prevent and terminate acts of enforced disappearance, that no circumstances whatsoever may be invoked to justify enforced disappearances, any person having knowledge or a legitimate interest who alleges that a person has been subjected to enforced disappearance has the right to complain to a competent and independent State authority and to have that complaint promptly, thoroughly and impartially investigated, that all involved in the investigation are protected against ill-treatment, intimidation or reprisal, and that victims of acts of enforced disappearance and their family shall obtain redress and shall have the right to adequate compensation. We also refer to the Guiding principles for the search for disappeared persons, established by the Committee against Enforced Disappearances in 2019, in particular principles 6, 7, 12, and 13 indicating that the search should begin without delay, that it constitutes a continuing obligation and should be coordinated and that it should be interrelated with the criminal investigation.⁴

We further highlight the disappearance of members of indigenous communities may be particularly harmful because of their knowledge about their cultural heritage and the ability to maintain and pass on traditions and practices with the community, as indicated in the study on enforced or involuntary disappearances and economic, social and cultural rights carried out by the Working Group ([A/HRC/30/38/Add.5](#), para. 41). We further refer to the report of the Working Group on Enforced or Involuntary Disappearances on standards and public policies for effective investigation of enforced disappearances ([A/HRC/45/13/Add.3](#)), indicating that effective, prompt, thorough, and impartial investigations should be carried out as soon as an disappearance is reported, a requirement which is connected to the main objectives of finding the disappeared person and ensuring that sufficient evidence is obtained in order to establish the truth and identify the perpetrators, and the importance of coordination of the authorities in charge of the search and criminal investigations (paras. 11,12 and 56).

We also recall that the lack of information on the fate and whereabouts of disappeared persons, as well as the official indifference of the authorities to the suffering of relatives, may constitute a form of ill-treatment, in violation of article 7, read alone and in conjunction with article 2 (3) of the ICCPR.

Article 5 of the International Convention on the Elimination of All Forms of Racial Discrimination (hereafter 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, color, 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 (article 1). Article 2 of the Convention requires States to implement

⁴ CED/C/7.

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. We also recall Article 6, which obliges State parties to « assure to everyone within their jurisdiction effective protection and remedies, through the competent national tribunals and other State institutions, against any acts of racial discrimination which violate his human rights and fundamental freedoms contrary to this Convention, as well as the right to seek from such tribunals just and adequate reparation or satisfaction for any damage suffered as a result of such discrimination.” 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 (article 7).

Furthermore, the United Nations Declaration on the Rights of Indigenous Peoples adopted by the General Assembly in 2007 provides in article 7 that indigenous individuals have the rights to life, physical and mental integrity, liberty and security of person.