

Mandates of the Special Rapporteur on extrajudicial, summary or arbitrary executions; 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; the Special Rapporteur on the rights of Indigenous Peoples and the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance

Ref.: AL IDN 4/2023
(Please use this reference in your reply)

17 August 2023

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on extrajudicial, summary or arbitrary executions; 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; Special Rapporteur on the rights of Indigenous Peoples and Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, pursuant to Human Rights Council resolutions 44/5, 52/9, 50/17, 51/16 and 52/36.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning violations against indigenous Papuans in the provinces of Papua, West Papua, Central Papua, and Mountains Papua. According to these allegations several extra-judicial killings, including of three children took place in the town of Wamena, Jayawijaya Regency, Papua Pegunungan Province (Mountains Papua Province) on 23 February 2023; the allegations refer to the practice of arbitrary detention and excessive use of force, including lethal force, by security forces resulting in serious injuries to Indigenous Papuans protesters and human rights activists in the context of civil unrest and armed rebellion between May 2022 and July 2023.

These cases reportedly illustrate a pattern of excessive use of force and frequent extrajudicial killings of indigenous Papuans by Indonesian police, military, or joint security forces, in the context of the armed conflict that increasingly opposed partisans of Papuan armed liberation movements to the Indonesian Government, perceived as an imposed occupation force.

Such allegations 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, and IDN 3/2023.

We thank your Excellency's Government for its responses to some of the above-mentioned communications. However, we remain extremely concerned that these acts of violence, such as those described below continue to spiral up dangerously, despite repeated early warnings to the Government by Special Procedures and other UN Human rights mechanisms communications, and the lack of effective investigations and remedies to curb these violations.

According to the information received:

Unlawful killings February 2023

On the morning of 23 February 2023, in Sinakma, in the town of Wamena, two non-Papuan truck drivers were assaulted by local residents after being accused of attempting to abduct a Papuan girl. The police reached the location around 11.30 hrs. to mediate the dispute. The Police Chief of Jayawijaya and additional police personnel arrived in Sinakma at 13.00 hrs.

Attempts to settle the dispute failed and large crowds gathered by the afternoon. Unknown perpetrators began throwing stones at the police. Around 14.30 hrs. warning shots were fired by the police and personnel from the mobile police brigade (BRIMOB). Shortly afterwards, the police started firing indiscriminately at the protesting crowd. Video footage of the security operation purportedly shows security forces personnel indiscriminately firing with live ammunition at the crowd of protesters, which resulted in the killing of at least nine indigenous Papuans. Similar shooting incidents occurred in various locations in Wamena.

At around 14.50 hrs military personnel reportedly from the Indonesian Army (Tentara Nasional Indonesia or TNI) Battalion 756/ Wimane Sili reached Sinakma and began joint patrolling.

The victims killed on 23 February 2023 include the following nine individuals belonging to the Papuan community: Mr. Tepanus Wenda, Mr. Yan Murib, Mr. Mian Karunggu, Mr. Feredi Elopere, Mr. Semias Yelipele, Mr. Nikos Yanengga, Mr. Korwa Kogoya, Mr. Fiki Kogoya and Mr. Wais Aspalek. Three of the victims were under the age of 18.

57 other persons sustained police and security forces bullet injuries or were hit by tear gas grenades. Sixteen police officers were injured during the confrontations. Two non-Papuan victims were killed with arrows and slashing weapons.

The National Human Rights Commission of Indonesia seconded a team to Wamena to monitor the situation on the ground and investigate allegations of the excessive use of force and unlawful killings. The Commission published its findings in detail in a press release on 6 April 2023,¹ and noted that 11 people (nine Papuans and two non-Papuans) were killed and 58 injured in these incidents. Its findings also concluded that there was excessive use of force, including the use of live ammunition during the crowd control efforts by the police and the military.

Persons associated with the nine local residents who were killed, emphasised that economic compensation does not substitute a legal accountability process in line with national and international human rights law. They call upon law enforcement and human rights institutions to investigate the incidents, and for the law to be applied without discrimination.

¹ [https://www.komnasham.go.id/files/20230406-keterangan-pers-nomor-22-hm-00-\\$UO0PS.pdf](https://www.komnasham.go.id/files/20230406-keterangan-pers-nomor-22-hm-00-$UO0PS.pdf)

Unlawful killings July 2023

On 13 July 2023 at approximately 10.30 hrs, Mr. Yosua Keiya, a 20-year-old Papuan was arbitrarily shot dead in Obayo Village, Kamu District in Dogiyai Regency, Central Papua Province by personnel of the Damai Cartenz Unit (a joint operation conducted by Indonesian National Armed Forces and Indonesian National Police). These personnel reportedly operated from a white vehicle from where they opened fire, without warning. The car immediately left the scene and Mr. Keiya walked a few meters before collapsing and succumbed to his injuries. Afterwards Mr. Keiya's family and relatives gathered near the scene of the shooting incident to protest and to demand justice for his death.

The police fired several warning shots to disperse the crowd. As the news of the shooting spread, protesters began to mobilise from nearby villages and gather in the neighbouring towns of Maonemani and Ekemenida in Kamu District. Between 12 noon and 18.00 hrs., hundreds of people had gathered in Moanemani and blocked all roads and entrance and exit points into the town. As tensions and unrest amongst the protesters heightened, violence ensued during which 71 residential houses and stores owned by non-Papuans, as well as government buildings were burnt, vandalised and/or destroyed.

Later that evening, Mr. Yakobus Pekei, a 21-year-old man was shot dead while 19-year-old Mr. Stepanus Pigome sustained gunshot injuries in his leg when joint security forces opened fire at protesters during a security patrol in Maonemani. He died due to excessive blood loss from the bullet injury. Six other civilians sustained bullet injuries.

Use of force against protesters in Jayapura in May 2022

Student groups and the Papuan Peoples Petition (PRP) coordinated Indonesia-wide protests to voice their rejection of the planned formation of new provinces in West Papua.

Ahead of a protest planned for 10 May 2022, the Jayapura Municipality police chief announced that the protest would be dispersed because the notification letter submitted to the police did not meet formal requirements for the registration of a public protest. On 10 May 2022, hundreds of protesters gathered at Expo Waena and the Abepura Roundabout in Jayapura City at around 8.00 hrs. At 10.00 hrs, the joint security forces urged the protesters to disperse and return home. As the protesters refused to do so, protesters were dispersed by security forces personnel using water cannons, teargas, and rubber ammunition. Police officers chased protesters with shields and wooden batons. At least forty-one protesters were injured as they were hit by water cannons or beaten by the police.

The protesters then started walking from the Tolikara Dormitory and the Balim Yalimo Dormitory to join with other protesters at Expo Waena. At the Mega Supermarket in Waena, dozens of police personnel blocked the protesters and urged them to disperse immediately. A police officer apparently counted to three – without leaving the crowd time to respond - gave orders to his subordinates to beat the protesters. Dozens of police personnel equipped

with armour, shields, and wooden batons chased after the crowd. They fired shots into the air and threw teargas into the crowd, while others beat protesters indiscriminately, with batons. The protesters' attempt to flee resulted in a scramble and injuries.

Simultaneously, a group of protesters were walking on Biak Street while dozens of police personnel equipped with armour, shields, wooden batons and armoured vehicles blocked the way. The police shot tear gas into the crowd. An armoured vehicle then approached the crowd and dispersed protesters with a water cannon.

Shortly after the crowd was dispersed, police personnel arrested seven Papuan activists inside the office of the Commission of the Disappeared and Victims of Violence (KontraS) in Padang Bulan. The police officers entered the office without showing an arrest or search warrant, nor providing a reason for the arrests. They seized computers, mobile phones, and other property belonging to the human rights organization, before taking the activists to the Jayapura Municipality Police Headquarters for interrogation. The police questioned the detainees about their social media activities. The detainees were supported by lawyers and released within 24 hours without charges.

Use of force against protests in Jayapura, Nabire town, Sorong city and Nabire town in June and July 2022

Before the demonstrations of 3 June, the Jayapura Municipality police chief announced that he would not grant permission for the demonstration to proceed, warning people that the police would disperse the crowd. On 2 June 2022, the same police chief announced that his men would only facilitate a smaller group of protesters to meet with parliament members but would immediately disperse any larger protests from Ekspo Waena to the provincial parliament in Jayapura.

On 3 June 2022, the Jayapura police blocked approximately 3,600 protesters and dispersed the crowd of protesters in several locations across Jayapura City. An estimated 2,000 security force personnel had been mobilized before the protest and had closely monitored all meeting points since early in the morning. Many protesters say that they had to retreat to private properties to avoid arrest and further escalation. Fifteen protesters were injured as the security forces dispersed the protesters with teargas, water cannons, stun guns and wooden batons. One protester sustained a bleeding head injury after being beaten by a police officer.

Simultaneously, on 3 June 2022, about sixty Papuan People's Petition (PRP) supporters were pushed back by the police when attempting to peacefully gather in Nabire. The police intercepted individuals who were filming the forceful dispersal with their mobile phones and forced them to delete the recordings. The police arrested 25 protesters and forced them into a police truck. They were detained and interrogated at Nabire District Police Station and released at the end of the day.

Also on 3 June 2022, approximately 120 protesters gathered at the local parliament demanding to meet the local parliament chairman. The situation

became tense after the chairman refused to meet with the crowd and some protesters reacted by burning tires. The Sorong Municipality Police reportedly gave the order to disperse the demonstration. The Police later responded by firing teargas and rubber bullets from close range into the crowd. At least ten protesters sustained injuries due to the excessive use of force. The police took from the protesters a Morning Star Flag, which indigenous Papuans consider a symbol of resistance to occupation and independence.

On 14 June 2022, eleven protesters were reportedly injured as police fired shots indiscriminately into the crowd during a peaceful assembly in Jayapura. Two protesters were allegedly hit by rubber projectiles, while nine others sustained injuries as a result of police actions during the incident.

On 14 July 2022, after the PRP submitted a formal registration letter for a peaceful protest march, which was rejected by the police chief, 2,000 policemen were deployed across Jayapura to stop the protests. The policemen, wearing helmets and heavy armour, allegedly beat the protesters with wooden batons, which resulted in the injury of four protesters. The same day, in a similar protest, several hundreds of protesters gathered across Kaimana and resulting in the same type of violence.

It is reported that there had been at least thirty protests since June 2022 in West Papua to reject the Special Autonomy Law. This has led to many arrests, arbitrary detention, and deployment of security forces. Seven protesters have been arrested for raising the independence flag, and more than 11,500 policemen and soldiers have been deployed to quell the protests and maintain public order. Ongoing internet shutdowns following the protests have also been reported.

Use of force against protesters on 1 April 2023 in Denpasar, Bali Province

On the morning of 1 April 2023, Papuan protesters gathered and started to move out of the Udayana University Campus, to protest and to raise awareness about the deteriorating human rights situation and the exploitation of natural resources in West Papua. Members of the Garuda Nusantara Patriots (PGN) blocked the protesters near the Udayana Tourism Faculty in Denpasar. After a 20-minute standoff between the protesters and PGN personnel, PGN members started to beat the protesters with their bare hands and sticks, throwing stones, bottles, and chilli sauce on the protesters. Others allegedly kicked the Papuan students to push them back to the university campus. Thirteen protesters, all indigenous Papuans, were injured during this incident.

Given the difficulty to monitor events on the ground, due to security restrictions, we do not wish to prejudge the accuracy and the veracity of these allegations. They appear, however, consistent in times and places, and sufficiently reliable to indicate a matter that warrants the most serious attention on the part of your Excellency's Government: excessive, disproportionate, systematic, and indiscriminate use of force by the police and security forces, including live ammunition to disperse protesters resulting in extrajudicial deaths killings, severe injuries, arrests and detention, and impunity.

Should they be confirmed, these reported acts of violence violate core elements of the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, ratified by Indonesia on 23 February 2006, and the International Convention on the Elimination of Racial Discrimination (ICERD), ratified by Indonesia 25 June 1999, among other international human rights norms.

We are alarmed that the incident of violence in Wamena in February and in Dogiyai in July 2023 are only two in a series of similar incidents that resulted in unlawful killings and dozens of civilians being injured by bullets. Similar incidents occurred in November 2022 and in September 2019, when joint security forces operations on public unrest in Wamena allegedly killed 16 indigenous Papuans. Most of them were killed with firearms. It is unclear if any of the perpetrators associated with these episodes of violence have been held accountable.

The reported incidents reflect a widespread pattern of disproportionate use of lethal force, arbitrary arrests, detention and violence against indigenous Papuans by the Indonesian police and the military, which have continued since the 2022 escalation in armed conflict between the Indonesian security forces and the Tentara Pembebasan Nasional Papua Barat (TPNPB) or West Papua National Liberation Army. The indiscriminate stigmatisation of protesters as separatists or independence supporters or sympathisers seems to epitomise deeply entrenched discrimination and racial prejudices towards indigenous Papuans on the part of the Indonesian authorities. These prejudices seem also to govern what appears to be a pattern of legal and judicial discrimination in the courts resulting in unfair trials and impunity for the violations perpetrated.

We wish to draw the attention of your Excellency's Government to the 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. Intentional lethal use of firearms should only be made when strictly unavoidable in order to protect life. Force used must be proportionate to the legitimate objective to be achieved. Should lethal force be used, restraint must be exercised at all times and injury mitigated. Medical assistance should be provided as soon as possible when necessary.

We also express concern over the alleged justification of the violent dispersal of protesters as being the lack of compliance with the notification procedures. Lack of notification alone never constitutes grounds to disperse an assembly or justify the use of force, the criminalization or arrest of protesters. States remain obligated to facilitate such assemblies and protect the participants.²

Furthermore, we wish to draw the attention of your Excellency's Government to the chilling effect that the alleged indiscriminate and excessive use of force has on the rights to freedom of opinion and expression, and to the freedom of peaceful assembly and of association. Given the context, the aforementioned killings that have taken place during protests, we urge your Excellency's Government to take all

² General comment No. 37 (2020), paras. 70–73 and A/HRC/50/42 *Protection of human rights in the context of peaceful protests during crisis situations*, Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association, Clément Nyaletsossi Voule, para 27.

appropriate measures to immediately cease such disproportionate and excessive use of force in reaction to civil unrest, which negatively impacts the rights citizens, particularly of the Indigenous Papuan community. Such disproportionate and excessive use of force also has an effect on the rights of the wider civil society in Indonesia.

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)).

We also express our concern regarding the apparent impunity given to the perpetrators involved. Impunity for such violations has generated cycles of repression that gravely undermine the enjoyment and protection of those fundamental freedoms, which are essential components of democracy and for the defence of all human rights.³

We note 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(s) or their families; and taking steps to ensure the non-recurrence of such 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 remind that international human rights law applies at all times and in all circumstances, including during war, public emergencies, civil strife, or situations of internal disturbances or armed conflict.

We reiterate that we stand ready to support your Excellency's Government in its efforts and remain available for any technical assistance we may be able to provide to the authorities concerned.

We remain concerned by the alleged widespread racial discrimination against Indigenous Papuans by the Indonesian police and the security forces. The underlying pattern of racial discrimination is highlighted by the fact that a majority of reported victims of unlawful killings and enforced disappearances in Papua provinces in 2021-2023 were Indigenous Papuans.

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.

³ A/HRC/53/38 *Advancing accountability and ending impunity for serious human rights violations related to the exercise of the rights to freedom of peaceful assembly and of association*, Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association, Clément Nyaletsossi Voule, para 1.

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 events of 23 February 2023 that led to the killing of nine persons belonging to an indigenous community and the incidents of 13 July 2023 that resulted in the deaths of three individuals.
3. Please provide the status of investigations or prosecutions regarding previous acts of violence concerning the Papuan community, especially in the aftermath of violence in September 2019 which allegedly killed 16 Papuans.
4. Please provide information on the steps that were taken to conduct independent, prompt and effective investigations, medical examinations, and judicial or other inquiries into the killings of 23 February 2023 and 13 July 2023, and the injuries to protesters in May – July 2022, and in 2023. If no inquiry has taken place or if inquiries have been inconclusive, please explain why.
5. Have investigations conducted into 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?
6. Please inform of measures taken to provide reparations to families of victims, and policies in place to ensure nonrecurrence, in reference to the above incidents of violence. If no such action has been taken, please explain why.
7. More generally, in the context of the armed confrontation between the security forces and the 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 the Papua provinces.
8. Please indicate what measures have been taken to ensure a safe and enabling environment for peaceful assembly and freedom of expression, without fear of threats or acts of intimidation and harassment of any sort, including killings, for the Indigenous Papuan community.

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 reply, we reiterate our earlier, repeated, call on the Government of Indonesia, to promptly review the modus operandi and rules of engagement of its police and armed forces in West Papua, investigate in a fair manner all incidents of violence leading to the killing and injuries of civilian protesters, and bring to justice perpetrators.

We are sharing our concerns, at the light of the continued deterioration of the security and human rights situation in the province in recent years, that unless efforts are genuinely invested to foster political dialogue and prevent or curb to the maximum violence to life, integrity and security of persons, abuses of power left unaddressed will further nurture resentment, calls for justice and growing protests.

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

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K.P. Ashwini
Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance

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, 19, 21, 24 and 26 of the International Covenant on Civil and Political Rights (ICCPR); and articles 2, 5 (a), 5 (b) and 6 of the International Convention on the Elimination of Racial Discrimination (ICERD) ratified by Indonesia on 23 February 2006, 28 October 1998, and 5 September 1990, 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. We refer to the Human Rights Committee's, [General Comment 36](#) which 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. General Comment 36 makes clear that the right to life must be respected and ensured without distinction of any kind, including race.

The Human Rights Committee in [General Comment 31](#) considers article 6(1) of the ICCPR to include that States parties should take measures to prevent and punish deprivation of life by criminal acts, and to prevent arbitrary killing by their 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.

We also recall that according to article 21 of ICCPR, "The right of peaceful assembly shall be recognized. No restriction 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 interests of national security or public safety, public order, the protection of public health or morals or the protection of the rights and freedoms of others." The 'provided by law' requirement means that any restriction 'must be made accessible to the public' and 'formulated with sufficient precision to enable an individual to regulate his or her conduct accordingly' (CCPR/C/GC/34).

The Human Rights Committee stated that "[a]rticle 21 of the Covenant protects peaceful assemblies wherever they take place: outdoors, indoors and online; in public and private spaces; or a combination thereof. Such assemblies may take many forms, including demonstrations, protests, meetings, processions, rallies, sit-ins, candlelit vigils and flash mobs. They are protected under article 21 whether they are stationary, such as pickets, or mobile, such as processions or marches" (CCPR/C/GC/37, para 6). In addition, we would like to recall that the Special Rapporteur on the right to freedom of peaceful assembly and association has stressed in a report (A/HRC/20/27), that States have a positive obligation under international human rights law not only to actively protect assemblies, but also to facilitate the exercise of the right to freedom of peaceful assembly.

Notification of an assembly must not be required for spontaneous assemblies, for which there is not enough time to provide notice, and which is often the case

during crises. Lack of notification alone never constitutes grounds to disperse an assembly or justify the use of force, the criminalization or arrest of protesters. States remain obligated to facilitate such assemblies and protect the participants.⁴

The compilation of practical recommendations for the proper management of assemblies ([A/HRC/31/66](#)) recalls that the use of force by law enforcement officials should be exceptional, and assemblies should ordinarily be managed with no resort to force. These principles apply to the use of all force, including potentially lethal force. Firearms may be used only against an imminent threat either to protect life or to prevent life-threatening injuries (making the use of force proportionate). In addition, there must be no other feasible option, such as capture or the use of non-lethal force to address the threat to life (making the force necessary).

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. Should lethal force be used, restraint must be always exercised 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 investigate 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.

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

⁴ General comment No. 37 (2020), paras. 70–73 and *A/HRC/50/42 Protection of human rights in the context of peaceful protests during crisis situations*, Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association, Clément Nyaletsossi Voule, para 27.

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).

We would like to recall that article 19 of the ICCPR guarantees the right to opinion and expression. In the General Comment 34, the Human Rights Committee stated that States parties to the ICCPR are required to guarantee the right to freedom of opinion and expression, including inter alia ‘political discourse, commentary on one’s own and on public affairs, canvassing, discussion of human rights, journalism’, subject only to admissible restrictions as well as the prohibition of propaganda for hatred and incitement to hatred, violence and discrimination.

Restrictions on the right to freedom of expression must be compatible with the requirements set out in article 19 (3), that is, they must be provided by law, pursue a legitimate aim, and be necessary and proportionate. The State has the burden of proof to demonstrate that any such restrictions are compatible with the Covenant. An attack on a person because of the exercise of his or her freedom of opinion or expression, including arbitrary arrest, torture, threats to life and killing, cannot be compatible with Article 19. (GC34 paragraph 23)

Furthermore, we recall once again that arresting or detaining an individual as punishment for the legitimate exercise of the rights as guaranteed by the Covenant constitutes a violation of article 9 (CCPR/C/GC/35, para. 17). According to article 9 of the ICCPR, any arrest or detention shall be carried out in accordance with the grounds and procedures established by law. Moreover, the deprivation of liberty as punishment for the legitimate exercise of rights guaranteed by ICCPR is arbitrary, this includes protections for the rights to freedom of opinion and expression, as well as freedom of peaceful assembly and association (CCPR/C/GC/35). We would further like to highlight that “neither preventive detention nor preventive identity controls, including stop and search, should be used to create a chilling effect on the right to freedom of peaceful assembly or to criminalize protesters” (A/HRC/47/24, para. 51).

In relation to the allegations of ongoing internet shutdown, we would like to remind your Excellency’s Government that under ICCPR articles 19(3), 21, and 22(2), the complete shutdown of the internet and telecommunication networks would appear to contravene the fundamental principles of necessity and proportionality that must be met by any restriction on freedom of expression. Additionally, the Special Rapporteur on the rights of freedom of peaceful assembly and of association stated that “[t]he right to access and use internet and other digital technologies for the purposes of peaceful assembly is protected under article 20 of the Universal Declaration of Human Rights and article 21 of ICCPR (A/HRC/47/24/Add.2 para. 8)”. Similarly, the U.N. General Assembly (A/RES/73/173) and the Human Rights Council (A/HRC/RES/38/7) have called upon States to refrain from implementing internet shutdowns and to ensure internet is available at all times, including during peaceful protests (A/HRC/RES/44/20).

Article 5 of the International Convention on the Elimination of All Forms of Racial Discrimination (hereafter ICERD), 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, the security of the 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 noted 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 (article 1). 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.

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. Additionally, it stipulates that Indigenous Peoples freely determine their political status and freely pursue their economic, social and cultural development.

The Declaration also establishes, in its article 18 that “Indigenous peoples have the right to participate in decision-making in matters which would affect their rights, through representatives chosen by themselves in accordance with their own procedures, as well as to maintain and develop their own indigenous decision-making institutions.” Article 23 states that “Indigenous peoples have the right to determine and develop priorities and strategies for exercising their right to development.” Article 26 established that “Indigenous peoples have the right to the lands, territories and resources which they have traditionally owned, occupied or otherwise used or acquired. Indigenous peoples have the right to own, use, develop and control the lands, territories and resources that they possess by reason of traditional ownership or other traditional occupation or use, as well as those which they have otherwise acquired. States shall give legal recognition and protection to these lands, territories, and resources. Such recognition shall be conducted with due respect to the customs, traditions and land tenure systems of the indigenous peoples concerned.” Article 32(2) of UNDRIP recognizes the right of indigenous peoples "to determine and develop priorities and strategies for the development or use of their lands or territories and other resources" and to be consulted in good faith "through their own representative institutions in order to obtain their free and informed consent prior to the approval of any project affecting their lands or territories and other resources, particularly in connection with the development, utilization or exploitation of mineral, water or other resources.”