

**Mandates of the Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence; the Working Group on Enforced or Involuntary Disappearances and the Special Rapporteur on extrajudicial, summary or arbitrary executions**

Ref.: AL IDN 8/2023  
(Please use this reference in your reply)

15 December 2023

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence; Working Group on Enforced or Involuntary Disappearances and Special Rapporteur on extrajudicial, summary or arbitrary executions, pursuant to Human Rights Council resolutions 45/10, 54/14 and 53/4.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning **the alleged inadequacy of some measures adopted by the relevant authorities in Indonesia to ensure truth, justice, reparation, memory and guarantees of non-recurrence under the Government's policy on the non-judicial settlement of past gross human rights violations.**

According to the information received:

On 26 August 2022, the President of Indonesia signed Presidential Decree 17/2022 establishing the Non-Judicial Settlement of Past Gross Human Rights Violations Team (Tim PPHAM) with tenure until 31 December 2022. The decree mandated the team to disclose past violations; identify and implement means of non-judicial settlements; and provide physical rehabilitation, social assistance, health insurance, scholarships, and other forms of remedial "recommendations for the victims' and their families' interests". It further mandated it to "recommend measures to the State for guarantees of non-recurrence."

Tim PPHAM's mandate as stipulated under the Decree did not include criminal accountability. With regards to the forms of remedy stipulated in the Decree, these reportedly did not provide the level of protection afforded to victims which is required under international law.

On 29 December 2022, Tim PPHAM completed its report and submitted its findings to the President of Indonesia, who announced some of the findings on 11 January 2023. Twelve cases of past gross human rights violations were mentioned by the President during the announcement, including the red-tagging of those perceived as communists between 1965-1966; the mysterious shootings of 1982-1985; the 1989 Talangsari shootings; the Rumah Geudong and Pos Sattis cases of 1989; the enforced disappearances of pro-democracy activists between 1997-1998; the Trisakti, Semanggi I and Semanggi II shootings of 1998-1999; the killings of "sorcerers" of 1998-1999; the Simpang KKA shootings of 1999; the Wasior tragedy of 2001-2002; the 2003 Wamena tragedy; and the Jambo Keupok case of 2003. However, the President omitted mentioning other cases of gross human rights violations and crimes under

international law reported by human rights organizations to Tim PPHAM. It is unclear if these cases are in fact included in the report.

During the announcement, the President stated that "I, as the Head of State, acknowledge that gross human rights violations did happen in many occurrences." Despite the President's public acknowledgement, he did not offer an official apology to the victims and their families.

Despite the announcement, the team's full report has not been published. The credibility and impartiality of the entity has been put into question as a result of this delay. A version of what is presumed to constitute the executive summary of that report has been seen by civil society organizations. It reportedly provides 11 recommendations on how to address past gross past human rights violations through non-judicial means, including "for the Government to, inter alia, publicly acknowledge past violations cases, construct an official historical clarification, collect victim's data and build memorials."

On 15 March 2023, the President signed two regulations as a follow-up to the conclusion of Tim PPHAM's mandate: Presidential Decision 4/2023, which established two teams (a Steering Committee and an Executive Team) for the monitoring of the implementation of the report's recommendations and provided for the composition and mandate of each team; and Presidential Instruction 2/2023 which created a mechanism for the implementation of Tim PPHAM's recommendations and described the ways in which the two aforementioned teams would conduct their mandates, operationalize the recommendations on a technical level, as well as establish the responsibility of corresponding ministries. It is reported that Instruction 2/2023 did not incorporate Tim PPHAM's recommendation to deliver construct an official historical clarification. Despite these decisions, a clear roadmap to implement Tim PPHAM's recommendations has not been communicated to the public, causing uncertainties among victims regarding the procedure, funding source and disbursement mechanism that will be implemented to provide reparations.

Further uncertainties are said to have arisen regarding the method for collection of victim's records. It is reported that Tim PPHAM proposed that the Director General of Population and Civil Registration take up the role of data collection, contrary to Law 39/1999 on Human Rights and Law 26/2000 on Human Rights Court which states that the compilation of these records is the responsibility of the National Human Rights Commission (Komnas HAM). This arrangement is reported to have created concern among victims on whether certain groups would be more eligible for reparations than others, and on the status of individuals who had not been registered by either Komnas HAM or Tim PPHAM, among other concerns.

On 2 May 2023, the Coordinating Minister on Politics, Legal and Security Affairs announced the President's plan to begin implementing Tim PPHAM's recommendations by organizing an inaugural event in Aceh. The event was planned to take place at Rumah Geudong, Pidie Regency, Aceh, in June 2023. Between 19 and 21 June 2023, the Pidie Regency government demolished remnants of houses and sealed a well in Rumah Geudong that were used to conduct prayers and commemorative events and preserved by victims and civil

society as memorials of human rights violations committed therein. Rumah Geudong was the site of Military Operation Zone (Daerah Operasi Militer) conducted by the government in Aceh between 1989 and 1999, in which persons suspected of having ties to the Independent Aceh Movement (GAM) were tortured and executed. The destruction contravened one of Tim PPHAM's recommendations and was reportedly conducted without a meaningful consultative process with victims, local actors and civil society, and despite their expressed disapproval. The inaugural event took place at Rumah Geudong on 27 June 2023.

While noting the establishment of Tim PPHAM and the initial steps undertaken to implement its recommendations through the creation of two teams to monitor progress, we express concern about the alleged inadequacy of some of the measures adopted under the Government's policy on the non-judicial settlement of past gross human rights violations to guarantee truth, justice, reparation, memory and guarantees of non-recurrence, in particular with regards to the scope of Tim PPHAM's mandate, the nature of remedies proposed to victims, and the lack of publicity of the outcome of its work.

With regards to the scope of Tim PPHAM's mandate, we note with concern that the team's mandate as provided under Presidential Decree 17/2022 excludes the provision of criminal accountability for past gross human rights violations, including enforced disappearances, torture and extrajudicial killings. We recall that it is the general obligation of States to take action to combat impunity by ensuring that those suspected of criminal responsibility are prosecuted, tried and duly punished, as established, among others, in the Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights and Serious Violations of International Humanitarian Law (Basic Principles and Guidelines). Failure to do so constitutes a violation of international law. Similarly, we note with concern the alleged failure of Tim PPHAM to investigate and record all reported cases of gross human rights violations reported by civil society organizations, which may constitute a violation of the inalienable right of all people to know the truth about such violations and the circumstances and reasons that led to them, as provided by principle 2 of the Updated Set of Principles for the protection and promotion of human rights through action to Combat Impunity (Updated Set of Principles). This would equally jeopardise the right to know the truth for victims of enforced disappearance, which encompasses learning the fate and whereabouts of those forcibly disappeared, the progress and result of the investigation and the circumstances of the enforced disappearance.

We are further concerned about the delay in publishing Tim PPHAM's full report and wish to recall that pursuant to 13 of the Updated Set of Principles the final report of commissions of inquiry must be made public in full and disseminated as widely as possible. The delay in publishing the team's full report could constitute a further violation of the internationally recognised right of victims to know the truth.

Moreover, we note with concern that the remedies afforded to victims, as proposed by Tim PPHAM, appear to fall short of international standards requesting states to make available all appropriate means to ensure that victims can exercise their rights to remedy for gross violations of international human rights law or serious violations of international humanitarian law (principle 12 of the Basic Principles and Guidelines).

Additionally, we note with concern the reported lack of public information and clarity regarding the plans to implement each of Tim PPHAM's recommendations and regarding the method for collection of victim records and the criteria to be applied for eligibility for reparations. In this regard, we wish to recall the duty of states to provide the widest possible publicity, by private as well as public communication media, of procedures enabling victims to exercise their right to reparation, as stated in principle 33 of the Updated Set of Principles. Such dissemination should take place both within and outside the country, including through consular services, particularly in countries to which large numbers of victims have been forced into exile.

We are further concerned about the President's alleged failure to offer an official apology to the victims of violations recorded in Tim PPHAM's report, and their families. In this light, we wish to recall that apologies fall within the scope of reparations due to victims, as stipulated in international law. Measures of satisfaction owed to victims must include the acknowledgement of the facts and acceptance of responsibility through a public apology, as established in Principle 22 of the Basic Principles and Guidelines.

Moreover, we are concerned about the failure to incorporate one of Tim PPHAM's recommendations concerning the delivery of an official historical clarification. We wish to recall that uncovering the truth about past gross human rights violations is an integral part of truth, justice and reconciliation and is important in fostering tolerance and preserving memory of the victims.

We are also concerned about the reported demolition (in contravention of one of Tim PPHAM's recommendations) of remnants of houses and the sealing of a well in Rumah Geudong that were conserved by victims, survivors and civil society organizations as memorials and were used to conduct prayers and commemorative events. We wish to recall that States have a duty to preserve memory, including archives and other evidence concerning violations of human rights and humanitarian law (principle 3 of the Updated Set of Principles), and that such demolitions can constitute a violation of international law in this context.

Finally, we are concerned that the above-mentioned demolitions were conducted without a meaningful consultative process with victims and their family members, survivors and local stakeholders. In this connection, we recall the requirements under international law to meaningfully consult victims and concerned communities on decisions that affect them and to ensure their effective participation in the design and implementation of transitional justice measures.

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 mandate provided to me by the Human Rights Council, to seek to clarify all cases brought to my 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 information provided.

2. Please provide information about measures taken to ensure criminal accountability for the past gross human rights violations in compliance with international norms and standards in the field of truth, justice, reparation and guarantees of non- recurrence as well as the measures taken to uncover the gross human rights violations that were reportedly not recorded by Tim PPHAM.
3. Please provide information about the measures taken to ensure that, in the cases of enforced disappearance registered by Tim PPHAM, relatives are informed without delay about the actions taken to search and find their loved ones, the circumstances of the enforced disappearances, and the fate and whereabouts of the forcibly disappeared persons.
4. Please provide information about the measures taken to ensure that the full report of Tim PPHAM is made public.
5. Please provide information about the measures adopted by your Excellency's Government to provide adequate reparation to victims and their families in line with international law standards. Additionally, please provide information on the mechanism foreseen for victim's data collection and its compatibility with law 39/1999 on Human Rights and law 26/2000 on Human Rights Court.
6. Please indicate the steps taken by your Excellency's Government to take responsibility for the past gross human rights violations including particularly by offering an official apology to the victims and their families.
7. Please provide information about the measures taken to implement Tim PPHAM's recommendations including the construction of an official historical clarification and the measures taken to ensure a transparent and inclusive consultative process with victims and civil society at all stages of the design and implementation of the recommendations.
8. Please provide information about the measures taken to address the demolition of remnants of houses and the sealing of a well in Rumah Geudong that were conserved by victims, survivors and civil society organizations as memorials and were used to conduct prayers and commemorative events, in compliance with international standards on the matter.

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 urge that all necessary interim measures be taken to halt the alleged violations and prevent their re-occurrence and in the event that the investigations support or suggest the allegations to be correct, to ensure the

accountability of any person(s) responsible for the alleged violations.

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

Fabian Salvioli  
Special Rapporteur on the promotion of truth, justice, reparation and guarantees of  
non-recurrence

Aua Baldé  
Chair-Rapporteur of the Working Group on Enforced or Involuntary Disappearances

Morris Tidball-Binz  
Special Rapporteur on extrajudicial, summary or arbitrary executions

## Annex

### Reference to international human rights law

In connection with above alleged facts and concerns, and without prejudice to the accuracy of these allegations, we would like to draw the attention of your Excellency's Government to the relevant international norms and standards.

We would like to refer to the International Covenant on Civil and Political Rights (ICCPR), acceded by Indonesia on 23 February 2006, especially to articles 6, 7, 9 and 16 by themselves, alone and in conjunction with article 2.3, which guarantee the right to life, the right not to be subjected to torture or cruel, inhuman or degrading treatment or punishment, the right to liberty and security of person, and the right to recognition as a person before the law, respectively. Article 2 of the ICCPR establishes that States must guarantee that any person whose rights have been violated shall have an effective remedy, and that the competent authorities must enforce such remedies when granted. States must also ensure that any person claiming such a remedy is entitled to it as determined by competent judicial, administrative or legislative authorities, or by any other competent authority provided for by the legal system of the State, and develop the possibilities of judicial remedy. Furthermore, Article 26 of the ICCPR provides 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, including political or other opinion. In its general comment No. 31 (on the Nature of the General Legal Obligation Imposed on States Parties to the Covenant), the Human Rights Committee ruled that, pursuant to article 2, States have an obligation to investigate and bring to justice perpetrators of serious human rights violations that constitute international crimes. It also established that failure to investigate and to bring to justice perpetrators of such violations could in and of itself give rise to a separate breach of the ICCPR (paragraph 18). Similarly, the Guiding Principles for the Search for Disappeared Persons of the United Nations Committee on Enforced Disappearances<sup>1</sup> establish that the search for the disappeared should be undertaken without delay (principle 2); respect the right to participation of the family of the disappeared (principle 5); be considered a continuing obligation (principle 7); and be interrelated with the criminal investigation (principle 13).

We also note that the prohibition of enforced disappearance and the right to life are norms of *jus cogens* and customary international law, applicable to all persons at all times and from which no derogation is permitted under any circumstances.

We would like to recall the United Nations Declaration on the Protection of All Persons from Enforced Disappearances,<sup>2</sup> which establishes that "all acts of enforced disappearance shall be offences under criminal law punishable by appropriate penalties which shall take into account their extreme seriousness. The Declaration further sets out that 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 by that authority (article 13) and that States

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<sup>1</sup> [CED/C/7\\*](#)

<sup>2</sup> [Declaration on the Protection of all Persons from Enforced Disappearance | OHCHR](#)

should take any lawful and appropriate action to bring to justice persons presumed to be responsible for acts of enforced disappearance (article 14). The Declaration also stipulates that Persons who have or are alleged to have committed offences referred to in article 4, paragraph 1, above, shall not benefit from any special amnesty law or similar measures that might have the effect of exempting them from any criminal proceedings or sanction and the victims or family relatives have the right to obtain redress, including adequate compensation (article 19).

Similarly, the Updated Set of Principles for the Protection and Promotion of Human Rights through Action to Combat Impunity provide that States have the duty to undertake prompt, thorough, independent and impartial investigations of violations of human rights and international humanitarian law and to ensure that those responsible for serious crimes under international law are prosecuted, tried and duly punished (principle 19). The Human Rights Council clarified, in its resolution 12/11 on Human rights and transitional justice, that States have a responsibility to prosecute those responsible for gross violations of human rights and serious violations of international humanitarian law that constitute crimes in order to end impunity and prevent reoccurrence (paragraph 7).

We would also like to recall the right of victims of human rights violations to receive full reparation for the harm suffered. The Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law establish the right of victims to receive adequate, effective and prompt reparation for the harm suffered, and to have access to relevant information on reparation mechanisms (paragraph 11). Reparation should be proportional to the gravity of the violations and the harm suffered. Victims should be provided with full and effective reparation, which include the following forms: restitution, compensation, rehabilitation, satisfaction and guarantees of non-repetition (paragraphs 15 and 18). With regards to measures of satisfaction, these should include measures aimed at acknowledging the violations suffered by victims and the responsibility of the perpetrators, and at restoring the dignity of victims, including through a public apology, a public declaration restoring the dignity and rights of victims, and an accurate account of the violations they endured (paragraph 22).

With regards to reparations, the Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence emphasized in his reports on reparation programmes and on financing of reparation for victims of serious violations of human rights and humanitarian law ([A/HRC/42/45](#) and [A/78/181](#)) that States have the duty to fulfil a victim's right to reparation promptly, adequately and effectively and are encouraged to do so by adopting administrative reparation programmes, and that domestic reparation programmes are the most effective tool for victims of gross human rights violations and serious violations of humanitarian law to receive reparation. The Special Rapporteur also noted that registration that allows victims to record their claims and apply for reparation is essential for the adequate, prompt and effective implementation of a reparations programme.

Regarding the failure to offer a public apology to the victims and their families, we wish to recall that an apology is considered form of reparation and its issuance should meet the requirements of international standards as set out in the Special Rapporteur's report [A/74/147](#) . This report provides detail guidance on the design and implementation of such measures to ensure compliance with international

standards. In designing and implementing apologies, it is important to carefully assess the nature of the apology and the nature of the acknowledgement of the facts and responsibilities, the authority offering the apology, the context of the apology and, decisively, the participation and agreement of victims in the apology process. The effects of an apology will depend fundamentally on whether the victims and their families were involved in the process and perceive it as authentic. For its part, the gesture of apology will be purely symbolic if it is not connected to other means of reparation and other transitional justice mechanisms such as truth-seeking or memorialisation. In addition, the General Comment of the Working Group on Enforced or Involuntary Disappearances on the Right to the Truth in relation to enforced disappearance makes it clear that the right of the relatives to know the truth of the fate and whereabouts of the disappeared persons is an absolute right, not subject to any limitation or derogation. No legitimate aim, or exceptional circumstances, may be invoked by the State to restrict this right. This absolute character also results from the fact that the enforced disappearance causes “anguish and sorrow” (5th preambular paragraph of the Declaration) to the family, a suffering that reaches the threshold of torture, as it also results from article 1§2 of the same Declaration that provides: “Any act of enforced disappearance (...) constitutes a violation of the rules of international law guaranteeing, (...) the right not to be subjected to torture and other cruel, inhuman or degrading treatment or punishment.” In this regard, the State cannot restrict the right to know the truth about the fate and the whereabouts of the disappeared as such restriction only adds to, and prolongs, the continuous torture inflicted upon the relatives. In addition, we would like to refer to the inalienable right of victims of human rights violations to know the truth about past events. The Updated Set of Principles for the Protection and Promotion of Human Rights through Action to Combat Impunity asserts the right of victims to know the truth concerning the perpetration of heinous crimes and about the circumstances and reasons that led, through massive or systematic violations, to the perpetration of those crimes. Full and effective exercise of the right to the truth provides a vital safeguard against the recurrence of violations (principle 2). Irrespective of any legal proceedings, victims and their families have the imprescriptible right to know the truth about the circumstances in which violations took place and, in the event of death or disappearance, the victims’ fate (principle 4). As a result, commissions of inquiry, including truth commissions, have the obligation to make public their full report.

With regards to memorialization, we would like to recall the duty of States to preserve memory of past human rights violations. As established in principle 3 of the Updated Set of Principles for the protection and promotion of human rights through action to combat impunity, “a people’s knowledge of the history of its oppression is part of its heritage and, as such, must be ensured by appropriate measures in fulfilment of the State’s duty to preserve archives and other evidence concerning violations of human rights and humanitarian law and to facilitate knowledge of those violations. Such measures shall be aimed at preserving the collective memory from extinction and, in particular, at guarding against the development of revisionist and negationist arguments”.

In line with this, the Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence noted in his report on memorialization processes ([A/HRC/45/45](#)) that memory processes cut across all aspects of full reparation, especially the dimensions of satisfaction and guarantees of non-recurrence, as a new obligation arising from the violations committed. Memorialization is aimed at preserving, and transmitting to present and future generations, accurate and

comprehensive accounts of past human rights violations and the harm suffered by all victims, with a view to informing society, restoring the dignity of victims, promoting healing and reconciliation and preventing the recurrence of violations. The Special Rapporteur further noted that memory is a vital tool for enabling societies to emerge from the cycle of hatred and conflict and begin taking definite steps towards building a culture of peace and to help change toxic cultures of political violence.

Concerning the need to ensure effective participation of victims in processes aimed at addressing gross human rights violations and preventing their recurrence, we would like to recall that the Updated Set of Principles for the protection and promotion of human rights through action to combat impunity emphasize the meaningful role of victims and other sectors of civil society in transitional justice processes and the importance of undertaking wide public consultations with them (principles 6, 32 and 35). Human Rights Council resolution 12/11 stresses the importance of a comprehensive process of national consultation, particularly with those affected by human rights violations, in contributing to a holistic transitional justice strategy that takes into account the particular circumstances of every situation and is in conformity with human rights (operative paragraphs 5 and 12).

In its 2013 report (A/HRC/22/45), the Working Group stated that it does not differentiate between direct and indirect victims, but rather considers that both the disappeared person and those who have suffered harm as a result of the disappearance are to be considered victims of the enforced disappearance and are therefore entitled to obtain reparation. For the purposes of reparation, a broad definition of the victim, not linked to the establishment of the criminal liability and conviction of the accused, should be adopted (see paras. 46-68 on reparations and enforced disappearances).