

Reference: United Nations, Human Rights Council, Report of the Working Group on the Universal Periodic Review Indonesia, A/HRC/8/23 (14 May 2008), available from undocs.org/A/HRC/8/23

“Germany commended Indonesia on its NHRAP (2004-2009) noting that it can be a platform to address shortcomings in a systematic and transparent manner, and requested information on provisions to end impunity and to guarantee effective prosecution of human rights violations. It requested information on (a) how the issue of the crime of torture is addressed in the draft Criminal Code; (b) what progress has been made with respect to upgrading CRC ratification and the ratification of its two optional protocols; (b) concrete measures envisaged to guarantee effective habeas corpus, and especially to grant detainees access to legal counsel and medical care; and (d) how violence against women is treated in the Criminal Code. Germany further noted that according to several special procedures mandate holders, the human rights situation in Papua and the situation of those who raise issues of human rights violations are issues of concern. It asked which measures Indonesia intends to take, including at the local level, to address the situation in Papua and to address also the underlying causes such as poverty and the high rate of unemployment. Germany also asked what measures can be taken by the authorities to protect human rights defenders who are threatened for their activities and if there are any plans to appoint a special contact person for human rights defenders at the provincial level.” (Human Rights Council 14.05.2008: p. 10)

“Canada noted some of the positive steps taken, including Indonesia’s commitment to ratify this year key human rights instruments such as the Rome Statute for the International Criminal Court. Canada also noted that as is the case of all countries, additional efforts are needed to improve the human rights situation in Indonesia, especially in regions where recent or ongoing political tensions are manifest, such as Papua. It requested information on how Indonesia will ensure that labelling of individuals as separatists in these areas is not used to suppress legitimate democratic activity by civil society, including peaceful public protests and criticism. Canada referred to the need to raise awareness of the role of human rights defenders and of the responsibility of the security forces to protect them. In this regard, it recommended that Indonesia provide additional human rights training to security forces and encouraged it to take concrete steps to improve respect for the rule of law and to punish those responsible for abuses and violations. Canada also recommended that additional specific measures be taken to ensure that the rights of those belonging to minority groups are protected, including from abuses committed by non-State actors. It also enquired about the measures Indonesia plans to take to ensure that perpetrators of such abuses are brought to justice and on avenues of redress available to victims. While noting that Canada has provided concrete support to Indonesia’s efforts to reform governance through decentralization, it asked what measures Indonesia plans to take to ensure that local authorities do not contravene national and international human rights law. Canada also noted that, as a troika member, they would like to underline the very constructive dialogue it had had with Indonesia in the context of the review.” (Human Rights Council 14.05.2008: p. 11)

“In response to questions asked, Indonesia noted that a number of delegations made many valuable suggestions with regard to the protection of women, the protection of children, which they appreciate and will consider seriously as they continue to make

progress in these areas. The suggestion for a bilateral dialogue is appreciated and welcomed. On the situation in Papua, it considers this question as one of support to Indonesia' efforts to improve the welfare of Papuans and the people of Indonesia. A member of the delegation, who is a representative of the local government of Papua and a Papuan himself, noted that the development process in Papua is centred around the Papuans themselves. Economic and health assistance were provided and efforts are made to combat poverty and promote employment, and achievements are made with the participation of the people. He noted that in addressing the human rights violence in Papua, many capacity-building and other programmes have been implemented throughout the region, including training for the communities to understand their rights." (Human Rights Council 14.05.2008: p. 11)

"The United Kingdom welcomed the substantial progress Indonesia continues to make on human rights, noting that since 1998, the overall human rights situation has improved significantly. The United Kingdom noted the increasing openness to international scrutiny, as evidenced by the visits to the country of the Special Representative of the Secretary-General on the situation of human rights defenders in June 2007 and the Special Rapporteur on the question of torture in November 2007, at the invitation of the Indonesian Government. It also welcomed the improvement in the human rights situation in Aceh since the 2005 Peace Agreement, as noted by the Special Representative of the Secretary-General on the situation of human rights defenders. However, many challenges remain, particularly in Papua. It also noted the concerns raised by the above-mentioned special procedures following their visits, including violations suffered by human rights defenders and police abuse of detainees in custody in various parts of Indonesia. The United Kingdom requested information on how Indonesia intended to take forward the recommendations on human rights defenders and to respond to concerns raised by the Special Rapporteur on the question on torture, including police abuse of detainees in custody and serious overcrowding of prisons. It welcomed the expressed intention to strengthen efforts to ratify the Optional Protocol to the Convention against Torture (OP-CAT) and recommended that Indonesia ratify it at the earliest opportunity. It welcomed information provided on the involvement of civil society in the preparation of Indonesia's national report for the Universal Periodic Review and recommended that civil society also be fully involved in the follow-up to this session." (Human Rights Council 14.05.2008: p. 11f)

"The Netherlands also acknowledged that much had been achieved by Indonesia in the area of human rights, noting that as a developing country, Indonesia paid much attention to education and children's and women's rights. It also noted with appreciation the additional information on political and civil rights provided in the national report and in its oral presentation. Regarding the cultural and ethnic diversity of the country, it asked how Indonesia will protect human rights defenders in Papua and on how it prevents discrimination against ethnic and other minorities. It also recommended the lifting of reservations to a number of human rights treaties, and asked that OP-CAT be ratified at Indonesia's earliest possible convenience. It further welcomed Indonesia's efforts to bring its national legislation in line with its international obligations and would recommend the inclusion of the prohibition of torture in its Criminal Code." (Human Rights Council 14.05.2008: p. 12)

"The Republic of Korea welcomed all measures taken by Indonesia to enhance the

enjoyment of human rights in the country, as well as the preparation and implementation of the Second National Action Plan (2004-2009). It also noted positive developments in the area of civil and political rights, including freedom of opinion, freedom of religion, political freedoms such as the freedom of election, and the growth of civil society that enables a stronger involvement of NGOs in the policy-making process. While noting the quality of the national report, the Republic of Korea also noted that recent developments and challenges of economic, social and cultural rights were not properly included as an independent part of the national report, as prescribed by the guidelines. While welcoming the explanation given by Indonesia regarding recent initiatives to revise criminal law it asked if Indonesia had a specific plan to include torture as a crime in the Criminal Code. It also asked if the Government has any concrete plan to strengthen measures to better protect the human rights of indigenous people, in particular in the process of exploitation of natural resources.” (Human Rights Council 14.05.2008: p. 12)

“The United States of America referred to the use of civil and criminal defamation laws and tools for silencing dissenting voices and noted the vital role of the news media in creating broad awareness of political, economic and social issues, and asked what plans there are, if any, to amend the defamation laws. It also referred to reports of arrest and detention of peaceful political activists and asked what is being done to uphold the rights of such activists.” (Human Rights Council 14.05.2008: p. 12f)

“In response to questions, Indonesia noted the many valuable suggestions, recommendations and acknowledgements of achievements by previous speakers. With regard to cooperation with special procedures, Indonesia had invited a number of special procedures and while it cannot confirm now which other special procedures will be invited in the future, it noted that based on previous practice, and with a spirit of maintaining a constructive dialogue and with a view to reinforcing the protection and promotion of human rights in the country, Indonesia could extend other invitations in the future. Indonesia noted the importance of the recommendation to include the definition of torture in its legislation, and indicated that it has already included it in the bill of the Criminal Code currently under review.” (Human Rights Council 14.05.2008: p. 13)

“France asked if Indonesia envisages signing the International Convention for the Protection of All Persons from Enforced Disappearance and in this regard, what difficulties they would confront to sign and ratify this Convention. It requested information on measures taken to investigate reported cases of intimidation and ill-treatment against human rights defenders and to bring those responsible to justice. It asked that not only law enforcement, but also judges and prosecutors should be sensitized, and requested information on measures taken or envisaged to investigate alleged torture and ill-treatment by law enforcement officials, and to bring these to the attention of the judiciary. It also asked whether sensitization on human rights issues was envisaged in the framework of training for law enforcement officials, and what measures Indonesia envisaged to promote and improve respect human rights in the provinces of Papua and West Papua. “ (Human Rights Council 14.05.2008: p. 14f)

“... The establishment of the Judicial Court was also noted. With regard to the

ratification of the Optional Protocols to the Convention against Torture and CRC, the delegation noted that these ratifications are already stipulated in 2008 and 2009 by the national plan.” (Human Rights Council 14.05.2008: p. 15)

1st Review by the UN Committee against Torture

Concluding Observations of the Committee Against Torture on the Report submitted by Indonesia

Reference: United Nations, Committee Against Torture, *Consideration of reports submitted by states parties under article 19 of the convention, Concluding observations of the Committee against Torture, Indonesia*, CAT/C/IDN/CO/2 (02 July 2008), available from <http://undocs.org/CAT/C/IDN/CO/2>.

"Disproportionate use of force and wide spread torture during military operations

The Committee is also deeply concerned about numerous, ongoing credible and consistent allegations, corroborated by the report of the Special Rapporteur on torture and other sources, of the routine and disproportionate use of force and widespread torture and other cruel, inhuman and degrading treatment or punishment by members of the security and police forces, including by members of the armed forces, mobile police units (“Brimob”) and paramilitary groups during military and “sweep” operations, especially in Papua, Aceh and in other provinces where there have been armed conflicts (arts. 2, 10 and 11).

The State party should take all necessary measures promptly to prevent security and police forces from using disproportionate force and/or torture during military operations, especially against children.

The State party should implement effective measures promptly to ensure that all persons are afforded all fundamental legal safeguards during their detention. These include, in particular, training programmes for all military personnel on the absolute prohibition of torture. The State party should also ensure that all persons detained during military operations are always registered.”(Committee Against Torture 02.07.2008, p.3 f)

"Impunity

The Committee is deeply concerned that credible allegations of torture and/or ill-treatment committed by law enforcement, military and intelligence services personnel are seldom investigated and prosecuted and that perpetrators are either rarely convicted or sentenced to lenient penalties that are not in accordance with the grave nature of their crimes. The Committee reiterates its grave concerns over the climate of impunity for perpetrators of acts of torture, including military, police and other State officials, particularly those holding senior positions who are alleged to have planned, commanded or perpetrated acts of torture. It notes with regret that no State official alleged to have perpetrated torture has been found guilty, as confirmed by the Special Rapporteur on torture (arts. 2 and 12).

The State party should ensure that all allegations of torture and ill-treatment are investigated promptly, effectively and impartially, and that the perpetrators are prosecuted and convicted in accordance with the gravity of the acts, as required by the Convention.

In view of the State party's reaffirmed commitment at the universal periodic review to combat impunity (A/HRC/WG.6/1/IDN/4, para. 76.4), State officials should publicly announce a zero-tolerance policy for perpetrators of acts of torture and other cruel inhuman and degrading treatment or punishment and support prosecution." (Committee Against Torture 02.07.2008, p. 4)

"Human rights courts and ad hoc human rights courts

The Committee is troubled that human rights courts, including ad hoc ones, which are designed to deal "specifically with gross violations of human rights", including torture, genocide and crimes against humanity, pursuant to Law No. 26/2000, were not able to secure the conviction of any of the alleged perpetrators of gross human rights violations in relation to the TanjungPriok (1984), East Timor (1999) and Abepura (2000) cases, especially now that the Supreme Court has acquitted Enrico Guterres (arts. 2, 6 and 12).

The State party should consider amending its legislation on human rights courts, since they face serious difficulties in carrying out their judicial mandate, which has lead to de facto impunity for perpetrators of gross human rights violations." (Committee Against Torture 02.07.2008, p. 9 f)

"Lack of effective investigation and prosecution by the Attorney-General

The Committee is concerned by the absence of prompt, impartial and effective investigations into allegations of torture and ill-treatment by the Attorney-General's office, including with regard to cases presented by the National Commission on Human Rights (Komnas HAM), such as in the Wasior, Wamena (1997/1998) enforced disappearances or Trisakti, Semanggi I and Semanggi II cases (art. 12).

The State party should reform the Attorney-General's office to ensure that it proceeds with criminal prosecution into allegations of torture and ill-treatment with independence and impartiality. In addition, the State party should establish an effective and independent oversight mechanism to ensure prompt, impartial and effective investigation into all allegations of torture and ill-treatment. The State party should also publish, without delay, the reports of Komnas HAM investigations." (Committee Against Torture 02.07.2008, p. 10)

"Switzerland expressed concern about acts of intolerance and discrimination perpetrated against religious and ethnical minorities or against people for their sexual orientation or gender identity. It remained concerned by cases of abuse of prisoners, in particular those that had occurred in Western Papua and Papua provinces in 2010. Switzerland made recommendations." (Human Rights Council 05.07.2012: p. 6)

“The United Kingdom of Great Britain and Northern Ireland welcomed Indonesia’s ratification of the CRPD and efforts to address challenges in Papua and West Papua, where it noted an increase in violence. It noted the occurrence of friction between religious groups and attacks against minorities and encouraged Indonesia to tackle violence against minority faiths and accept visit requests by Special Rapporteurs. It made recommendations.” (Human Rights Council 05.07.2012: p. 7)

“The United States of America commended Indonesia’s pursuit to promote prosperity and address grievances in the Papuan provinces though it remained concerned about allegations of abuses. It voiced concern about the failures to create and enforce a framework of accountability for abuses by the military and police and to protect certain religious minorities. It made recommendations.(Human Rights Council 05.07.2012: p. 7f)

"Germany asked Indonesia whether it intended to release Filep Karma and other political detainees. Regarding the conflict in the Papua provinces, it valued the efforts made to resolve the conflict through dialogue, but noted that serious human rights violations remained to be addressed. Germany made recommendations." (Human Rights Council 05.07.2012: p. 10)

“France remained concerned by the acts of violence committed by the police against human rights defenders. It deplored the violations of human rights against persons belonging to religious minorities, in particular against Ahmadis and the Papuan community. France made recommendations. (Human Rights Council 05.07.2012: p. 10)

“Italy commended Indonesia’s commitment to promoting interfaith dialogue but expressed concern about reported violence against religious minorities. Italy asked Indonesia to provide an update on the implementation of the 2001 special law granting autonomy to the region of West Papua. It made a recommendation.” (Human Rights Council 05.07.2012: p. 11)

“Japan welcomed President Yudhoyono’s plan to offer an apology for past human rights violations during the Suharto era. It encouraged Indonesia to make full use of the Principles and Guidelines for the Elimination of Discrimination against Persons Affected by Leprosy and Their Family Members. Japan voiced concern at reported human rights violations in Papua. Japan made recommendations.” (Human Rights Council 05.07.2012: p. 11)

“New Zealand was encouraged by Indonesia’s establishment of the Unit for the Acceleration of Development in Papua and West Papua and the intended change from a “security approach” to a “welfare and justice approach” for Papuans. It thanked Indonesia for information on the progress made in ratifying OPCAT and the Rome Statute. It made recommendations.” (Human Rights Council 05.07.2012: p. 12)

“Norway expressed concern about reports of harassment and discrimination of religious minorities and non-believers in Indonesia. It noted that some human rights defenders experience challenges in operating freely in the Papua provinces. Norway made recommendations.” (Human Rights Council 05.07.2012: p. 13)

“Responding to observations made, the delegation referred to the situation in the provinces of Papua and West Papua. In order to optimize the implementation of Special Autonomy and expedite the development in Papua as well as West Papua, the Government has established the Special Unit for the Acceleration of Development in Papua and West Papua, through Presidential Decrees No. 65/2011 and No. 66/2011. This special Unit has formulated several quick programmes related to the enhancement of food security, poverty eradication, community-based economic development, education, health, and basic infrastructures. The Government continues to be committed to implement and optimize the special autonomy for the two provinces and to pursue the welfare and development approach in the two provinces. Responding to the comment raised on a reported general climate of impunity, the delegation explained that, unlike the past, members of the police and TNI who committed excesses in carrying out their responsibilities to maintain law and order have been held accountable and brought before the relevant courts. The delegation underscored the fact that the Government is keen to ensure that no cases or excesses occur on the part of the military or police in the carrying out of their responsibilities to maintain law and order in the two provinces.” (Human Rights Council 05.07.2012: p. 13)

“The recommendations formulated during the interactive dialogue and listed below enjoy the support of Indonesia:” (Human Rights Council 05.07.2012: p. 14)

“Implement comprehensive human rights training, with regular reviews to ensure effectiveness, for all military and police personnel, including those working in the Papua and West Papua provinces (New Zealand);” (Human Rights Council 05.07.2012: p. 16)

There is no evidence that effective human rights training has been delivered to members of security forces operating in West Papua on the basis of evidence of continuing and even escalating human rights violations by security forces (perhaps quote the reference in my report to statement by KONTRAS leader that there were over 1200 recorded HR violations since Widodo’s election)
“Ensure free access for civil society and national journalists to Papua and West Papua (France)” (Human Rights Council 05.07.2012: p. 21)

The arrest and conviction of the 2 French journalists in August 2014 is evidence of failure on this point. Widodo announced in 2015 that international journalists were free to come but Ministers subsequently qualified this. Also see report from the last few months indicating that Benny Mawel of Tabloid Jubi and another journalist was hauled before a senior police officer in Jayapura for not consulting with police about their reporting of KNPB demonstrations in the city. Will need to find reference to the report about this.
“Enhance efforts to provide adequate protection to human rights defenders and to improve the human rights situations of ethnic and religious groups in certain regions, including Papua (Republic of Korea);” (Human Rights Council 05.07.2012: p. 21)

“Ensure that provisions of the Indonesian Criminal Code, such as articles 106 and

110 are not misused to restrict the freedom of speech (Germany);" (Human Rights Council 05.07.2012: p. 21)

The intimidation of ULMWP leaders, MaerkusHaluk and Edison Waromi and others including Fr John Jonga, by police after the opening of the ULMWP Office in Wamena in February with threats of charges against organisers of makar or treason are evidence that on the ground police routinely still use these provisions to stop freedom of expression. Need to find references to this.

"Immediately grant access to the delegates of ICRC to the Papua provinces in order for them to fulfil their mandate (Germany);" (Human Rights Council 05.07.2012: p. 23)

ICRC still has no access to West Papua.

"Extend an invitation to the Working Group on enforced or involuntary disappearances; Independent Expert on minority issues; Special Rapporteur on the right to food; and the Special Rapporteur on the rights of indigenous peoples in order that they visit Indonesia, particularly Papua (Mexico);" (Human Rights Council 05.07.2012: p. 23)

Not sure, but doubt Indonesia has extended these invitations.

"Halt immediately reported human rights violations by military and police officers and a general climate of impunity in Papua (Japan);" (Human Rights Council 05.07.2012: p. 24)

The matrix and my report itemise countless examples of security forces violations, almost all of them carried out without any action to hold perpetrators to account. Perfect example is the killing of the four teenagers in Paniai District on 8 Dec 2014. Still no-one held accountable. Minister LuhutPandjaitan, met with church leaders last August (2015) and said he wanted the case resolved that month; yet, 1 year later, they told me there is no resolution. To the contrary, family members I met recently advised me that security forces members had approached them on at least 3 occasions offering large sums of money to go quiet. No public reports about this, but I intend to include this in a new report by the end of the year which we may be able to provide delegations to assist them in asking questions.

"Ensure free access for foreign journalists to Papua and West Papua (France);" (Human Rights Council 05.07.2012: p. 24)

As above

"Take steps, particularly in Papua, to increase protection for human rights defenders against stigmatization, intimidation and attacks and to ensure respect for freedom of expression and peaceful protest, including through a review of regulations that can be used to restrict political expression, in particular article 106 and 110 of the criminal code, and the release of those detained solely for peaceful political activities (Canada);" (Human Rights Council 05.07.2012: p. 24)

As above with reference to threats of use of treason provisions in code, but we can refer to the increased arrests of people peacefully demonstrating in 2016 in May in particular and the report produced this year demonstrating increased arrest rates could be cited.

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*Report of the Working Group on the Universal Periodic Review Indonesia,
A/HRC/8/23 Attachment C to PIANGO Regional UPR Submission for
Indonesia UPR in the 27th Session Dated 22nd September 2016*