

Press Release

Suspected to be Partly Responsible for the Death of Marius Betera: PT Tunas Sawa Erna Must Remedy and Mitigate Human Rights Abuses

On May 16, 2020, a member of the Indonesian Police, Brigadier Police Melkianus Yowei (MY) assaulted and tortured a civilian Indigenous Papuan named Marius Betera (MB) until he was severely injured and subsequently died from the assault. The violence and torture committed by Brigadier Police MY happened at the office of palm oil plantation (POP) PT Tunas Sawa Erna (TSE) in Block A or commonly called PT TSE POP A/ Camp 19, Jair District, Boven Digoel District, Papua Province, Indonesia. PT TSE is one of Korindo Group's subsidiary companies. Korindo Group's other subsidiaries include six large scale palm oil plantation businesses, two logging companies and one pulp and paper company operating in the administrative area of Merauke and Boven Digoel District in Papua Province, Indonesia.

The incident of violence and torture against MB began when he came to the PT TSE POP A office to ask and clarify about the clearing of his banana plot that was allegedly committed by PT TSE POP A. From this brief chronology, we can see that two legal events have occurred: (1) whereby MB's banana plot was cleared and resulted in the loss of rights to benefit from the land is evidence of an alleged criminal act of destruction or damage to property as outlined in Indonesia's Criminal Code under Article 406 Clause 1; and (2) the act of torture leading to the death of Melianus Batera is evidence of an alleged criminal act of maltreatment as outlined in Indonesia's Criminal Code under Article 351 Clause 3.

Consequently, the violence and torture occurred, leaving MB severely in pain and passing away soon after.

In regards to the incident, Korindo Group stated in its release that the company is taking active steps to arrange the victim's funeral; working together with communities and local authorities to conduct a comprehensive and careful investigation to find out what had happened; forming a multilateral consultative body where local communities, government, organizations and NGOs will participate and investigate together to mitigate similar incidences from happening again in the future; and opening a **Grievance Mechanism Channel** for this case.¹

In regards to the death of MB, it is our view that PT TSE has clearly disregarded human rights as outlined in the UN Guiding Principles (UNGPs) on Business and Human Rights that state that "businesses" should respect human rights, and do as much as possible to avoid actions that have adverse human rights impacts such as the one that MB experienced. As a company, PT TSE is bounded and must abide by the international human rights instruments that have been ratified and applied in Indonesia including the human rights instruments and

¹ See <https://korindonews.com/pernyataan-korindo-group/?lang=id>

protocols under the International Labour Organization. In particular, ILO Convention No. 169 on Indigenous and Tribal Peoples clearly enshrines the protection of the rights of Indigenous Peoples over their land and the natural resources within it. This demonstrates how PT TSE is inconsistent in the implementation of its policy to protect human rights.²

The UN Guiding Principles on Business and Human Rights state that the responsibility to respect human rights requires companies to “avoid causing or contributing to adverse human rights impacts through their own activities” and must “prevent or mitigate adverse human rights impacts that are directly linked to their operations, products or services by their business relationships, even if they have not contributed to those impacts,” in this case the assault and torture against the victim brought on by a police officer.

Based on the above explanation and Korindo Group’s prepared statements regarding their plans, we urge:

1. Korindo Group to immediately fulfill the company’s responsibilities to respect human rights. The company must implement its human rights policy within the entirety of the company’s organization, including but not limited to:
 - (a) Seriously implement its policy commitment to fulfill the company’s responsibility to uphold human rights;
 - (b) Conduct a due diligence process on human rights to understand, prevent, reduce and report on how the company is addressing the impacts of its business activities on human rights, in this case in the region of Merauke and Boven Digoel District, Papua Province, Indonesia;
 - (c) Provide remedy for the loss that the Indigenous Peoples, local communities and workers (including casual workers) have been impacted around its operations;
2. Korindo Group to immediately form a multilateral consultative forum/body with the involvement and collaboration of local Indigenous Peoples, legal and human rights experts, academicians, religious leaders, and other experts, as well as Indigenous, labor and civil organizations to participate and freely investigate this case to prevent similar incidences from happening again in the future, including addressing complaints related to conflicts in areas where Korindo Group operates;
3. The Regional Chief of Police and Boven Digoel District Police to thoroughly investigate the alleged criminal acts of destruction or damages to property and maltreatment as regulated in Article 406 Clause 1 and Article 305 Clause 3 of the Indonesian Criminal Code, including inspecting the existence of Korindo Group along with its subsidiary companies and their activities operating in the administrative province of Papua;
4. Korindo Group must implement ILO Convention No. 169, Indigenous Peoples have the right to benefit from the use of their indigenous territories and the natural resources

² See <https://www.tse.co.id/policy/>

within it, as well as the right to receive compensation for any loss resulting from the exploitation of their land and natural resources.

Papua/Jakarta, May 30, 2020

With respect, the supporters and signatories of this press letter:

1. Sekretariat Keadilan dan Perdamaian Keuskupan Agung Merauke
2. Yayasan Pusaka Bentala Rakyat
3. Greenpeace Indonesia
4. TAPOL, UK
5. PapualtuKita
6. Eksekutif Nasional Walhi
7. Wahana Lingkungan Hidup (Walhi) Papua
8. Lembaga Bantuan Hukum (LBH) Papua
9. LP3BH Manokwari
10. Lembaga Studi Advokasi Masyarakat (ELSAM)
11. Lembaga Advokasi Peduli Perempuan (ELAdpper)
12. Aliansi Demokrasi untuk Papua (AIDP)
13. Rainforest Action Network (RAN)
14. Transformasi untuk Keadilan (TuK) Indonesia
15. Sekretariat Keadilan dan Perdamaian Keutuhan Ciptaan (SKPKC) Fransiskan Papua

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