



AMBASSADOR OF THE REPUBLIC OF INDONESIA
TO THE UNITED NATIONS, WTO AND OTHER
INTERNATIONAL ORGANIZATIONS IN
GENEVA

Geneva, 12 September 2019

No. 133 /POL-11/IX /2019

Dear Sir and Madam,

I would like to acknowledge receipt of the Joint Communication from Special Procedures, Ref. No. AL IDN 7/2019 dated 4 September 2019. I am indeed very appreciative of your continuing commitment to communicate with the Government of Indonesia on issues of mutual concern. I believe that this form of engagement would continue to be very helpful in advancing our common endeavor to promote and protect human rights.

I have forwarded the Joint Communication to my Capital for their attention. As we await their response, allow me to take this opportunity to brief you on the developments regarding the issues that have been put forward in the Joint Communication.

With regard to the alleged acts of online harassment and threats against Mr. Victor Mambor and Ms. Veronica Koman, the Government, through article 29 jo. 45B of Law No. 11 of 2008 on Electronic Information and Transactions (EIT) as amended by Law No. 19 of 2016, provides an avenue for all citizens to report incidents of online threats and other forms of cyber-bullying. Persons convicted of these crimes can face a punishment of up to 4 (four) years imprisonment.

- Mr. David Kaye**, Special Rapporteur on the promotion and protection of the right to freedom of opinion expression and expression
- Mr. Clement Nyaletsossi Voule**, Special Rapporteur on the rights of peaceful assembly and association
- Mr. Michel Forst**, Special Rapporteur on the situation of human rights defenders
- Ms. E. Tendayi Achiume**, Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance
- Ms. Dubravka Šimonovic**, Special Rapporteur on violence against women, its causes and consequences
- Ms. Meskerem Techane**, Chair-Rapporteur of the Working Group on discrimination against women and girl.

Both Mr. Mambor and Ms. Koman should have been able to make use of this existing legal remedy, like other citizens. Instead, they have decided to directly present their respective cases to domestic and international media. Mr. Mambor even went further by requesting an urgent appeal from the High Commissioner for Human Rights with regard to the "doxing" act that was allegedly committed against him by an anonymous online account.

As a democratic country that places primacy on the rule of law, Indonesia is committed to protect all of its citizens without exception. Since the enactment of the EIT Law, an innumerable number of online threat and harassment cases against individuals in Indonesia have been prosecuted to the fullest extent of the law. Hence, the same due process would similarly be upheld in regard to the cases of Ms. Koman and Mr. Mambor.

As we have conveyed to the Office of the High Commissioner on Human Rights, the Government of Indonesia deeply regrets the isolated incidents in Malang and Surabaya, whereby a number of individuals, including security personnel, used derogatory words against Papuan students. In this connection, immediately following the incidents, President Joko Widodo instructed the Indonesian Chief of Police to enforce the rule of law and take necessary actions against any acts of racism and/or discrimination. Several security personnel involved in the incidents have been suspended from their positions, pending further formal investigations, while two civilians suspected to also be involved in the incidents have also been apprehended. The swift action on the part of the Government goes to show that racism and discrimination has absolutely no place in a country as diverse as Indonesia.

The Indonesian Government has also been proactive in reconciliatory efforts to deescalate tensions following the incidents in Malang and Surabaya, East Java. The Coordinating Minister for Political, Legal, and Security Affairs along with the Chief of the Indonesian National Armed Forces and the Chief of Police, have visited Papua to meet with community leaders to prevent further escalation and to ensure the restoration of public order. Furthermore, the Governor of East Java has made a public apology for the incidents in Malang and Surabaya, and has met with the Governor of Papua to call for peace, reconciliation, and order.

The unfortunate incidents in Malang and Surabaya resulted in protests and demonstrations in several regions in Indonesia. As a democratic nation, the Indonesian Government guarantees the freedom of expression and freedom of assembly, and in this regard, has facilitated and protected these demonstrations. Even when violence began to erupt in some of the aforesaid demonstrations, Indonesian law enforcement personnel continued to engage with maximum self-restraint, refrained from using violence, prioritized dialogue, and maintained the use of persuasive tactics.

Some of the demonstrations developed into violent riots and extreme acts of vandalism, especially against public facilities and members of law enforcement. During the riot in the Deiyai Regency in Papua, a member of the Indonesian military, Sergeant [REDACTED] was murdered by rioters as he was on duty protecting what began as a peaceful demonstration. In these kinds of circumstances, Indonesian law enforcement personnel have the duty to respond in a swift, professional and proportional manner, in order to ensure that the rights of protesters do not infringe upon public safety and security.

As we have also conveyed to the Office of the High Commissioner of human rights, a temporary restriction of internet data had been imposed in the provinces of Papua and West Papua as a lawful measure to prevent the spread of false news, hate messages and hoaxes that were used to incite violence in Papua. One of the most detrimental false news that was spread was one regarding the false allegation that Papuan students were raped and killed in the island of Java. This false narrative was used to provoke the angry reactions of demonstrators in Papua. Many videos containing this false narrative can be readily found on video-sharing websites. Until today, more than 52.000 documented hoaxes regarding Papua have been circulated.

The temporary restriction of internet is in line with article 28 J (2) of the Constitution of the Republic of Indonesia, which guarantees the rights of citizens to enjoy their freedoms insofar as it does not contravene with the rights of others and public interest. More specifically, the temporary restriction of internet data is in line with article 40 of the EIT Law, wherein the Government is obliged to prevent the misuse and abuse of information technology detrimental to public order. Telephone and SMS facilities in Papua, however, remained to be available for the public.

As the tensions in Papua and West Papua began to cool down, on 4 September 2019, the temporary restriction of internet data was lifted in most parts of Papua and West Papua. On 11 September 2019, internet data has been almost fully restored in both regions. As a temporary measure, the policy to restrict internet data use (while still allowing telephone calls and text messages) only applied for less than a 3-week period.

Please also note that the policy of temporary restricting internet data use (while still allowing telephone calls and text message) does not specifically target the Papua and West Papua Provinces. This measure was also enacted in Jakarta earlier this year in order to deescalate violent protests in Jakarta. At the same time, the Indonesian Government is also continuing the development of better and equal access for information and communication technology in the eastern part of Indonesia, including in Papua, through the Palapa Ring Project.

The Government of Indonesia, along with its vibrant civil society and national human rights mechanisms, has been exercising due diligence in taking all necessary actions to prevent the escalation of conflict, through both persuasive law enforcement and reconciliatory measures.

These efforts have yielded positive results. The security situation and public order in Papua has gradually improved. As of 2 September 2019, Government offices and business have resumed normal operations, and efforts to rebuild vandalized public facilities are on-going.

Human rights defenders, lawyers, and journalists in Indonesia are able to carry out their legitimate work in a safe and enabling environment without fear of threats of acts of intimidation and harassment of any sort. This is clearly visible if you take the time to observe the numerous media outlets that have freely covered the situations in East Java and Papua, often with a critical take towards the Government. Having dissenting views is the norm in a democracy – and, since Indonesia's transition to democracy, has been the norm in Indonesia.

Following the incidents in Malang and Surabaya, Indonesia's independent human rights commission, *Komnas HAM*, and the Ombudsman of the Republic of Indonesia have continued their work to ensure the preservation of Indonesia's checks and balances mechanism, ensuring that efforts by the Government are in line with national laws and regulations.

The arrest warrant issued to Ms. Veronica Koman has little to do with her professional status, but rather, more to do with the acts that she has committed. The Indonesian National Police has gathered sufficient evidence to determine Ms. Koman as a suspect in spreading fake news, inciting hate, and provoking riots through her social media platforms, particularly in relation to the incidents in Surabaya. One of her twitter posts that became viral included an accusation that "Indonesian police shot Papuan students in their dormitory", an incident that never happened, but yet was used as a talking point to incite many protesters in Papua into violence.

Equality before the law and the presumption of innocence are some of the principles that characterize Indonesia's legal system. This means that, as an Indonesian citizen, Ms. Koman has the same rights and obligations under the law as any other Indonesian citizen. In upholding the presumption of innocence principle, the Indonesian National Police has twice summoned Ms. Koman to clarify the criminal allegations made against her. Both times, Ms. Koman failed to comply. Hence, the issuance of her arrest warrant. This forms part of the due process of law, applicable to all citizens.

Through this letter, I implore your good judgment in differentiating between genuine human rights defenders and nefarious, self-serving individuals who hide behind this noble acclaim to be able to commit crimes with impunity.

In this opportunity, I also wish to state that human rights defenders come in all shapes and forms. They include government officials who makes sure that senseless violence due to false and inciteful information can be avoided. They include security personnel who risk their life protecting the right to freedom of expression and freedom of assembly.

Indonesia has demonstrated its unwavering support for human rights defenders as seen in its position in the Human Rights Council. Indonesia also commits to further advance the Council's works for a more holistic implementation of the UN Declaration on HRD. In doing so, Indonesia also refers to the OHCHR, whereas defenders can be of any gender, of varying ages, from any part of the world and from all sorts of professional or other backgrounds.

Please accept, Sir and Madam, the assurance of my highest consideration.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Hasan Kleib', with a long horizontal stroke extending to the right.

Hasan Kleib
Ambassador/Permanent Representative