



PERMANENT MISSION OF THE
REPUBLIC OF INDONESIA TO THE UNITED NATIONS
WORLD TRADE ORGANIZATION (WTO)
AND OTHER INTERNATIONAL ORGANIZATIONS
IN GENEVA

Geneva, 9 February 2022

No. 21/POL-II/II/2022

Special Procedures Mandate Holders,

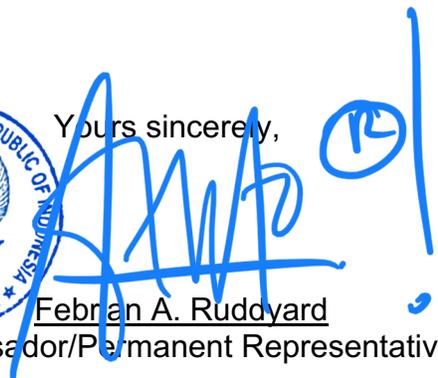
Pursuant to your Joint Communication Ref. No. AL IDN 10/2021 of 9 December 2021 regarding the allegations of threats and intimidation received by Ms. Veronika Koman and members of her family, I have the honour to transmit herewith, my government's response to the aforesaid communication.

As a member of the Human Rights Council, rest assured of Indonesia's continued commitment to work together with you and other mandate holders in advancing the promotion and protection of human rights.

Please accept, Special Procedures Mandate Holders, the assurances of my highest consideration



Yours sincerely,


Febrin A. Ruddyard

Ambassador/Permanent Representative

Ms. Mary Lawlor, Special Rapporteur on the situation of human rights defenders

Ms. Irene Khan, Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression

Mr. Clement Nyaletsossi Voule, Special Rapporteur on the rights to freedom of peaceful assembly and of association

Mr. Diego Garcia-Sayán, Special Rapporteur on the independence of judges and lawyers

Mr. Fernand de Varennes, Special Rapporteur on minority issues

CC: Chair of the Coordinating Committee of the SPMH

Reply of the Government of Indonesia
to the Joint Communication of the Special Procedures Mandate Holders
Ref. No. AL IDN 10/2021 of 9 December 2021

A. Allegation of intimidation and threats to Ms. Koman

1. We note that this concern has been previously raised in an earlier communication, which we have responded to. We wish to reiterate our position that the charges brought against Ms. Koman is **not a form of intimidation** but a **legal enforcement measure** as the Police has made her a suspect for spreading fake news, inciting hatred, and provoking riots in relation to the incident in the Province of Papua in 2019. Prior to this decision, two summons had been issued by the Police, towards which Ms. **Koman refused to cooperate**. Pursuant to **Article 112** of Indonesia's Criminal Procedure, the Police reserves the rights to compel her to cooperate through the issuance of an arrest warrant.
2. While we note your dissatisfaction to our previous reply, **we believe it is not in our capacity to appease your request of adopting a policy that allows impunity or to provide answers that are not in line with the facts and applicable laws in Indonesia.**
3. In the spirit of upholding rule of law, we urge you as mandate holders to subscribe to the principle that no one should be immune to criminal prosecution.

B. Allegation of discrimination towards Ms. Koman

4. Further, **we also wholly reject the allegation or inference drawn in your letter regarding the alleged discrimination** against Ms. Koman. The ongoing legal process against Ms. Koman **has nothing to do** with her ethnicity, especially in connection with the May incident that occurred 24 years ago. **Your statement on this matter is not only biased and baseless, but is also dangerous.** Such statement is not in compliance with the stipulations contained in Article 3 – General principles of the conduct and Article 9 – Letters of allegation of the Code of Conduct for Special Procedures Mandate-Holders of the Human Rights Council.
5. The May 1998 incident had indeed become a regrettable part of Indonesia's history. However, the Government of Indonesia (Gol) has spared no effort to prevent history from being repeated. Immediately after the incident, the Gol established a Joint Fact Finding Mission and a commission to protect women (*Komisi Nasional Perempuan*/National Commission on Violence against Women). Extensive policies have been enacted to prevent any further acts of discrimination, including by ratifying the International Convention on the Elimination of All Forms of Racial Discrimination

(ICERD) in 1999. Policies considered discriminative towards ethnic Chinese persons were revoked such as Presidential Regulation No. 14 of 1967 on Chinese Religion, Belief, and Tradition.

6. As a country with a highly diverse society, discrimination based on culture, race, religion, or ethnicity is a real threat to our national unity and harmony. Therefore, the GoI has exerted its utmost effort to eliminate this threat and ensure that everyone has equal standing. In this case, ethnic and cultural background remains irrelevant in the law enforcement process.

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7. We wish that the relevant Special Procedures Mandate Holders could take this position as a point of reference in future communications and would **refrain from forcing another irrelevant nexus to postulate that the charges brought against Ms. Koman are somehow a form of reprisal**. Any person who is alleged to have committed a crime, in light of the availability of sufficient evidence, must be prosecuted in accordance to the due process of law.

C. Allegation of intimidation and threats to Ms. Koman's Family

8. While initially your letter provides no direct inference regarding the perpetrators of the incidents, the megaphone approach by the Special Rapporteur on Human Rights Defenders has clearly shown **her bias with no intention of conducting genuine cooperation**. The news release on 15 December 2021 titled "Indonesia: Stop reprisals against human rights defender – UN Expert" has inappropriately proclaimed **baseless accusation** that the GoI was somehow complicit in the alleged acts of intimidation and threats. Regrettably, this accusation was publicized **without any attempt on the part of the Special Rapporteur to have prior dialogue or seek clarification from the GoI**.
9. **We fully reject this serious accusation and regret the Special Rapporteurs' unconstructive and biased engagement on this matter.**
10. The following information would serve as a clarification regarding the GoI's response to the incidents.

- Observation on 31 May 2021 and anonymous visit on 5 October 2021

It is confirmed that as of the submission of this letter, the Indonesian Police never received any reports from her family regarding these anonymous visits. Further, the Indonesian Police has never been aware of this surveillance activity nor received any directives to investigate Ms. Koman's parents' house. There is no reason for the Police to engage in this alleged activity as there is no indication of her parents' involvement in the alleged crimes that Ms. Koman committed.

- **Incidents on 24 October 2021 and 7 November 2021**

It is regrettable that the incidents on 24 October and 7 November 2021 occurred at Ms. Koman's parents' residences.

Responding to this incident, the Regional Police of West Jakarta acted swiftly to secure the perimeter of the crime scene in order to prevent other attacks. Active investigation was immediately conducted after the incidents. Various units from the Police including the Departmental Police, Sectoral Police (*kepolisian sektoral*), the Special Detachment 88 Anti-Terror unit (Densus 88 AT), as well as the Criminal Investigation Agency (*Bareskrim*) have been involved in the investigation. CCTVs, witnesses, and other relevant evidence have been collected and examined.

The investigation found that:

- a. the attacks were carried out by two individuals acting under the name of "Homeland Defender Militant Fighters";
- b. the perpetrators were using fireworks – not bombs – to detonate the packages;
- c. the attack was related to Ms. Koman's activities on West Papua issues – as written in the perpetrators' message;
- d. as the target was specific, the attack was not categorized as an act of terrorism as provided in Law No. 5 of 2018, rather as a general crime as provided in the Criminal Code.

As the perpetrators were wearing helmets and using false vehicle plates, the currently available evidence lacked clues of the perpetrators' identity. Absence of such indication poses a challenge and might prolong the investigation process.

A thorough investigation is also carried out to identify the actors behind the self-proclaimed "*Homeland Defender Militant Fighter*". The Police found no individuals associated with the group and no terrorist or criminal groups is affiliated with the group.

Despite the challenges, the Police strives to identify the perpetrators and bring them to justice.

11. The Gol's swift response to secure the area and investigate the case are strong proof of the Gol's commitment to protect its people from any act of intimidation and threats. This response also received appreciation from various national civil society organizations.
12. Taking into account the on-going investigations regarding the alleged surveillance and anonymous visits, the series of attacks from a nongovernmental group, that have

also left a message that alienate the efforts to the national police, it is perplexing and utterly non-sensical that the Special Rapporteur on the situation of Human Rights Defenders would issue a news release that implies that the GoI is somehow complicit to those alleged incidents, especially considering that the Special Rapporteur has not sought any clarification on the matter.

13. We call on Special Rapporteurs to **respect its code of conduct as provided in Resolution 5/2 which request the Special Rapporteur to:**

- Always seek to establish the facts, based on objective, reliable information emanating from relevant credible sources, that they have duly cross-checked to the best extent possible
- Give representatives of the concerned State the opportunity of **commenting on mandate-holders' assessment** and of **responding to the allegations** made against this State, and annex the State's written summary responses to their reports.

D. Victim protection

14. Indonesia provides protection to victims who has suffered physical, mental, and/or economic loss caused by a criminal offense in all stages of the criminal judicial process in the court through the Victim and Witness Protection Agency. Victims could apply in writing to the Agency to seek protection on their own initiative. The degree of protection will depend on certain criteria, among others: the threat level which endangers the Victim and the analysis result of the medical team/psychologist to the Victim. This avenue is also available to Ms. Koman's family if they wish to apply.

E. Measures to ensure human rights defenders' activities

15. Indonesia is a country that upholds the rule of law as the rule of the nation. Our nation sees that **every person is equal before the law**, including human rights defenders. Everyone has the rights as provided by the 1945 Constitutions and other relevant laws. At the same time, everyone who violates or abuses the exercise of such rights will has its own consequences as duly established by law. Therefore, like other citizens, **human rights defenders have the freedoms and obligations as provided by the law.**

16. Furthermore, we also wish to highlight the **inclusive nature** of human rights defenders as provided in the OHCHR website, that encompass not only individuals or groups within NGOs and intergovernmental organizations, but also government officials, civil servants or members of the private sectors.

17. Indonesia always sees human rights defenders as valuable partners. We value their work and contributions in the promotion and protection of human rights and acknowledge the risks they face in carrying out their works. The existing legal

framework provides access towards any human rights defender to report any human rights violations towards them such as to the Police Office or to national human rights institutions.

F. Conclusion

18. The Gol **strongly rejects** all allegations, accusations, and insinuations made by the Special Rapporteurs regarding the alleged involvement of the Gol in the acts of intimidation and threats towards Ms. Koman and her family. In contrast, the Gol acted immediately to investigate the case that involved multiple units from the Police.
19. With regard to the news release published by the Special Rapporteur on Human Rights Defenders, **we regret the Special Rapporteurs' total ignorance towards the code of conduct** by not making the slightest attempt to cross-check, clarify, or verify information received, nor providing any opportunity to the Gol to respond to the allegations before they were made public.
20. As one of the founding members of the Human Rights Council, Indonesia would like to highlight once again **the importance of constructive engagement and genuine dialogue** between Special Procedures Mandate Holders and the Governments as stipulated in the UN General Assembly Resolution 60/251 as well as Human Rights Council Resolution 5/1.
