

NATIONS UNIES
HAUT COMMISSARIAT DES NATIONS UNIES
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PROCEDURES SPECIALES DU
CONSEIL DES DROITS DE L'HOMME

Mandate of the Special Rapporteur on the situation of human rights defenders

UNITED NATIONS
OFFICE OF THE UNITED NATIONS
HIGH COMMISSIONER FOR HUMAN RIGHTS

SPECIAL PROCEDURES OF THE
HUMAN RIGHTS COUNCIL

REFERENCE: IDN 5/2011

30 August 2011

Excellency,

I have the honour to address you in my capacity as Special Rapporteur on the situation of human rights defenders pursuant to General Assembly resolution 60/251 and to Human Rights Council resolution 16/5.

In this connection, we would like to bring to your Excellency's Government's attention information we have received concerning the assault and on-going surveillance by members of the Indonesian security forces on Mr. **Yones Douw**. Mr. Douw, a human rights defender, has been active in documenting human rights abuses by the military and police over the past ten years.

According to the information received:

On 15 June 2011, Mr. Douw attended a protest at the 1750 District Military Command (Kodim) base in Nabire, in the province of Papua. The purpose of the protest was to call for accountability for the killing of a Papuan on 14 May 2011, allegedly at the hands of military officers. Mr. Douw reportedly went to the site of the protest in order to monitor it.

Reportedly, soon after he arrived at the scene, a group of protestors broke through the entrance gates of the base and began to throw objects. Mr. Douw allegedly went into the base and attempted to calm the protestors. In reaction to the protestors, the military officers fired shots in the air and began to hit the protestors. It is reported that Mr. Douw was struck several times on the head with pieces of wood and his shoulder and wrists were injured as a result of being beaten. Mr. Douw allegedly heard the military threaten to shoot the protestors.

After the incident, Mr. Douw reportedly went to the Sirwinii hospital for treatment for his injuries. However, on his arrival he was informed that he would not be treated without a letter from the police at which stage he decided to return home. X-rays carried out reportedly revealed that Mr. Douw has a blood clot in his head and a fracture to his hand for which he is receiving on-going medical

treatment. However, he continues to suffer from headaches and pains in the back of his head and in his hand.

On 1 July 2011, while Mr. Douw was on his way to receive medical treatment, he was informed that police intelligence officers received a text message by a senior police official in Nabire asking your surveillance to Mr. Douw.

On 15 July 2011, Mr. Douw was allegedly informed by a source that the Nabire District Police Station had instructed officers to monitor his movements around Nabire. Since this date, Mr. Douw has allegedly observed motorbikes revving their engines as they pass him and noticed strangers waiting near his home.

Mr. Douw has previously been subjected to violence at the hands of police officials when in January 2009 he was physically assaulted during his arrest at a demonstration in Nabire. At that time, he was attempting to intervene in a clash between police and demonstrators. He was reportedly denied food and water during his one day detention.

Concern is expressed for the physical and psychological integrity of Mr. Yones Douw, in view of the assault and the on-going surveillance to which he is allegedly being subjected. Further concern is expressed that Mr. Douw may be being targeted as a direct result of his peaceful work in documenting human rights violations, particularly as he attempted to curtail violence at the demonstration on 15 June 2011.

Without in any way implying any determination on the facts of the case, I would like to refer your Excellency's Government to the fundamental principles set forth in the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, and in particular articles 1 and 2 which state that "everyone has the right individually or in association with others, to promote and to strive for the protection and realization of human rights and fundamental freedoms at the national and international levels" and that "each State has a prime responsibility and duty to protect, promote and implement all human rights and fundamental freedoms, inter alia, by adopting such steps as may be necessary to create all conditions necessary in the social, economic, political and other fields, as well as the legal guarantees required to ensure that all persons under its jurisdiction, individually and in association with others, are able to enjoy all those rights and freedoms in practice."

Furthermore, I would like to bring to the attention of your Excellency's Government the following provisions of the Declaration:

With regards to the role of media and human rights defenders in monitoring demonstrations, I would like to refer to the Guidelines on Freedom of Peaceful Assembly of the Office for Democratic Institutions and Human Rights (ODHIR) of the Organization for Security and Cooperation in Europe (OSCE), available at www.osce.org/odihr/item_11_23835.html, and to my 2007 report to the General

Assembly (of the Special Representative of the Secretary-General on the situation of human rights defenders) (A/62/225, paras. 91 and 93) that underline how “monitoring of assemblies can provide an impartial and objective account of what takes place, including a factual record of the conduct of both participants and law enforcement officials. [...] The very presence of human rights monitors during demonstrations can deter human rights violations. It is therefore important to allow human rights defenders to operate freely in the context of freedom of assembly. [...] Journalists as well have an important role to play in providing independent coverage of demonstrations and protests. [...] The media must therefore have access to assemblies and the policing operations mounted to facilitate them.

- article 12, paras 2 and 3 of the Declaration which provide that the State shall take all necessary measures to ensure the protection by the competent authorities of everyone, individually and in association with others, against any violence, threats, retaliation, de facto or de jure adverse discrimination, pressure or any other arbitrary action as a consequence of his or her legitimate exercise of the rights referred to in the Declaration. In this connection, everyone is entitled, individually and in association with others, to be protected effectively under national law in reacting against or opposing, through peaceful means, activities and acts, including those by omission, attributable to States that result in violations of human rights and fundamental freedoms, as well as acts of violence perpetrated by groups or individuals that affect the enjoyment of human rights and fundamental freedoms.

I urge your Excellency's Government to take all necessary measures to guarantee that the rights and freedoms of Mr. Douw are respected and, in the event that your investigations support or suggest the above allegations to be correct, the accountability of any person responsible of the alleged violations should be ensured. I also request that your Excellency's Government adopt effective measures to prevent the recurrence of these acts.

In view of the urgency of the matter, I would appreciate a response on the initial steps taken by your Excellency's Government to safeguard the rights of Mr. Douw in compliance with the above international instruments.

Moreover, it is my responsibility under the mandate provided to me by the Human Rights Council, to seek to clarify all cases brought to my attention. Since I am expected to report on these cases to the Human Rights Council, I would be grateful for your cooperation and your observations on the following matters, when relevant to the case under consideration:

1. Are the facts alleged in the above summary of the case accurate?
2. Has a complaint been lodged by or on behalf of Mr. Yones Douw?
3. Please provide the details, and where available the results, of any investigation, medical examinations, and judicial or other inquiries carried

out in relation to this case. If no inquiries have taken place, or if they have been inconclusive, please explain why.

4. Please provide the full details of any prosecutions which have been undertaken. Have penal, disciplinary or administrative sanctions been imposed on the alleged perpetrators?
5. Please provide full details of any steps taken or protective measures which have been put in place to guarantee the physical and psychological integrity and security of Mr. Yones Douw?

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

Margaret Sekaggya
Special Rapporteur on the situation of human rights defenders