

Mandates of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on the rights to freedom of peaceful assembly and of association; the Special Rapporteur on the situation of human rights defenders; the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance; the Special Rapporteur on violence against women, its causes and consequences and the Working Group on discrimination against women and girls

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Excellency,

We have the honour to address you in our capacities as Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; Special Rapporteur on the rights to freedom of peaceful assembly and of association; Special Rapporteur on the situation of human rights defenders; Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance; Special Rapporteur on violence against women, its causes and consequences and Working Group on discrimination against women and girls., pursuant to Human Rights Council resolutions 34/18, 32/32, 34/5, 34/35, 41/17 and 41/6.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning an Internet shutdown in West Papua and acts of harassment and threats against journalist Mr. **Victor Mambor** and lawyer Ms. **Veronica Koman**, who have been reporting on the shutdown and the protests.

Mr. Victor Mambor is a journalist, the editor of the newspaper Tabloid Jubi and a correspondent for The Jakarta Post. Ms. Veronica Koman is a human rights lawyer providing legal aid to Papuans.

Allegations of use of excessive force, torture and killings against indigenous Papuans by the police or military have been the subject of previous special procedures communications, including most recently IDN 7/2018, IDN 3/2019 and IDN 6/2019. We take this opportunity to thank your Excellency's Government for its responses to these communications, though we remain seriously concerned about the situation in West Papua, as described below.

According to the information received:

The situation in the provinces of West Papua and Papua has become increasingly tense over the course of the last nine months with reports of police responding to protests with violence, the arrest and detention of political activists and an escalation in the conflict between the military and separatist groups resulting in the displacement of civilians. Tensions have escalated since mid-August 2019 with widespread protests that have been taking place across Indonesia, in

particular in West Papua and Papua. The escalation followed an incident in the city of Surabaya in the province of East Java, where nationalist groups attacked a dormitory of Papuan students, accusing them of destroying the national flag of Indonesia before the celebration of Indonesia's Independence Day, and slurring them using dehumanizing terms including "monkey", "dog", "animal" and "pig". Since this event, numerous demonstrations denouncing racism and demanding self-determination have been taking place in the country, with some resulting in violent clashes between security forces and protesters.

In response to the protests, authorities throttled Internet speeds in Papua province's capital Jayapura on 19 August 2019. Two days later, on 21 August 2019, it is alleged that all Internet communications were disconnected in the province. Reportedly, authorities justified the shutdown by the necessity to restore security and order in Papua and prevent the spread of "rumours" or "hoaxes" during the protests. On 28 August 2019, telephone communications were reportedly blocked in Deiyai after police used live bullets against individuals demonstrating outside local government buildings. The incident in Deiyai reportedly resulted in casualties and marks a further and concerning deterioration of the situation.

Following his reporting about the protests, a journalist, Mr. Mambor was subjected to online harassment and on 22 August 2019, he was subjected to doxing by an anonymous Twitter account. More specifically, the Twitter account @antilalat asserted that Mr. Mambor was politically affiliated with the Free Papua Organization and published personal information about him and his family, including his home address, in an attempt to delegitimise his work and intimidate him.

After Ms. Veronica Koman provided legal support to students who had been attacked in their dormitory, and posted information about the incident on social media, she was accused by the Ministry of Communication and Information of spreading false information, who later apologized. Since then, she has been receiving hundreds of death and rape threats on social media and elsewhere, including calls to arrest her and revoke her citizenship on social media. On 28 August 2019, a police summon was sent to her. On 3 September 2019, during a press conference, the National police named her a suspect under charges of incitement to violence and spreading false information.

This is not the first time Ms. Koman is subjected to such intimidation. In 2018, she received death threats with calls for her citizenship to be revoked after a video of a speech she made in an event on human rights in West Papua was released online.

We express our serious concerns at the disruption of the Internet, which unduly restricts the right to freedom of opinion and expression, including the right the right to seek, receive and impart information, and freedom of peaceful assembly, which also

applies to gatherings online and offline. This is particularly concerning because in a time of tension and violence, access to the Internet and telecommunications networks can play a crucial role in preventing disinformation, protecting the rights to health, liberty and personal integrity and ensuring access to emergency help and other necessary assistance.

We are also concerned at the reported acts of harassment, intimidation and threats against Mr. Victor Mambor and Ms. Veronica Koman, which appear to have the purpose of discrediting and intimidating them into ending their reports on the ongoing protests.

We are further concerned that the latest incidents, including the excessive use of force by police in response to protests, take place in a broader context of increasing police and military's presence and use of force in the region where the Papuan community face structural racism and intolerance, as highlighted in previous communications sent to your Excellency's Government.

In connection with the above alleged facts and concerns, please refer to the **Annex on Reference to international human rights law** attached to this letter which cites international human rights instruments and standards relevant to these allegations.

As it is our responsibility, under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention, we would therefore be grateful for your observations on the following matters:

1. Please provide any additional information and any comment you may have on the above-mentioned allegations.
2. Please explain the legal basis for the Internet shutdown and explain how it is consistent with your Excellency's Government's obligations under international human rights law, in particular the right to freedom of opinion and expression and the standards of legality, necessity and proportionality, and legitimacy. Please provide information as to when Internet communications will be restored.
3. Please provide information about any measures taken by your Excellency's Government to address reports of acts of harassment, intimidation and threats against Mr. Mambor and Ms. Koman.
4. Please indicate what measures have been taken to ensure that 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 or acts of intimidation and harassment of any sort.
5. Please indicate the measures taken by your Excellency's Government to eliminate racial discrimination in law and in practice against Papuans.

This communication and any response received from your Excellency's Government will be made public via the communications reporting [website](#) within 60 days. They will also subsequently be made available in the usual report to be presented to the Human Rights Council.

While awaiting a reply, we urge that all necessary interim measures be taken to halt the alleged violations and prevent their re-occurrence and in the event that the investigations support or suggest the allegations to be correct, to ensure the accountability of any person(s) responsible for the alleged violations.

We may publicly express our concerns in the near future as, in our view, the information upon which the press release will be based is sufficiently reliable to indicate a matter warranting immediate attention. We also believe that the wider public should be alerted to the potential implications of the above-mentioned allegations. The press release will indicate that we have been in contact with your Excellency's Government's to clarify the issue/s in question.

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

David Kaye
Special Rapporteur on the promotion and protection of the right to freedom of opinion
and expression

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

Michel Forst
Special Rapporteur on the situation of human rights defenders

E. Tendayi Achiume
Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia
and related intolerance

Dubravka Šimonović
Special Rapporteur on violence against women, its causes and consequences

Meskerem Techane
Chair-Rapporteur of the Working Group on discrimination against women and girls

Annex

Reference to international human rights law

In connection with above alleged facts and concerns, we would like to draw the attention of your Excellency's Government to the relevant international norms and standards that are applicable to the issues brought forth by the situation described above.

We would like to refer your Excellency's Government to articles 6, 9, 17, 19 and 21 of the International Covenant on civil and political rights (ICCPR), acceded by Indonesia on 23 February 2006, which provide for the rights to life, personal security, privacy, freedom of opinion and expression, and freedom of peaceful assembly.

Concerning the Internet disruptions, we first wish to express our concerns over the adverse effects that the shutting down may have on the right to freedom of opinion and expression, especially on the right to disseminate and receive information and the right to peacefully assemble and associate, including online. Any limitation to the right to freedom of expression must meet the criteria established by article 19 (3) of the ICCPR. Under these standards, limitations must be determined by law and must conform to the strict test of necessity and proportionality. Such limitations must be applied only for those objectives prescribed by article 19 (3) and must be directly related to the specific need on which they are predicated. Article 19 of the ICCPR also protects all forms of expression and the means of their dissemination, including internet-based modes of expression.

We recall the principle enunciated by Human Rights Council Resolution 12/16, which called on States to refrain from imposing restrictions which are not consistent with article 19 (3) of the ICCPR, including on access to or use of information and communication technologies, including radio, television and the Internet; discussion of government policies and political debate; reporting on human rights, government activities and corruption in government; and engaging in election campaigns. In this regard, we would also like to draw your attention to Human Rights Council Resolution 32/13, which "condemn[ed] unequivocally measures to intentionally prevent or disrupt access to or dissemination of information online in violation of international human rights law, and calls upon all States to refrain from and cease such measures".

In his report on the role of digital access providers (A/HRC/35/22), the Special Rapporteur on the rights to freedom of opinion and expression further clearly stated that: "Network shutdowns invariably fail to meet the standard of necessity. Necessity requires a showing that shutdowns would achieve their stated purpose, which in fact they often jeopardize [...] Given the number of essential activities and services they affect, shutdowns restrict expression and interfere with other fundamental rights". Similarly, with regards to freedom of peaceful assembly, although an assembly has generally been understood as a physical gathering of people, human rights protections, including for the rights to freedom of peaceful assembly, of expression and of association, may apply to analogous interactions taking place online (A/HRC/RES/38/11), and thus any restrictions on this right must be in conformity with those stated as permissible by article 21 ICCPR.

Concerning reported acts of harassment against Mr. Mambor and Ms. Koman, we would like to refer you to General comment no. 31 of the Human Rights Committee, which underlined that “the positive obligations on States Parties to ensure Covenant rights will only be fully discharged if individuals are protected by the State, not just against violations of Covenant rights by its agents, but also against acts committed by private persons or entities that would impair the enjoyment of Covenant rights in so far as they are amenable to application between private persons or entities.” (para. 8).

In this regard, we would also like to underline that according to General Comment 34 of the Human Rights Committee, “the obligation to respect freedoms of opinion and expression is binding on every State party as a whole [...] The obligation also requires States parties to ensure that persons are protected from any acts by private persons or entities that would impair the enjoyment of the freedoms of opinion and expression to the extent that these Covenant rights are amenable to application between private persons or entities.” (CCPR/C/GC/34, paragraph 7).

In relation to allegations that acts of harassment against Mr. Mambor and Ms. Koman are linked to their reporting on the protests, we wish to refer you to Human Rights Council’s resolution 12/16, which calls on States to refrain from imposing restrictions on discussion of government policies and political debate and reporting on human rights. In its General Comment no. 34, the Human Rights Committee also clearly clarified that the right to freedom of opinion and expression “includes the expression and receipt of communications of every form of idea and opinion [including] political discourse, commentary on one’s own and on public affairs, canvassing, discussion of human rights, journalism, cultural and artistic expression, teaching, and religious discourse.”

We would further like to refer to Human Rights Committee General Comment no. 35 which states that the right to personal security under article 9 ICCPR obliges States to take appropriate measures in response to death threats against persons in the public sphere, and more generally to protect individuals from foreseeable threats to life or bodily integrity proceeding from any governmental or private actors. It additionally notes that States must take both measures to prevent future injury and retrospective measures, such as enforcement of criminal laws, in response to past injury.

In this context, we would also like to further 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, also known as the UN Declaration on Human Rights Defenders. In particular, we would like to refer to articles 1 and 2 of the Declaration which state that everyone has the right 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. Furthermore, we would like to bring to the attention of your Excellency’s Government article 12, paragraphs 2 and 3, which provides that the State shall take all necessary

measures to ensure the protection of everyone 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.

We would like to draw your attention General Assembly resolution 68/181 whereby States expressed particular concern about systemic and structural discrimination and violence faced by women human rights defenders. States should take all necessary measures to ensure the protection of women human rights defenders and to integrate a gender perspective into their efforts to create a safe and enabling environment for the defence of human rights. (OP5, 19 and 20) and would also like to refer to the Human Rights Council resolution 31/28.

Lastly, we would like to remind your Excellency's Government of its obligation under the International Convention on the Elimination of All Forms of Racial Discrimination (CERD) which the State has ratified since 25 June 1999. Article 2 of the CERD obligates State Parties to "pursue a policy of eliminating racial discrimination in all its forms and promoting understanding among all races" and to this end, "rescind or nullify any laws and regulations which have the effect of creating or perpetuating racial discrimination".