

Mandates of the Special Rapporteur on the situation of human rights defenders; 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 independence of judges and lawyers and the Special Rapporteur on minority issues

Ref.: AL IDN 10/2021
(Please use this reference in your reply)

9 December 2021

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on the situation of human rights defenders; 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 independence of judges and lawyers and Special Rapporteur on minority issues, pursuant to Human Rights Council resolutions 43/16, 43/4, 41/12, 44/8 and 43/8.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the **alleged threats and intimidation of woman human rights defender and lawyer, Ms. Veronica Koman, and her family, in relation to her work advocating for human rights in West Papua.**

Ms. Veronica Koman is a woman human rights defender and human rights lawyer who advocates for human and minority rights in West Papua. She is a member of International Lawyers for West Papua, an international network of lawyers working to strengthen human rights of the people of West Papua. Previously, she worked as a public interest lawyer at the Jakarta Legal Aid Institute (LBH Jakarta).

Concerns regarding the threats, harassment and intimidation against Ms. Koman for her legal support to protestors, as well as for her reporting on West Papua and Papua provinces, particularly on the 2019 protests, including to UN human rights mechanisms, and for attending UN meetings, for which she was questioned by security forces, have been raised previously by Special Procedures mandate holders in a communication to the Government (IDN 7/2019) and, publically, on 16 September 2019. We thank your Excellency's Government for the reply received in relation to this communication, dated 12 September 2019. However, we regret that this reply did not adequately address the threats, harassment and intimidation against Ms. Koman at the time.

The case of Ms. Koman was included in the 2021 report of the Secretary-General on cooperation with the UN in the field of human rights (A/HRC/48/28 para. 72, Annex I paras. 48-49), which was presented to the Human Rights Council on 29 September 2021.

According to the information received:

Ms. Koman provided legal support to Mr. Victor Yeimo (IDN 8/2015, IDN 8/2019 and IDN 6/2021), a human and minority rights defender in West Papua, who had been included on the Papua police's wanted list (no. LP/317/IX/RES.1.24/2019/Direskrim of 5 September 2019) and who was

reportedly targeted for a statement made during the 2019 anti-racism protests in Papua and West Papua Provinces, where he joined in calling for a referendum on independence. Ms. Koman and another lawyer submitted appeals to UN Special Procedures in 2019 regarding the alleged excessive use of force by security forces, arbitrary arrests, and detention of peaceful protestors following the anti-racism protests in September 2019.

Ms. Koman is currently living in exile in Australia due to the alleged considerable risks to her security in Indonesia. She faces several charges in Indonesia including alleged “incitement”, “spreading fake news”, “displaying race-based hatred”, and “disseminating information aimed at inflicting ethnic hatred”, all believed to be in retaliation to her legitimate human rights work in West Papua. The charges relate to article 160 of the Criminal Code, article 15 of Law no. 1 concerning criminal law & procedure (1946), articles 28 (2) and 45A (2) of Law no. 19 concerning Electronic Information and Transactions (2016), and articles 4 (b) and 16 of Law no. 40 concerning the Elimination of Racial and Ethnic Discrimination (2008) respectively. In September 2019, she was put on the national wanted list by the Indonesian authorities. After it became known that she was overseas, there was reportedly an effort by the Indonesian authorities to seek extradition and Red Notice from Interpol, which was reported widely by Indonesian national media for weeks. Ms. Koman comes from a Chinese-ethnic minority, which in many ways reportedly exacerbates her vulnerability and that of her family. There have allegedly been several instances of killings and mass rapes against Chinese-ethnic minorities in Indonesia, in the context of the overt discrimination that Chinese-ethnic minorities have historically experienced in the country, causing intergenerational trauma among the community. The violence perpetrated against Chinese-ethnic minorities in Indonesia reached a peak in May 1998, when between 180 and 400 Chinese Indonesian women were reportedly raped by organised groups in that month, allegedly acting under the orders of the security forces. Many more women were allegedly sexually assaulted, abused and harassed. Dealing with arson, the Indonesian authorities and negative public scrutiny is a traumatic experience for many individuals from a Chinese-ethnic minority in the country, including Ms. Koman’s family.

A fortnight after a human rights organisation and Ms. Koman announced on 14 May 2021 that they had submitted a complaint to the UN Special Rapporteurs regarding the case of Mr. Victor Yeimo of West Papua, her family began to receive threats and were subjected to acts of intimidation. On 31 May 2021, two unknown individuals on a motorbike allegedly came to Ms. Koman’s parent’s house and inquired whether Ms. Koman lived there. It is reported that several people had been observing the house approximately once a month. Ms. Koman has also allegedly received photographs of the outside of her parents’ house from unknown accounts on Twitter.

On the morning of 5 October 2021, a few days after Indonesian national news outlets broadcasted that Ms. Koman was among five Indonesian human rights defenders mentioned in the UN Secretary-General’s annual report on cooperation with the United Nations, its representatives and mechanisms in the field of human rights (A/HRC/48/28), several unknown individuals came to the local neighbourhood chief and inquired about Ms. Koman’s parents’ house. Later in the afternoon, a man dressed in plain clothes and claiming to

be a police officer allegedly asked the chief to accompany him to Ms. Koman's parents' house. The person reportedly asked Ms. Koman's parents about her family and life in Australia and took photographs of her parents and their house. Ms. Koman's parents told him that they rarely communicated with her because of their disapproval of her work in Indonesia. The visit lasted for approximately five minutes.

On 24 October 2021, two unknown individuals on a motorbike allegedly went to Ms. Koman's parent's house and attached a package inside a plastic bag on the gate of the house. One of the neighbours noticed that the package was on fire and with the help of other residents, extinguished the fire. The following day, human rights defenders from several organisations accompanied Ms. Koman's parents to file a police report.

On 7 November 2021, at approximately 10:30 am, two unidentified individuals on a motorbike reportedly threw two small boxes inside the garage of Ms. Koman's parents' house in West Jakarta. Within seconds, the boxes exploded leaving red paint smeared across the garage. The package also allegedly contained a threatening message which stated, "If the police and security forces cannot find Veronica Koman, we will scorch the earth of wherever you hide and of your protectors." The message was reportedly signed on behalf of "Homeland Defender Militant Fighters". On the same day, at approximately 10:45 am, a package was delivered to the house of Ms. Koman's relatives addressed to the woman human rights defender. Later, the authorities confirmed that a dead chicken was found inside the package with the message, "anyone who is hiding Veronica Koman will end up like this."

On 8 November 2021, the police filed two reports into the incidents under article 187 on arson, article 335 Section 1 on offensive act of the Indonesian Criminal Code, and article 1 section 1 of the Emergency Law on the use of explosives. However, while speaking to the media about the incidents, the police reportedly stated that the threatening messages were about Ms. Koman allegedly defending an armed criminal group in West Papua.

Without prejudging the accuracy of these allegations, we express serious concern at the threats, intimidation and reprisals against woman human rights defender Ms. Koman and her family, which appear to be directly linked to Ms. Koman's legitimate work as a human rights defender and human rights lawyer, advocating for human and minority rights in West Papua. We are further concerned at information indicating that the increased targeting of Ms. Koman's relatives could be also linked to her cooperation with the UN and attention to her situation by several UN actors.

Furthermore, we express concern regarding the abovementioned allegations in retaliation to Ms. Koman's legitimate exercise of the right to freedom of opinion and expression as well as of peaceful assembly and of association, provided by articles 19, 21 and 22 of the International Covenant of Civil and Political Rights (ICCPR), acceded by Indonesia on 23 February 2006.

In connection with the above alleged facts and concerns, please refer to the **Annex 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 be grateful for the observations of your Excellency's Government on the following matters:

1. Please provide any additional information and/or comment(s) you may have on the above-mentioned allegations.
2. Please provide the details, and where available the results, of any investigation and judicial or other inquiries which may have been carried out in relation to this case.
3. Please provide the full details of any protective measures put in place to ensure the physical and psychological security and integrity of Ms. Koman and her family, including information as to the effectiveness of these measures and details of prior consultations conducted with the human rights defender as to their application.
4. Please indicate what measures have been taken to ensure that human and minority rights defenders, including human rights lawyers, civil society and activists, can operate in an enabling environment and can carry out their legitimate activities without fear of harassment, stigmatization or criminalization of any kind.

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.

In light of the allegations of reprisals for cooperation with the United Nations in the field of human rights, we reserve the right to share this communication – and any response received from Your Excellency's Government - with other UN bodies or representatives addressing this matter, in particular the senior United Nations official designated by the Secretary General to lead the efforts within the United Nations system to address this issue.

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.

Mary Lawlor

Special Rapporteur on the situation of human rights defenders

Irene Khan

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

Diego García-Sayán

Special Rapporteur on the independence of judges and lawyers

Fernand de Varennes

Special Rapporteur on minority issues

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 principles and international standards applicable to this communication. The above-mentioned allegations appear to be in violation of articles 19 and 22 of the International Covenant on Civil and Political Rights (ICCPR), to which the Republic of Indonesia acceded on 23 February 2006, as well as article 23 of the ASEAN Human Rights Declaration, ratified by the Republic of Indonesia on 18 November 2012, relating to the right to freedom of opinion and expression.

We wish to refer to article 19 of the ICCPR, which provides the right to freedom of opinion and expression. As per article 19(2), the freedom of expression includes the “right to seek, receive and impart information and ideas of all kind, regardless of frontiers either orally, in writing or in print, in the form of art, or through any other media of his choice”. Intimidation or retaliation of any kind against a person for holding or expressing an opinion, such as an opinion critical of the government, is a violation of article 19(1). Article 19(3) requires that any restriction on the right to freedom of expression is (i) provided by law; (ii) serves a legitimate purpose; and (iii) is necessary and proportional to meet the ends it seeks to serve. In its General Comment no. 34, the Human Rights Committee stated that an attack on a person, because of the exercise of his or her freedom of expression, be compatible with article 19 (CCPR/C/GC/34, para. 23). In this connection, we wish to reiterate the principle enunciated in Human Rights Council Resolution 12/16. The Resolution calls on States to refrain from imposing restrictions which are not consistent with article 19(3), including: discussion of government policies and political debate; reporting on human rights; engaging in peaceful demonstrations or political activities, including for peace or democracy; and expression of opinion and dissent, religion or belief, including by persons belonging to minorities or vulnerable groups.

We further would like to recall that article 22 of the ICCPR guarantees the right to freedom of association. article 22 (2) further indicates that no restrictions may be placed on the exercise of this right other than those which are prescribed by law and which are necessary in a democratic society in the interests of national security or public safety, public order (*ordre public*), the protection of public health or morals or the protection of the rights and freedoms of others. The Human Rights Council has emphasized that States have the obligation to respect and fully protect these rights online as well as offline (A/HRC/RES/38/7). The General Assembly has also called upon all States to “ensure that the same rights that individuals have offline, including the rights to freedom of expression, of peaceful assembly and of association, are also fully protected online, in accordance with human rights law (A/HRC/41/41, para. 10).

In this regard, we would like to recall the provisions of Human Rights Council resolution 24/5 and 15/21 which reminds States of their obligation to fully respect and protect the right of all individuals to assemble peacefully and associate freely, including on the occasion of elections, including persons professing minority or dissenting opinions or beliefs, and their obligation to ensure that any restrictions on the free exercise of the right to peaceful assembly and freedom of association are consistent with their obligations under international human rights law.

Regarding allegations pointing to acts of intimidation and reprisals against those who cooperate with the UN in the field of human rights, we would like to refer to Human Rights Council resolutions 12/2, 24/24, 36/21, 42/28 and 48/17 reaffirming the right of everyone, individually or in association with other, to unhindered access to and communication with international bodies, in particular the United Nations, its representatives and mechanisms in the field of human rights. In these resolutions, the Human Rights Council urges States to refrain from all acts of intimidation or reprisals, to take all appropriate measures to prevent the occurrence of such acts. This includes the adoption and implementation of specific legislation and policies as well as the issuance of appropriate guidance to national authorities in order to promote a safe and enabling environment for engagement with the United Nations on human rights, and to effectively protect those who cooperate with the United Nations. The Council also urges States to ensure accountability for reprisals by providing access to remedies for victims, and preventing any recurrence. It calls on States to combat impunity by conducting prompt, impartial and independent investigations, pursuing accountability, and publicly condemning all such acts.

We also refer to the 1992 UN Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities, which refers to the obligation of States to adopt the required measures to ensure that persons belonging to minorities can exercise their human rights without discrimination and in full equality before the law (article 4).

Furthermore, we wish to refer to Human Rights Council resolution 22/6, which provides for the right to “unhindered access to and communication with international bodies, in particular the United Nations, its representatives and mechanisms in the field of human rights, including the Human Rights Council, its special procedures, the universal periodic review mechanism and the treaty bodies, as well as regional human rights mechanisms”.

Moreover, the 2015 report of the Secretary-General on cooperation with the United Nations, its representatives and mechanisms in the field of human rights (A/HRC/30/29) reiterates the Secretary-General’s firm position that “any act of intimidation or reprisal against individuals or groups for their engagement with the United Nations, its mechanisms and representatives in the field of human rights is completely unacceptable and must be halted, immediately and unconditionally” (para. 47).

In paragraph 23 of its General Comment No. 34, the Human Rights Committee has recognized that those “persons who engage in the gathering and analysis of information on the human rights situation and who publish human rights-related reports”, are “frequently subjected to threats, intimidation and attacks because of their activities.” The Committee has urged States parties to protect against attacks aimed at silencing those exercising their right to freedom of expression.

Furthermore, we bring to your attention 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.

Additionally, we would like to bring to the attention of your Excellency's Government the following provisions of the UN Declaration on Human Rights Defenders:

- article 5 (a), which provides for the right to meet or assemble peacefully;
- article 5 (b) and (c), which provides for the right of all persons to form, join and participate in non-governmental organizations, associations and groups; and to communicate with non-governmental or intergovernmental organizations;
- article 6 point a), which provides for the right to know, seek, obtain, receive and hold information about all human rights and fundamental freedoms;
- article 6 points b) and c), which provides for the right to freely publish, impart or disseminate information and knowledge on all human rights and fundamental freedoms, and to study, discuss and hold opinions on the observance of these rights;
- article 9, paragraph 3, point c), which provides for the right to provide legal assistance in defending human rights and fundamental freedoms;
- 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. This should include the establishment of comprehensive, sustainable and gender-sensitive public policies and programmes that support and protect women defenders. Such policies and programmes should be developed with the participation of women defenders themselves (OP5, 19 and 20).

We would also like to refer to Human Rights Council Resolution 13/13, which urges States to put an end to and take concrete steps to prevent threats, harassment, violence and attacks by States and non-State actors against all those engaged in the promotion and protection of human rights and fundamental freedoms.