

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 contemporary forms of racism, racial discrimination, xenophobia and related intolerance and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment

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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 contemporary forms of racism, racial discrimination, xenophobia and related intolerance and Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, pursuant to Human Rights Council resolutions 43/16, 43/4, 41/12, 43/36 and 43/20.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the **targeting of several human rights defenders in Indonesia, including alleged reprisals against Mr. Victor Yeimo for his cooperation with the UN human rights mechanisms.**

Mr. **Victor Yeimo** is a human rights defender and international spokesperson for the West Papuan National Committee (KNPB) and the Papuan People's Petition (PRP). He frequently informs international media and organisations on the human rights, social, political and environmental situation in West Papua, through interviews and participation at international events.

Mr. **Kelvin Molama** is a human rights defender and West Papuan student who is an active member of the West Papua Student Alliance (Alliansi Mahasaswa Papua - AMP). He has contributed to the Alliance's human rights activities through the organisation of discussion forums and demonstrations against alleged human rights violations in West Papua.

Mr. **Roland Levy** is a human rights defender and West Papuan student who acts as a coordinator for the AMP in Jakarta. He is involved in public advocacy for the Alliance with national media and leads discussion forums on freedom of opinion and expression, democracy and other human rights issues.

Gerakan Buruh Bersama Rakyat (Labour Movement Together with People) is a non-governmental alliance of student, youth, labour, farmer, academic and women's organisations and unions in Indonesia. The alliance is driven by three confederations: the Confederation of Indonesian Workers Struggle (KPBI), the Congress of the Indonesian Workers Alliance (KASBI) and the National Union Confederation (KSN). In recent years, the movement has expanded its scope to promote education, gender equality, freedom of religious belief, LGBTIQ+ issues, environmental rights, women's rights and the rights of the Papuan people. Regarding the latter, they have been critical of law enforcement for using excessive force against

those protesting peacefully against the extension of the Papua Special Autonomt Law.

We have previously communicated concerns to your Excellency's Government on the persecution of human rights defenders in Papua and West Papua in the wake of anti-racism and self-determination protests in three previous communications; IDN 2/2020 sent on 26 June 2020, IDN 8/2019 sent on 20 November 2019 and IDN 7/2019, sent on 4 September 2019. We thank your Excellency's Government for the replies received to all three communications, in which your Excellency's Government provides additional details and clarification on events, however we regret to write again with related concerns.

According to the new information received

Victor Yeimo

On 9 May 2021, at 7:15 pm, Mr. Victor Yeimo was arrested, without a warrant, from a kiosk in the city of Jayapura. Warrants were received by his lawyers the following day at 6pm. Mr. Yeimo had been on a wanted list of the Papuan police since 5 September 2019, allegedly in connection with his role in anti-racism and self-determination protests in West Papua in August and September 2019.

On the evening of his detention, without informing his lawyers, Mr. Yeimo was transferred from the Papuan province regional police detention centre in Jayapura to the Police Mobile Brigade Headquarters, "Mako Brimob", in Abepura. The Mako Brimob detention facility reportedly has higher security, making it more difficult for his family and lawyers to visit him. His family were not allowed to visit him until 30 May 2021.

Mr. Yeimo has been charged under the Penal Code of Indonesia for "treason" (Article 106), "treason with conspiracy" (Article 110), "incitement" (Article 160), "arson" (Article 187), "illegal possession of arms" (article 64) "violent theft" (Article 365) and "collective violence" (Article 170 part 1). He also faces charges of "illegal possession of arms" (Article 2 of Emergency Law No. 12/1961), "broadcasting a hoax resulting in riot" and "broadcasting uncertain information resulting in riot" (Article 14 part 1 & 2 and Article 15 of Law No. 1/1946 on Criminal Law) and "disrespecting the national flag"(Law No 24/2009 on Flag, Language, National Emblem, and the National Anthem).

Mr. Yeimo's charges are believed to be related to his involvement in anti-racism and self-determination campaigns in West Papua. Mr. Yeimo attended the 40th session of the Human Rights Council in Geneva, Switzerland, where he addressed the UN Human Rights Council on 13 March 2019 during the General Debate under item 4 about the human rights situation in West Papua. The Indonesian delegation used its right to reply to clarify and address some of the issues raised by a number of NGOs during this General Debate¹. Mr. Yeimo also spoke at a NGO side event in Room XXV of Palais des Nations titled "Indonesia: Ensuring the Survival of Indigenous Papuans", and met the

¹ Item 4 General Debate, 32nd Meeting, 40th Regular Session Human Rights Council, 13 Mar 2019, at <http://webtv.un.org/search/item4-general-debate-contd-32nd-meeting-40th-regular-session-human-rights-council/6013469234001/?term=&lan=english&cat=Regular%2040th%20session&sort=date&page=9#player>

support staff of a number of UN Special Procedures mandate holders.

On 10 May 2021, in explaining the crimes Mr. Yeimo's was alleged to have committed, the Inspector General of the Papua Province Police reportedly referred to comments Mr. Yeimo made in relation to the self-determination of the Papuan people, including those at the UN Human Rights Council. The Inspector General also made references to speeches Mr. Yeimo made outside the Governor's office in Papua province on 19 August 2019.

Also on 10 May 2021, the Inspector General of the Papua Province Police stated that Mr. Yeimo should be left to "get old" in prison as they investigate his case. On 12 May 2021, the Inspector General said that he had "asked the investigators not to hurry in digging into each report, to connect each law violated by him," going on to state that he expects Mr. Yeimo to be sentenced to life imprisonment.

Mr. Yeimo suffers from a number of medical conditions, which put him at risk of COVID-19, against which he has not yet been vaccinated. He has reportedly been held in poorly ventilated cells and has been held for periods of time in solitary confinement. He has specific dietary requirements that have reportedly not been accommodated by prison authorities, however since 30 May 2021, his family and friends have been allowed to start sending him food twice a week. His poor health condition has already led to the postponement of at least one interrogation session.

Kelvin Molama and Roland Levy

On the morning of 3 March 2021, Mr. Kelvin Molama was detained by 14 plainclothes officials from the Criminal Research Unit of Polda Metro Jaya from the Yahukimo student accommodation, where he lived. No warrant was presented at the time of his arrest. At around the same time, Mr. Roland Levy was detained, without a warrant, also by plainclothes officials from the Criminal Research Unit, from his student dormitory in the Senan area of Central Jakarta. Their phones and a number of other belongings were reportedly confiscated from them without a warrant.

Mr. Molama and Mr. Levy were taken to the Polda Metro Jaya police station, where they eventually charged with Article 170 part 2 of the Penal Code of Indonesia. They are now held at the Jakarta Metropolitan Police Detention Centre and to date, have reportedly not been shown evidence that justify the charges against them.

Mr. Molama and Mr. Levy have had little access to their lawyers, who must request special permission to visit them and have been denied alternative means of communication, by video or telephone call. They have reportedly been allowed some family visits.

Having failed in their challenge to the legality of their detention in the pre-trial phase, their first court hearing was held on 25 May 2021 at the South Jakarta District Court. Their lawyers were denied permission to visit them in advance of the hearing. At another hearing on 3 June, the Court rejected the demurrer filed by the lawyers of Mr. Levy and Molama.

After a swab taken on 9 June 2021, police officers claimed that Mr. Levy tested positive for COVID-19, though reports suggest his test was tampered with. He has reportedly been transferred to a room in the Polda Metro Jaya with around 30 other COVID-19 positive inmates, which exposes him at a high risk of infection.

Gerakan Buruh Bersama Rakyat

On 1 May 2021, Gerakan Buruh Bersama Rakyat held peaceful demonstrations in 27 provinces across Indonesia. The demonstrations protested against the Government's response to the COVID-19 pandemic and the Omnibus Law on the Job Creation Act, which was passed in October 2020. They had spoken out publicly and in private meetings with Government officials against the Omnibus Law and the COVID-19 response for many months previous, due to the alleged negative impact both on the environment and labour rights. The protest reportedly adhered to health guidelines.

Gerakan Buruh Bersama Rakyat planned to hold a second march on 3 May 2021, in commemoration of National Education Day. The organisers and participants reportedly stated their willingness to adhere to public health protocols for the event, including through the wearing of face masks, maintaining social distancing and carrying hand sanitiser.

During the Jakarta demonstration, the Greater Jakarta regional police reportedly used excessive force against peaceful protesters, forcibly dispersing the protest by pushing and beating several demonstrators. Nine human rights defenders from Gerakan Buruh Bersama Rakyat were arrested, most of whom had a leading role in the organisation of the protest.

One woman human rights defender from Gerakan Buruh Bersama Rakyat sprained her ankle as she was forced out of the police car. As she tried to continue walking, a policeman reportedly hit her on the back of the head, causing severe headache. She lost consciousness at the police station and was linked up to an oxygen supply. Human rights defenders from Gerakan Buruh Bersama Rakyat were reportedly refused access to doctors or lawyers for a number of hours after their arrest.

The nine human rights defenders, which include academic and youth rights defenders, were charged with "deliberate intent to not comply with orders" and "participation in a riotous assembly" under Articles 216 and 218 of the Penal Code of Indonesia, as well as one further charge related to Article 14 Paragraph (1) of the Outbreaks of Infectious Diseases Act.

They were all released on 4 May, and at the time of writing, the investigation is still reportedly ongoing.

Without prejudging the accuracy of the above allegations, we wish to express our concern for the situation of human rights defenders in Indonesia, who appear to be targeted by authorities for their legitimate human rights work. We express particular concern over the conduct of security forces particularly regarding the comments allegedly made by the Inspector General of the Papua Province Police, who has made

repeated negative statements about the human rights defender under investigation. We are deeply concerned that the arrest of Mr. Yeimo is reportedly linked to his cooperation with the UN, more specifically to his interaction with the Human Rights Council in March 2019. With regards to the arrest of nine human rights defenders from Gerakan Buruh Bersama Rakyat, we are alarmed by the excessive use of force by the Greater Jakarta Regional police, which was employed disproportionately against protesters and detained human rights defenders.

Furthermore, we reiterate our serious concern that human rights defenders working peacefully on issues of racism and self-determination in West Papua appear to be specifically targeted for their human rights work. In this regard we convey our serious concerns regarding the detention of West Papuan student human rights defenders Mr. Kelvin Molama and Mr. Roland Levy, particularly due to their warrantless arrest, the lack of evidence that has been presented, and the heavily restricted access to their lawyers. We are furthermore deeply troubled by alleged tampering in Mr. Levy's COVID-19 result and the reported lack of adequate medical and dietary accommodations for Mr. Yeimo's pre-existing conditions at the high security detention facility where he is being held.

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.

We are issuing this appeal in order to safeguard the rights of the abovementioned individuals from irreparable harm and without prejudicing any eventual legal determination.

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 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 provide information on the legal and factual basis for the charges brought against Mr. Victor Yeimo, and how they are consistent with your obligations under international law.
3. Please provide further details on the comments made by the Inspector General of the Papua Province Police regarding the ongoing investigation into Mr. Yeimo, which may be in reprisal for remarks he made at the 40th Session of the UN Human Rights Council.
4. Please provide details of the medical care and food provided to Mr. Yeimo due to his medical conditions, as well as the conditions of the detention cell where he is being held, and how they are consistent with the Standard Minimum Rules for the Treatment of Prisoners, also known as the 'Mandela Rules'.
5. Please provide information about the factual basis for the charge brought against Mr. Roland Levy and Mr. Kelvin Molama, and why

they were not informed of the charges against them at the time of their arrest, or the extent of the evidence against them. Please explain how the charges brought against them comply with your obligations under international law.

6. Please provide information on the reasons for which all of the human rights defenders mentioned in this communication have had access to their lawyers denied or restricted and explain how this is consistent with your obligations under international law.
7. Please provide details on the reason for the dispersal of the above-mentioned demonstrations marking National Day of Education on 3 May 2021 and on the charges brought against peaceful protesters. Please explain how these are consistent with your obligations under international law.

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

In light of the allegations of reprisals for cooperation with the United Nations on 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 intimidation and reprisals for cooperation with the UN in the field of human rights, 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.

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 would like to inform your Excellency's Government that after having transmitted the information contained in the present communication to the Government, the Working Group on Arbitrary Detention may also transmit the case through its regular procedure in order to render an opinion on whether the deprivation of liberty was arbitrary or not. The present communication in no way prejudices any opinion the Working Group may render. The Government is required to respond separately to the urgent appeal and the regular procedure.

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

E. Tendayi Achiume

Special Rapporteur on contemporary forms of racism, racial discrimination,
xenophobia and related intolerance

Nils Melzer

Special Rapporteur on torture and other cruel, inhuman or degrading treatment or
punishment

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 7, 9, 14 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 freedom from torture and ill-treatment, personal security, fair judicial proceedings, freedom of opinion and expression, and freedom of peaceful assembly.

Regarding the criminalisation of Mr. Yeimo for comments he has made on social and political issues in Indonesia, 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."

Regarding the other individual cases raised in this communication, we recall once again that arresting or detaining an individual as punishment for the legitimate exercise of the rights as guaranteed by the Covenant constitutes a violation of article 9 (CCPR/C/GC/35, para. 17). According to article 9 of the ICCPR, any arrest or detention shall be carried out in accordance with the grounds and procedures established by law. In addition, anyone deprived of his liberty shall be entitled to challenge the legality of such detention before a court or judicial authority; this is a self-standing human right, the absence of which constitutes a human rights violation (A/HRC/30/37). Moreover, the deprivation of liberty as punishment for the legitimate exercise of rights guaranteed by the ICCPR is arbitrary, this includes protections for the rights to freedom of opinion and expression, as well as freedom of peaceful assembly and of association (CCPR/C/GC/35).

With regards to Article 14 of the ICCPR, we would like to refer your Excellency's Government to the recent report of the Working Group on Arbitrary Detention, to the Human Rights Council (A/HRC/45/16, paras.50-55), where the Working Group reiterated that the right to legal assistance is one of the key safeguards in preventing the arbitrary deprivation of liberty. The working Group also highlighted that the rights to legal assistance applies from the moment of deprivation of liberty, and that it should be available at all stages of criminal proceedings, namely during pretrial, trial, retrial and appellate stages, to ensure compliance with fair trial guarantees.

We also recall that according to Article 21 of the ICCPR, "The right of peaceful assembly shall be recognized. No restrictions may be placed on the exercise of this right other than those imposed in conformity with the 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 ‘provided by law’ requirement means that any restriction ‘must be made accessible to the public’ and ‘formulated with sufficient precision to enable an individual to regulate his or her conduct accordingly’ (CCPR/C/GC/34). Moreover, it ‘must not confer unfettered discretion for the restriction of freedom of expression on those charged with its execution’. The requirement of necessity implies an assessment of the proportionality of restrictions, with the aim of ensuring that restrictions ‘target a specific objective and do not unduly intrude upon the rights of targeted persons. The ensuing interference with third parties’ rights must also be limited and justified in the interest supported by the intrusion. Finally, the restriction must be ‘the least intrusive instrument among those which might achieve the desired result’.

We would also like to draw the attention of your Excellency’s Government to Principle 4 of the UN Basic Principles on the Use of Force and Firearms by Law Officials, which provides that, “Law enforcement officials, in carrying out their duty, shall, as far as possible, apply non-violent means before resorting to the use of force and firearms”, and the Code of Conduct for Law Enforcement Officials, ensuring protesters’ right to peaceful assembly and without resorting to excessive force.

The Committee against Torture and the Human Rights Committee have consistently found that conditions of detention can amount to inhuman and degrading treatment. We refer to the Standard Minimum Rules for the Treatment of Prisoners (“Mandela Rules”), adopted unanimously by the UN General Assembly (resolution 70/150 of November 2015), which provide for appropriate accommodation (rules 12 to 17) and requirements to be met regarding food (rule 22).

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 6 (b) which guarantees the right to freely publish, impart or disseminate to others views, information and knowledge on all human rights and fundamental freedoms.

Regarding allegations of intimidation and reprisals against those who cooperate with the UN, we would like to refer to Human Rights Council resolutions 12/2, 24/24, 36/21, and 42/28 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 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.

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". In addition, States Parties have the obligation not to carry out any practical act of racial discrimination against persons, groups of persons or institutions and to guarantee that all public authorities and public institutions act in accordance with this obligation. According to Article 5 of the Convention, States parties must also guarantee the right of all persons, without distinction of race, colour or national or ethnic origin, to equality before the law.