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**H.E. Joko Widodo**

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Your Excellency,

The International Commission of Jurists (ICJ) is composed of 60 eminent judges and lawyers from all regions of the world. Established in 1952, the ICJ is active on five continents, promoting and protecting human rights through the rule of law and using its unique legal expertise to develop and strengthen national and international justice systems.

We write to you today to appeal to you to definitively stop the execution of Ms. Mary Jane Veloso and to impose a moratorium on the implementation of the death penalty, with a view to its abolition in the near future. Mary Jane Veloso is a victim of trafficking. Her alleged traffickers are now in the custody of Philippine authorities and set to face trial under Philippine laws.

Consistent with Indonesian law and Indonesia's obligations under international law, we also call on you to ensure that Indonesian authorities fully and properly investigate the allegation that Ms. Veloso has been a victim of human trafficking, especially in light of information that has recently come to light in the Philippines, to prevent her re-victimization and ensure protection of her human rights.

We also emphasize that imposition of the death penalty is out of step with the global trend towards the abolition of the death penalty and the establishment of a moratorium on execution.

**I. Allegations that Ms. Veloso is a victim of trafficking should be carefully and thoroughly investigated by the government of Indonesia to prevent her further victimization**

According to information available to the ICJ, Ms. Veloso, a Filipino national, was allegedly unlawfully and fraudulently recruited in the Philippines by Ms. Ma. Cristina Sergio and Mr. Julius Lacanilao to work as a domestic helper in Malaysia. Upon her arrival in Malaysia, Ms. Veloso was told by Ms. Sergio that before she can start working as a domestic helper, she needs to go on an errand and meet a friend of Ms. Sergio in Yogyakarta, Indonesia. It is alleged that Ms. Sergio gave Ms. Veloso the luggage for her to pack her clothes in for her trip to Indonesia. On 25 April 2010, Ms. Veloso was arrested upon her arrival at the Audisucipto International Airport in Yogyakarta, Indonesia, for possessing 2.6 kilograms of heroin that were found in the seams of the luggage she carried.

As you are aware, Ms. Veloso was charged and tried for drug-related offenses, and was convicted on 4 October 2010 and sentenced to death. An appeal was filed with the Court of Appeals on 2 November 2010, which was denied. Another appeal was filed with the Supreme Court on 21 February 2011. On 31 May 2011, the Supreme Court upheld the death penalty sentence of Ms. Veloso.

Ms. Veloso's lawyers filed a petition for judicial review on 13 January 2015, but the Supreme Court rejected this on 26 March 2015. They filed a second petition for judicial review on 24 April 2015, alleging that Ms. Veloso is a victim of human trafficking and through fraud, was made to carry the heroin in luggage she had been provided with by a person (or persons) who unlawfully recruited her.

As you also may be aware, reports indicate that Ms. Sergio and Mr. Lacanilao have now been arrested and that the Philippines' Department of Justice has found probable cause to charge them in connection with the alleged trafficking of Ms. Mary Jane Veloso; and that charges and investigations against them are also pending in relation to allegations of their involvement in the unlawful recruitment or trafficking of other individuals.

Indonesia's domestic law criminalizing trafficking of persons provides that "a victim who commits a crime under coercion by an offender of the criminal act of trafficking in persons shall not be liable to criminal charges."<sup>1</sup>

Furthermore, as a State Party to the *Protocol to Prevent, Suppress and Punish Trafficking*, the Indonesian government is obliged to establish measures "to protect victims of trafficking in persons, especially women and children, from re-victimization."<sup>2</sup>

There is growing acceptance that protection and services offered to victims of trafficking must not be conditional on their agreement to cooperate with the authorities in bringing those responsible for their trafficking to justice. As victims of a serious crime, trafficked

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<sup>1</sup> Article 18, Law on the Eradication of the Criminal Act of Trafficking in Persons (Law Number 21 Year 2007).

<sup>2</sup> Article 9.1(b) of the Protocol to Prevent, Suppress and Punish Trafficking in persons, especially women and children, supplementing the United Nations Convention against Transnational Crime.

persons are holders of rights and are entitled to such protection, services and other remedies.

For Indonesia to fully comply with these provisions, and in order to ensure the protection of Mary Jane Veloso's human rights, it is important that the Indonesian government investigates thoroughly and with great care allegations that she has been a victim of trafficking.

Trafficked persons are often arrested, detained, charged and even prosecuted for being involved in criminal activities, including in particular those crimes committed as a direct consequence of their situation of having been trafficked, because authorities failed to properly identify them as victims of trafficking.<sup>3</sup> In many cases, the criminalization of victims of trafficking is tied to a failure of the State to identify the victim correctly. Victims of trafficking are entitled to be treated as victims of serious crime and afforded protection; identifying victims of trafficking is a legal obligation for Indonesian authorities and it is incumbent that they take all due care in doing so, even if the victims of trafficking may have committed crimes, whether willingly or as a result of force, fraud or coercion, prior to becoming or in conjunction with becoming a trafficking victim.<sup>4</sup>

Timely and efficient identification of victims is central to combating trafficking, as it affects the ability of law enforcement officials to prosecute traffickers effectively and is fundamental to ensuring the authorities meet their obligation to respect and protect the rights and safety of trafficked persons, and ensure they are offered support and other services.<sup>5</sup>

The Special Rapporteur on trafficking of persons, especially of women and children, observed that there is a growing recognition of the standard that victims of trafficking should not be prosecuted for offences relating to their status as trafficking victims. The criminalization and/or detention of victims of trafficking goes against the rights-based approach to trafficking. Criminalizing or detaining victims of trafficking would compound the harm they have already experienced and it would also deny them the rights to which they are entitled.<sup>6</sup>

In a 2013 case involving trafficked minors arrested on drug-related charges in the United Kingdom, the England and Wales Court of Appeal explained that investigating and prosecuting authorities, the legal professions, and the courts must approach with great sensitivity cases where victims of trafficking are involved in criminal activities for the reason that criminality or culpability of a victim of trafficking may be significantly diminished or even effectively extinguished "because no realistic alternative was available

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<sup>3</sup> Report of the Special Rapporteur on trafficking in persons, especially women and children, UN Doc. A/HRC/20/18 (6 June 2012), para. 23.

<sup>4</sup> Report of the Special Rapporteur on trafficking in persons, especially women and children, UN Doc. A/HRC/20/18 (6 June 2012), para. 24.

<sup>5</sup> Report of the Special Rapporteur on trafficking in persons, especially women and children, UN Doc. A/HRC/20/18 (6 June 2012), para. 31.

<sup>6</sup> Report of the Special Rapporteur on trafficking in persons, especially women and children, UN Doc. A/HRC/20/18 (6 June 2012), para. 25.

to the exploited victim but to comply with the dominant force of another individual, or group of individuals.”<sup>7</sup>

Thus, Indonesian authorities should proceed without delay, and in cooperation with the authorities of the Philippines, to thoroughly investigate the allegations that Mary Jane Veloso is a victim of human trafficking, and the connection between being trafficked and the crime for which she was convicted.

Your taking action to spare the life of Ms. Veloso and to ensure such investigations would be both consistent with Indonesian law and Indonesia’s international treaty obligations.

## **II. Indonesia should accede to the overwhelming understanding globally that the death penalty is an unacceptable assault on rights and dignity.**

By resuming executions in 2013 after a four-year *de facto* moratorium, Indonesia is defying the global trend towards the abolition of the death penalty and the establishment of a moratorium on execution.

In his report to the UN General Assembly in 2012, the UN Secretary-General noted that 150 of the 193 States Members of the UN have abolished the death penalty or introduced a moratorium, either in law or in practice. In those States that retain it, there is an observable trend among many of them to restrict its use or to call for a moratorium on executions. The Secretary-General also reported in 2013 that 174 of the 193 UN Member States were reportedly execution free in 2012.

The trend towards the abolition of the death penalty and the establishment of a moratorium on execution is also evidenced by General Assembly Resolution 67/176, adopted on 20 December 2012 calling on all states to impose a moratorium on the use of the death penalty. This resolution, which expresses deep concern about the continued use of the death penalty, also calls upon all States “to reduce the number of offences for which the death penalty may be imposed.”

Furthermore imposing the death penalty for drug-related offenses contravenes the ICCPR (with which Indonesia as a party is bound to comply) and other international standards, which clarify that states retaining the death penalty must ensure that its application is limited to “the most serious crimes”.

The General Assembly and a range of regional and international human rights bodies reflect these standards in their calls on States retaining the death penalty to apply it only to the “most serious crimes”.

The UN Human Rights Committee has made it specifically clear that the imposition of the death penalty for drug offenses is incompatible with the International Covenant on Civil and Political Rights (ICCPR), which Indonesia acceded to in 2006.<sup>8</sup> The Human Rights

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<sup>7</sup> L & Ors v The Children’s Commissioner for England & Anor [2013] EWCA Crim 991 (21 June 2013).

<sup>8</sup> *Death Penalty: Keep momentum on abolish, UN Human Rights Committee urges States*, UN Office of the High Commissioner for Human Rights (29 October 2014), available at <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=15232&LangID=E>

Committee has explicitly called on Indonesia to amend its laws accordingly and to commute all death sentences imposed on persons convicted of such crimes.<sup>9</sup>

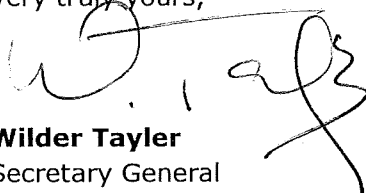
We cannot emphasize enough that the imposition of the death penalty is a violation of the right to life and the absolute prohibition of torture and other cruel, inhuman or degrading treatment or punishment.

In light of the concerns enumerated above, we urge you to

- Grant Mary Jane Veloso a permanent reprieve from execution, thoroughly investigate allegations that she is a victim of trafficking and that the crime she was convicted of resulted from such crimes against her,;
- Impose a moratorium on executions, with a view of abolishing death penalty in the near future.

Thank you for your urgent consideration of our concerns. We look forward to hearing from you soon. Please do not hesitate to contact us if you have any comments or questions,

Very truly yours,



**Wilder Tayler**  
Secretary General

*For questions and clarifications, please contact Mr. Sam Zarifi, Regional Director for Asia and the Pacific, email: [sam.zarifi@icj.org](mailto:sam.zarifi@icj.org) or tel. no. +66 807 819 002*

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<sup>9</sup> *UN Human Rights Committee deplores Indonesia's response to its call to stop executions for drug-related crimes*, UN Office of the High Commissioner for Human Rights (2 April 2015), available at <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=15792&LangID=E>