



Human Rights
and Peace
for Papua

ICP



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HUMAN RIGHTS IN WEST PAPUA 2015

The fourth report of the International Coalition for Papua (ICP)
covering events from April 2013 until December 2014

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1. INTRODUCTION

1. Introduction

1.1 Executive Summary

The development of the human rights situation in West Papua during 2013 and 2014 shows a deterioration compared to the period covered by the ICP's previous report. West Papua on the Guinea island bordering Asia and the Pacific and comprising the two east Indonesian provinces of Papua and Papua Barat continues to be one of the regions of Asia most seriously affected by human rights violations and an unresolved long standing political conflict. The living conditions of the indigenous Papuan peoples are in stark contrast to those of the trans-migrants from other parts of Indonesia.

The number of arrests during demonstrations has risen to several hundred per year peaking at 470 arrests in May 2014 alone. The annual number of cases of threats, intimidations and obstruction of work of local journalists have almost doubled compared to previous years. At the same time, the number of demonstrations has gone down as a result of more repressive policies and actions by security forces against political civil society movements. The UN Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression has still not been allowed to visit West Papua, despite Indonesia's earlier positive announcement. In August 2014, two French journalists were arrested and sentenced to two and half months imprisonment for having violated immigration laws.

This report details cases of violations between April 2013 and December 2014 documented by human rights organisations and churches in West Papua, in Jakarta and by international human rights organisations. Local organisations recorded 47 demonstrations in that period. All

but five of them ended with arrests. Torture and ill-treatment were frequently practiced during crackdowns of demonstrations. Eighteen further cases of torture were selected for this report. The cases of documented extra-judicial killings of civilians by security forces during the given period amounts to 22 deaths. All of those victims were indigenous Papuans. On 8 December 2014 security forces opened fire on a large group of indigenous Papuans who protested against excessive violence by security forces. At least four school students were killed and 17 others were injured. The perpetrators of this incident have, as in most other cases not been brought to justice.

Local churches and human rights organisations note an increase of horizontal violence between indigenous and trans-migrant communities. Police often consent to or support the victimization of Papuans instead of adopting an impartial law enforcement practice. The case that took place at the Yotefa Market in Abepura on 2 July 2014 details how police cooperated with a mob of trans-migrants in torturing an indigenous Papuan.

The population share of indigenous Papuans in West Papua has fallen to an estimated 42% in 2015. This is due to an ongoing influx of trans-migrants from other parts of Indonesia and a poor population growth rate of indigenous Papuans. This situation and its causes are detailed in the sections on population and health.

Observers note an ongoing breakdown in the health care and education system in remote highland regions as well as other parts of West Papua. 11.5 % of children die before the age of five in the highlands of West Papua. According to data from 2012, the under five mortality

rate in West Papua is about double the rate in neighbouring Papua New Guinea and about three times the average rate in Indonesia. No country in Asia or the Pacific had such a high rate in that year.

Literacy rates have gone down to less than 20% in remote villages due to reduced access to education. As a result young Papuan women and men have less opportunities to play an active role in public services and to find other employment.

The ongoing influx of trans-migrants, the absence of opportunities for young Papuans together with corruption cause a growth of

social inequalities, social tensions and frustrations. Many Papuans continue to seek a solution through political aspirations calling for a referendum and support from neighbouring countries in the Pacific.

President Joko Widodo has indicated his intention to change the Indonesian policy towards West Papua. He had announced that he would support an opening of the conflict region to international observers such as journalists and that there is a need to end transmigration programs. While these would present important improvements in the situation, the administration in Jakarta has not supported this approach with real action.



1.2 About the ICP

The International Coalition for Papua (the Coalition) works to address the serious human rights situation in West Papua and supports a peaceful solution to the conflict there. West Papua (Papua) refers to the western half of the New Guinea Island in the Pacific and comprises the eastern-most provinces of Indonesia. Indigenous Papuans are suffering from a long and ongoing history of human rights violations, in which the security forces subject them to violence including killings, torture and arbitrary arrests. Impunity prevails. A lack of adequate access to health-care and education as well as demographic and economic marginalisation and discrimination undermine Papuans' living conditions. The heavy presence of the Indonesian security forces, a lack of access for international observers such as journalists, as well as corruption and transmigration from other parts of Indonesia, aggravate the situation. Political prisoners and the persecution of political activists show the extent of repression with which freedom of expression and indigenous peoples' rights are being violated. Papua's wealth in natural resources attracts businesses and (sometimes illegal) business units of the security forces, resulting in exploitation through mining, logging, harmful agricultural projects and environmental degradation. This dynamic threatens traditional Papuan indigenous culture, and underpins Papuans' struggle for their right to self-determination.

What the Coalition does

The Coalition advocates for human rights and for Papua as a land of peace in which Papuans can fulfil their inalienable right to self-determination

through peaceful means. The Coalition supports this with advocacy work and networking at the international level.

The Coalition recognises all human rights for all – human rights cannot be realised by a government without the active participation of civil society. The Coalition recognises that Papuans see the policies put in place by the Indonesian Government as having failed and being misused and that these policies have therefore been rejected. With the failure of Indonesia to respond to Papuan expectations and demands for a dialogue, the potential for violence has grown. Given this, the Coalition sees the need to support partners striving for the recognition of basic human rights and seeking peaceful solutions to the implementation of the right to self-determination. The Coalition supports human rights including the freedom to express political opinions peacefully, the right to self-determination and the critical role of human rights defenders in a peaceful transformation of the ongoing conflict.

History of the Coalition

The Coalition was created in March 2003. From its launch until December 2012, the Coalition was called the Faith-based Network on West Papua (FBN). The Coalition was created by religious, development cooperation, social and human rights organisations from different countries that had been working for many years with partners in Papua. With the formation of the coalition, the associated faith-based organisations responded to a call from religious leaders in Papua to help them promote peace, justice and human rights.

After the end of the Suharto regime and its military oppression in 1998, the people of Papua hoped for democracy, rule of law and the protection of human rights. In order to protect and guarantee the rights of Papua's indigenous people, the 2001 Special Autonomy Law for Papua was seen as a way forward after Papuans had suffered for decades under military rule and resultant extrajudicial killings, torture, arbitrary arrests, racial discrimination, exploitation of natural resources and the destruction of livelihoods. The members of the Coalition shared that hope.

However, the Special Autonomy Law has not been implemented as expected. Instead, the Indonesian Government has violated the law a number of times, for example under Presidential Decree 01/2003 which divides Papua into more Provinces without consultation with the Papuan people. Faith-based and civil

society organisations in Papua consider that the Autonomy law has failed. Militarisation in Papua continues as do violations of the Papuan people's civil and political, as well as economic, social and cultural rights. Perpetrators of human rights violations are not being held accountable.

In this climate of violence and fear, Papuan religious leaders are committed to making "Papua a land of peace" with the aim of guaranteeing the human rights of the Papuan people, restoring their self-esteem and achieving truth and reconciliation. The Coalition supports the *Papua, land of peace* campaign and the efforts of its religious leaders through various means, including advocacy. Participating organisations created the FBN in consultation with their Papuan partners and in solidarity with the Papuan people.

EXIT



2. CIVIL AND POLITICAL RIGHTS

2. Civil and Political Rights

With a background of land conflicts, resource extraction and human rights violations political dissent and aspirations for independence gain support. Freedom of expression, in particular concerning political aspirations regarding the status of West Papua is severely limited. At the end of 2014 at least 55 political prisoners were serving sentences in Papuan jails.

The number of recorded protests in 2014 was 15 cases. This was only half of the recorded level in 2013. Ninety per cent of these ended with arrests resulting in hundreds of political arrests in 2014. This deterioration in the situation is the result of repressive actions by security forces.

Torture and ill-treatment regularly occur during the arrest of indigenous Papuans. A deterioration can also be noted in the number of cases in which local journalists were attacked, intimidated and hindered in their work. The frequency of such recorded cases during the two years 2013 and 2014 has almost doubled compared to the previous year.

Papuan human rights lawyers and other human rights defenders face an increase of threats, criminalisation and physical attacks in 2014. Police and courts interfere with their work. The democratic space in Papua shrank in 2014.

Within this context, the indigenous peoples of Papua cannot exercise their right to self-determination. The expressions of some political positions are persecuted and security forces sanction them with repressive and intimidating violence.

The number of documented cases of extrajudicial executions during 2013–2014 show an average of more than one victim documented per month. Most of these cases result from the excessive use of force and fire arms. All victims in these cases were indigenous Papuans. These cases show that racial discrimination is inherent to the work of the security forces. The 18 cases of torture detailed in this report represent only a small share of the problem of torture in Papua. Reliable and effective mechanisms to hold members of the police and military accountable for violence against civilians are still not available. Often, internal disciplinary mechanisms in these forces give only lenient or no punishment for cases of torture or extrajudicial executions.

Since the beginning of 2014, local organisations note an increasing number of horizontal conflicts, the majority of which reflect growing tensions between the indigenous and the migrant population. Police officers were involved in several of the cases and act as perpetrators or supporters of perpetrators.

Gender based violence is common and the denial of women's rights is aggravated by the absence of government protection. Violence in public life such as committed by security forces has a worsening impact on the level of domestic violence.

2.1 Freedom of Expression

Harsh restrictions on freedom of expression in West Papua continue, and are severely limiting the possibility for social change, justice, effective and equitable development, and a peaceful resolution to the conflict. Meanwhile, existing dynamics around land conflicts, resource extraction and human rights violations continue to fuel political protest. During 2013 and 2014, triggers for mass demonstrations included the unconstitutional drafting of the Special Autonomy Plus Bill, the Papuan bid to join the Melanesian Spearhead Group, and national and Presidential elections in 2014. During this period there were hundreds of political arrests. Almost half of all cases included reports of torture, ill-treatment or cruel and degrading treatment. Activists organising or taking part in demonstrations risked threats, intimidation, incarceration, disappearances, shootings, injury and death. Papua's human rights lawyers, who play a vital role in defending the right to freedom of opinion and expression in Papua, faced threats, criminalisation and physical attacks (see Human Rights Defenders section). They were frequently obstructed by police in their work and sometimes by the courts. Local journalists have faced almost twice as many attacks, intimidation and work interference in 2013 compared to 2012. These obstructive practices remained at the same high level in 2014. Thirteen of these cases are detailed in this section. Foreign journalists still require special permits to enter the region, which usually implies accompaniment by intelligence during the visit to West Papua. Independent reporting from the region by international observers is not possible.



Image 2.1a-1: UNCEN demonstration against Otsus Plus, 7 November 2013. Source: JUBI.

2.1a Political Prisoners & Detainees

During the period covered by this report,¹ the civil society monitoring collective **Papuans Behind Bars** documented 881 political arrests in West Papua. 2013 was a particularly bad year for political arrests, largely due to a number of mass arrests. Mass arrests remained the standard police response to coordinated peaceful actions. There were a small number of occasions where police successfully negotiated with demonstrators to find an acceptable compromise in which demonstrators were still able to express their concerns; however these cases were the exception rather than the rule.

During the period of this report, **Papuans Behind Bars** recorded 370 cases of ill treatment and/or torture on arrest and in detention. The trajectory of the situation is grave, with 12 reported cases of torture during 2013 (April to December) rising to 76 reported cases of torture in 2014. During 2014 there were also five reported cases of cruel and degrading treatment experienced by political detainees. During the overall period, political detainees were variously shocked with electric stun batons, beaten using a hammer, slashed with bayonets, burned with cigarette butts, beaten on the genitals, chained together and forced to crawl on their hands and knees.

There were numerous violations of the right to a fair trial, starting with restrictions on access to lawyers. During the period of this report, **Papuans Behind Bars** recorded 66 cases where access to lawyers was obstructed in political cases. They also documented 25 cases of arrests made without warrants, and 16 cases of forced confessions. It should be noted that these figures are likely to represent only a proportion of actual violations, as they reflect data only from those cases where the detainee received legal accompaniment.

The use of Indonesia's outdated treason laws has increased in Papua, despite continued lobbying by local and national NGOs against the use of these outdated laws. International human rights watchdogs and some states assessing Indonesia's human rights record at the UN Universal Periodic Review have also lobbied on the same issue. The recorded number of charges under Article 106 on treason in the Penal Code rose from 22 cases in 2012 to 25 cases in 2013 and 31 cases in 2014.

The charge of treason was levelled at indigenous Papuans for a wide range of alleged 'offences,' including possession of documents relating to the Melanesian Spearhead Group, possession or raising of the Morning Star flag, gathering to commemorate the May 1st annexation of Papua by Indonesia, celebrating the Third Papuan Congress, celebrating the anniversary of the founding of the West Papua National Committee (*Komite Nasional Papua Barat*, KNPB), distributing leaflets calling for an election boycott, and affiliation with or providing material support to the West Papua National Army (*Tentara Nasional Papua Barat*, TNPB).

Police in Papua continued to use Emergency Law 12/1951 to prosecute a range of alleged offences, from possession of sharp weapons to possession of ammunition or explosives. During the period of this report, **Papuans Behind Bars** recorded 32 political cases where detainees were charged with this law. As noted by the UN Working Group on Arbitrary Detention, this

1 1 April 2013 to 31 December 2014

What is a political arrest?

These are arrests which appear to be politically motivated, and can include arrests which happen in political contexts such as demonstrations or places used by politically active people and organisations; arrests of politically active people or their relatives; arrests of people because of their alleged political affiliations; arrests for political activities such as raising a flag or engaging in civil resistance activities, mass arrests, and politically-motivated arrests under manipulated criminal charges.

While many political arrests do not result in long-term detention or prosecution, it is important to monitor them as they show patterns of targeting and harassment which are used to limit freedom of expression and assembly in West Papua. (*Papuans Behind Bars*)

is Indonesia's oldest emergency law and dates back to the time when Indonesia was fighting for its own independence.² As happened during riots in West Kalimantan and the independence struggle in East Timor, the law is now often invoked in West Papua against indigenous people carrying pocket knives, particularly if they are seen as politically active. The law carries a maximum penalty of death, and as such is of particular concern at present, given that the reintroduction of a moratorium on the death penalty currently appears to be a distant prospect.³ Furthermore, as the UN Working Group on Arbitrary Detention highlighted following its 1999 visit to Indonesia, these laws are outdated and should be abrogated, leaving police to use the relevant sections of the penal code. In 2014, police in Wamena chose to use Article 187 of the Penal Code rather than the emergency law to prosecute the Pisugi election boycott case, in which a number of men were arrested for distributing leaflets calling for an election boycott. While this case was nonetheless an example of repressive policing, the use of Article 187 represents a minor improvement.

During the period of this report there were nine cases in which political prisoners were reportedly denied access to healthcare. Several

developments regarding the health of political prisoners are of particular concern. Yohanes Boseran, arrested in Biak in May 2013, was beaten so badly on arrest that he developed mental health issues while still in detention in November later that year. Despite repeated petitions on his behalf by his lawyers, he did not receive adequate medical care and was given only sedatives. He remained in detention until January 2014 when charges against him were dropped and he was released. In September 2013, political prisoner Boas Gombo, who was subjected to severe beatings on arrest earlier that year, experienced a severe mental breakdown. As in the case of Yohanes Boseran, Gombo had received repeated heavy blows to the head on arrest.

In August 2013, political prisoner Filep Karma suffered more health problems as he prepared to enter his tenth year of incarceration, following raising the Morning Star flag at a demonstration in 2004. Karma has suffered repeated serious health complaints, and on this occasion was diagnosed with heart disease and recommended for specialist hospital treatment. The Head of Abepura prison reportedly ignored three referral letters from the medical team requesting treatment. However, following local lobbying the treatment was eventually granted.

2 Report of the Working Group on Arbitrary Detention on its visit to Indonesia (31 January-12 February 1999), Commission on Human Rights, 56th Session, Item 11a, E/CN.4/2000/4/Add.2, <http://daccess-ods.un.org/TMP/4112580.71660995.html>

3 Joko Widodo says abolishing death penalty possible, but not for a 'long time', Sydney Morning Herald, 9 March 2015, <http://www.smh.com.au/world/joko-widodo-says-abolishing-death-penalty-possible-but-not-for-a-long-time-20150308-13y6ve.html>

At the policy level, during the latter part of the presidency of Susilo Bambang Yudhoyono there were indications that conditions were slowly becoming more favourable to change. While in 2012 the government stonewalled the political prisoner issue and stated that political prisoners did not exist, in 2013 the Governor of Papua and the Minister of Law and Human Rights publicly acknowledged the existence of Papuan political prisoners.⁴ In August 2013, the Governor visited Abepura prison where many of Papua's political prisoners are held. A group of political prisoners issued a pre-emptive statement rejecting offers of clemency, as they felt that accepting such an offer would be tantamount to an admission of guilt for peaceful acts of conscience. While attempts to broker political prisoner release did not work out on that occasion, the approach of recognition at least represented progress. However, since the inauguration of President Joko Widodo in October 2014, initial hopes for a national change of heart on Papua have been dashed. During the first six months of Widodo's presidency, there have been no indications of policy change towards freedom of expression and the opening of democratic space in Papua.

International scrutiny of the right to freedom of opinion and expression in Papua remains severely restricted. While the Special Rapporteur on freedom of opinion and expression was scheduled to visit Indonesia on 14 January 2013, the visit was unilaterally cancelled and indefinitely postponed by Indonesia, because of the Special Rapporteur's wish to visit Papua or Maluku. To date, there has been no response to the Special Rapporteur's follow-up request to the Indonesian government at the UN 23rd Human Rights Council session to agree the programme of his visit. Considering the approval of visits by the Special Rapporteur on torture and the Special Rapporteur on human rights defenders in 2007, the blocking of access for the Special Rapporteur on freedom of expression in 2013 indicates a

regression in Indonesia's position regarding outside scrutiny of human rights in Papua. In its representations at the United Nations, Indonesia has remained defiant on the issue. In July 2013 when the UN Human Rights Committee raised concerns about freedom of expression when reviewing Indonesia's implementation of the International Covenant on Civil and Political Rights, Indonesian government official Bambang Darmono responded that "freedom of expression is not absolute," citing the need to protect state sovereignty.⁵

The Morning Star flag is a symbol of Papuan identity, and while it is allowed under Indonesia's 2001 Special Autonomy laws relating to the governance of Papua, it was subsequently banned by Presidential Regulation 77/2007.

Who is a political prisoner?

There is no standard definition of a political prisoner. Papuans Behind Bars includes those detainees where there is reason to believe that their detention was politically motivated. To read a full definition and discussion of the nuances of this complex subject within the context of West Papua, please visit www.papuansbehindbars.org

4 hukum.kompasiana.com/2013/06/05/otsus-plus-beranak-grasi-untuk-tapol-napol-papua-566220.html

5 <http://pacific.scoop.co.nz/2013/07/indonesia-affirms-restrictions-to-freedom-of-expression-2/>

Cases

Killings, arrests and excessive use of force following 1 May 2013 commemorative events

On 1st May 2013, Papuans commemorated the 50th anniversary of the administrative transfer of Papua to Indonesia. Peaceful demonstrations went ahead despite a ban issued by the Indonesian authorities,⁶ violating the right to free expression and assembly as guaranteed in the Indonesian Constitution. In connection to these events, during the period of 30 April to 13 May three Papuan activists were killed by police gunfire in Sorong, 36 were arrested in Timika, Sorong, Biak, Abepura and Jayapura, and at least 12 suffered injuries as a result of excessive use of force by security forces. When civil society groups gathered on 13 May to peacefully demand accountability, more arrests were made. At least 30 demonstrators were arbitrarily arrested in Timika, Sorong, Biak, Abepura and Jayapura.

Mass arrests Demonstrations in support of Sorong to Samarai campaign and new FWPC office

Demonstrations were held on 26 November 2013 in support of the opening of a Free West Papua Campaign (FWPC) office in Papua New Guinea, and the launch of the *Sorong to Samarai* campaign. The campaign was run by Powes Parkop, Governor of Port Moresby, aiming to gather national support for Papua's membership bid to the Melanesian Spearhead Group. Police responded with excessive use of force followed by 80 arrests in Jayapura, Sorong, Timika and Fak-fak. One demonstrator was reportedly killed, four disappeared and nine were hospitalised for injuries sustained in clashes. Human rights lawyers were denied access to the detainees, many of whom had been beaten.



Image 2.1a-2: Abner Magalawak was one of four people who were shot dead when security officers opened fire at a crowd that had gathered for a prayer session marking 1 May 2013

Two students tortured following 2 April 2014 demonstration in Jayapura

On 2 April 2014, two Papuan students were arrested at a demonstration demanding the unconditional release of Papuan political prisoners at Cenderawasih University (*Universitas Cenderawasih*, UNCEN) in Jayapura. Alfares Kapisa and Yali Wenda were detained at Jayapura police station for over 24 hours, and were maltreated and tortured on arrest, in the police truck and while at the police station. Three attempts by human rights lawyers to access the detainees were blocked by the police, with the specific knowledge of the Chief of Jayapura police Alfred Papare who himself directly forbade access. The two men were forced to sign a police investigation report stating that they had not been beaten. On 3 April the two men were released and seen by a doctor at Dian Harapan Hospital in Waena, Jayapura, however a doctor's report could not be obtained as the doctors were forbidden by Jayapura police to release the report—either to the patients, their families or their lawyers. Since the two men were released, Yali Wenda stated that he has been intimidated by police intelligence agents.

6 "Gubernur dan Polda Papua Dinilai Langgar HAM," *Tabloid Jubi*, 27 April 2013



Image 2.1a-3: Alfares Kapisa, one of two students arrested and tortured after the 2 April 2014 demonstration on political prisoners. Source: Elsham Papua.



Image 2.1a-4: Yali Wenda, the second of two students arrested and tortured after the 2 April 2014 demonstration on political prisoners.

Wamena election boycott case, July 2014

Following Indonesia's Presidential elections on 9 July 2014, on 12 July 18 people were arrested in Wamena for their involvement in distributing flyers calling for an election boycott. According to human rights lawyers at Democracy Alliance for Papua (Aliansi Demokrasi untuk Papua, AIDP), on 12 July a joint military and police task force raided Wara village in Pisugi district, Jayawijaya. They arrested 18 people, whom they chained together with rope and dragged along a ditch. Their necks and hands were tied with nylon twine. They were reportedly beaten with rifle butts, resulting in one of the detainees fainting and another losing hearing in one ear. A number of villagers were threatened that they would be bayoneted. The wife of one of the detainees was beaten, also losing hearing in one ear. When the 18 detainees arrived at Jayawijaya Regional police station for interrogation, they continued to face torture. While being questioned they were allegedly kicked, beaten and electrocuted. Police reportedly used a hammer to beat their spines, heads and toes. Some of the detainees who were released soon after suffered broken bones as a result of the beatings.

Bloody Paniai, December 2014

On 8 December 2014, 4 Papuans were fatally shot by military and police officers and at least 17 others suffered injuries in Enarotali district in Paniai regency. The violence followed a peaceful protest in the form of a traditional indigenous dance, following the torture and ill-treatment of three boys by military officers the previous day. The demonstration involved around 800 people, who had gathered outside the Enarotali district police station and the Military Command (*Komando Rayon Militer*, Koramil) to demand an explanation for the events of the previous night. The demonstrators performed their traditional dance, whereupon military and police officers responded by indiscriminately shooting live ammunition into the crowd. The youngest among those to suffer injuries was an eight-year-old elementary school student who was shot in the hand. On 7 January 2015, the National Human Rights Commission of Indonesia (*Komisi Nasional Hak Asasi Manusia*, Komnas HAM) formed a Fact Finding Team (*Tim Penyelidikan Fakta*, TPF) which would be able to submit recommendations regarding the case to the government, but not to bring the case to trial.



Image 2.1a-5: Two of the four high school students shot dead as they danced in protest during Bloody Paniai, December 2014. Source: Kingmi Church Papua.

From 18 to 20 February 2015, dozens of eye-witnesses and victims met with the Komnas HAM investigative team led by Maneger Nasution. Nasution told the Indonesian press that thus far, Komnas HAM had found indications of four human rights violations: the right to life, children's rights, women's rights and the right to freedom from torture. Papuan human rights groups have called on Komnas HAM to form an Investigative Commission into Human Rights Violations (*Komisi Penyelidikan Pelanggaran HAM, KPP HAM*) in order to be able to bring the case to trial in accordance with Law 26/2000 on the Court of Human Rights.

Recommendations

To the national government and authorities

- Abrogate Emergency Law 12/1951.
- Repeal Articles 106 and 110 of the Indonesian Criminal Code, and release all those currently detained under these laws.
- The Ministry of Law and Human Rights should amend Government Regulation 99/2012 to remove the parole requirement for loyalty statements in the case of crimes against the state, and/or consider regulating prisoners detained under such charges separately from those convicted of terrorism, corruption and drug crime.
- The government of Indonesia should strengthen the independence and the mandate of Komnas HAM, including unfettered access to conduct monitoring of places of detention, without advance notification.
- Komnas HAM should increase monitoring of places of detention across Papua, particularly prioritising the central highlands and the bird's head region.
- The government of Indonesia should ratify the Optional Protocol to the Convention against Torture, and/or enact a national law to criminalise torture.
- The government of Indonesia should issue a standing invitation to the UN Special Rapporteur on freedom of expression and the UN Special Rapporteur on torture.

To the provincial government and authorities

The Papua Regional Police (Polda Papua) should urgently and radically improve human rights standards in law enforcement in Papua. Polda Papua should work together with local human rights organisations and bar associations to provide effective training for police on human rights obligations throughout the arrest, interrogation and trial process, including guaranteeing the right to a fair trial, the right to access a lawyer, family visits, healthcare, the right to freedom from torture, and training in the UN basic principles on the use of force and firearms. These efforts must be backed up by urgent efforts to eradicate impunity.

- The provincial office of the Ministry for Law and Human Rights together with the Polda Papua should work to strengthen the function of the provincial Professional and Security Division (*Profesi dan Pengamanan, PROPAM*), including by building collabo-

ration with the Witness and Victim Protection Agency (*Lembaga Perlindungan Saksi dan Korban, LPSK*) so that witnesses and victims of rights violations in detention can give evidence in safety without fear of retribution whilst still in detention, or once released.

To international actors such as the United Nations, European Union, African Union and concerned states

- Support calls for the unconditional release of political prisoners, as a step towards peaceful dialogue between the Government of Indonesia and the Papuan community.
- Raise issues of humanitarian concern regarding political prisoners with the Law and Human Rights Ministry (monthly updates available from *Papuans Behind Bars*)
- Press for a visit by the UN Special Rapporteur on freedom of opinion and expression and a follow-up visit by the UN Special Rapporteur on torture.

2.1.b Media Freedom: Violence and Intimidation of Journalists

In Papua, local journalists face the risk of violence and intimidation on a daily basis, while foreign journalists are banned from freely visiting the region altogether. Oppression of the media by the government and police has severely restricted independent reporting by media outlets and monitoring by NGOs. In 2014 the Independent Journalist Alliance of Jayapura (AJI) recorded 18 cases of intimidation and violence against journalists in Papua. This was a slight decrease from 2013, when 20 cases were recorded, and both demonstrate a sharp increase from 2012, when only 12 cases were reported. 21 cases reported in 2013-2014 are detailed in this section. In the past, foreign journalists have routinely reported undercover from West Papua, because the Indonesian government places severe restrictions on access to West Papua for foreign journalists and human rights observers. While several foreign journalists have been arrested and deported, 2014 saw the first time that journalists were prosecuted and sentenced to two and a half months in prison.

The cases include examples of verbal and physical intimidation, such as threats of violence and arson, inappropriate police summons and punitive legal measures, as well as assault and stabbing.

In most cases, the perpetrators of media violence were the Papuan police, with 16 reported cases of media oppression between March 2013 and December 2014. The police have also sought to sow public distrust of the media. In 2013, the head of the Papuan Regional Police stated during an interview with Viva News that foreign intelligence agents were entering Papua disguised as journalists.

The recent development of online media in Papua has created significant changes, with information being dispersed by amateur journalists. Although this has increased the amount of information available and provided alternatives to a mainstream media crippled by government control, it has also increased the risk of misinformation and permitted widespread state infiltration. Moreover, non-professional journalists are still subject to the Press Law, but they are at greater risk of intimidation because they lack the protection and backing of media corporations.

Many attacks result in impunity for the perpetrators and repeat offending. Not one of the

20 cases from 2013 were processed by law enforcement and the 2014 stabbing of journalist Fendi Rakmeni is a stark reminder that justice was never pursued for the 2011 stabbing of journalist Banjir Ambarita.

Case Examples:

Police at press offices

On 1 May 2013, the Mobile Brigade of the police was deployed at Binpa Press, Papua Pos newspaper and the office of Cepos newspaper in Jayapura. AJI communications with police suggested that the police were deployed at the request of a chief editor during a coffee morning show at Papua police.

At 10:00pm on 21 May 2013, a truck of approximately fifteen heavily armed members of the police Mobile Brigade broke into the offices of Papua Pos in Jayapura. The squad confiscated photos and equipment.

Police prevent printing

On 3 July 2013, Jayapura police prevented Papua Pelita magazine from retrieving 2,000 copies of their inaugural issue from the printers, on the grounds that they needed to review the content. The police instructed the publisher not to issue any further copies.

Camera confiscated at airport

On 14 August 2013, Cenderawasih Pos reporter Marthen Boseran was stopped by airport security in Sentani. Boseran was reporting on travel conditions before Eid Mubarak when officer Laurens Ohee seized his camera.

Assault on journalist at border

On 15 August 2013, Paniai police began a sweeping operation at the border of East Paniai-Enaro. During the operation Andreas Badii, a reporter for Bintang Papua Daily, was assaulted by three police officers.

Reporter evicted for documenting logging case

On 9 September 2013, Ricardo Hutahaeen, a stringer for Metro TV, was evicted by police for taking pictures of Labora Sitorus, who was suspected of illegal logging.

Unsubstantiated bribery accusations

On 5 October 2013, the Papua Chief of Police stated in an interview during the TNI Anniversary celebration at Makodam XVII that Labora Sitorus had bribed reporters, but did not provide any evidence or clarification for the allegation.

On 29 October 2013, members of the Papuan People's Representative Council (DPRD) who were accused of wrongfully accepting money from the Social Aid Fund alleged that members of media corporations had also improperly received money. Papua police repeated the allegation.

Police intimidation at protests

On 26 November 2013, three journalists were attempting to report on peace demonstrations by the National Committee of West Papua (KNPB) when they were approached by Jayapura City police officers in front of the Budaya Expo Museum. The three reporters, Emil Wayar from Tabloid Jubi, Misel Gobay from Suluh Papua and Arnold Belau from Suara Papua, were verbally and physically intimidated by the police officers. The head of Jayapura district police subsequently issued an apology for the incident, but there were no disciplinary consequences for the officers involved.

Denial of freedom of information

On 28 March 2014, a representative of the controlling board for general elections in Papua visited the Chief Editor of the Cenderawasih Pos newspaper in Jayapura to request information about news reports on a legislative candidate.

What is Media Freedom?

Freedom of the media is the right to communicate information and opinions through publication in print, online or through electronic media without interference from the State. The Universal Declaration of Human Rights states that 'everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference, and impart information and ideas through any media regardless of frontiers'. The International Covenant on Civil and Political Rights ensures the right of the press to publish without censorship or restraint to inform public opinion and the corresponding right of the public to receive media output.

Media freedom in Indonesia is enshrined in articles 28 and 28F of the 1945 Indonesian Constitution and is implemented by Law 40/1999 on the Press, which states that 'the national press as the media for mass communication, information dissemination, and shaping public's opinion, must be able to perform at its best according to its principles, functions, rights, obligations and roles based upon the professional freedom of the press, guaranteed and protected by the law and free from any interference and intrusion'. The clarifying legislation for this law states that it means that press shall be free from obstacles, banning and/or suppression in order that the public right to obtain information is guaranteed.

His request was denied on the grounds that the news was already clear.

Inappropriate summons

On 6 April 2014, Riri, a contributor at Radio KBR68H, was issued a summons by police to appear as a witness regarding administrative violations in relation to electoral campaigns. The summons was inappropriately issued by police rather than a court and the case was unrelated to journalistic activities.

Police cover-up of accident

On 15 June 2014, police obstructed reporters in Harapan village in Jayapura as they attempted to photograph a Mobile Brigade Truck which had been involved in an accident. The truck had hit a barn containing pigs which belonged to Maria Pouw. The reporters were made to delete their photos.

Foreign journalists arrested

On 6 August 2014 Jayawijaya police arrested two French reporters, Charles Dandois and Marie Bourrat, as they returned from a meeting with Areki Wanimbo. The two were charged with breaches of immigration law for reporting without permission and were sentenced to 2.5 months imprisonment, although breaches of immigration law usually result in deportation rather than criminal charges. Prior to the trial, police spokesmen suggested the reporters could be charged with treason, an offence with a maximum penalty of 20 years imprisonment.

Police intimidation

On 13 August 2014, journalist Imam Thohari of the Plat Merah tabloid was summoned by police and instructed to name his source. Thohari refused to reveal his sources.

Foreign Journalism in West Papua

Foreign journalists are not permitted to enter West Papua without a special permit and those seeking to report on human rights are regularly denied entry. These stringent immigration controls effectively prevent all foreign press coverage of the ongoing conflict and the living conditions of the West Papuan people, in breach of the UDHR, the 1945 Constitution and Press Law 40/1999.

Silencing reports on student protests

On 15 August 2014 Aprila Wayar, a reporter from Jubi, was obstructed by police whilst attempting to cover student protests in Jayapura. Aprila Wayar was dragged from the scene by five police. At the same event Oktovianus Pogao from Suara Papua was instructed by police to delete all photos of the protests.

Mayor files notice against Editor-in Chief

On 26 August 2014, the Mayor of Jayapura filed a legal notice against the Editor-in-Chief of Jubi Online, Victor Mambor. The proceedings claimed that Jubi had published fake news, but Victor Mambor was able to demonstrate that the news was based on a statement from the Head of Public Relations at Jayapura City Administration.

Mob storms media office

At 5:00pm on 27 August 2014, a mob stormed the office of Plat Merah in Merauke, threat-

ening to burn down the office in revenge for alleged biased reporting. The group was led by Fanny Renyaan and Ary, civil servants from the Workforce and Transmigration Agency, as well as Anim It Waninggap, member of Military Resort Command 174 and personal bodyguard of Romanus Mbaraka, the regent of Merauke.

Obstruction and corruption

On 8 September 2014, members of the Mobile Police Brigade obstructed Jorsul Sattuan, a reporter from TV One in Jayapura. Jorsul Sattuan was attempting to photograph members of the Corruption Eradication Commission as they searched the office of the Finance Department of the Mining Agency of Papua.

Journalist stabbed by police

On 10 October 2014, Fendi Rakmeni of Top TV in Jayapura was stabbed by Martinus Manfandu, a member of the Civil Service Police. Mr Rakmeni was attempting to report on an accident on the Entrop Highway when the officer, who was under the influence of alcohol, obstructed him. The two men argued and Mr Manfandu stabbed Mr Rakmeni.

Lack of transparency in courtrooms

On 11 November 2014, journalists attempted to enter the courtroom at West Papua House in Manokwari to report on the inauguration of the House Chief. The journalists, who were from Koran Harian Pagi Cahaya Papua, Tabura Pos, Radar Sorong and Papua Barat TV, were prevented from entering by courtroom staff.

SPSI assaults reporter

On 21 November 2014, Harian Papua journalist Melky Japeky was attacked by members of SPSI while reporting on an altercation in Pendidikan Ujung Road in Timika. Percy Mebri, an SPSI member, ordered forces to assault Japeky, falsely claiming that he was a member of the opposing party. After being brutally assaulted, Japeky was able to escape and hide inside a nearby store.

False charges against journalist

On 27 November 2014, Gamel Nazer, a reporter for the Cenderawasih Pos, was summoned by Jayapura Police on charges of forgery and defamation against the Commissioner of Provincial KPUD, Zadrak Nawipa. Claims of defamation were bogus, as Nazer's reports had covered both sides of the story.

2.2 Freedom of Assembly

Between April 2013 and December 2014, 47 protests were recorded by Papuans Behind Bars and Elsham Papua. Of these, only five did not result in arrests. In three of those cases, police successfully negotiated with demonstrators to travel by police truck instead of marching. 32 demonstrations took place in 2013, while only 15 protests were recorded in 2014. According to civil society activists and students in the region, the decline in demonstrations is the result of the repressive actions of security forces during 2013, which affected the democratic space and discouraged political protest.

In July 2013 a new Indonesian law on Mass Organisations (*Undang-undang Organisasi Kemasyarakatan*, or 'Ormas') was enacted. This is a disturbing development which threatens freedom of peaceful assembly, association and expression in Indonesia. The controversial bill was passed by parliament despite considerable opposition by civil society groups and international rights watchdogs, who were concerned that the use of a regulatory system could diminish the autonomy of civil society organisations and infringe on their rights to privacy and freedom. Several cases reported following the introduction of the Ormas law demonstrate such infringements and suggest that these concerns were justified.

Case Examples:

Ormas bill used to justify arrest and prevention of peaceful action

On 25 September 2013, Papuan leader and former political prisoner Edison Kendi was arrested at his home by armed police officers and Kopassus army Special Forces officers, reportedly because of his involvement in a peaceful procession that was planned to take place the following day. The procession was planned by civil society groups in Papua to welcome a gift of sacred water and ashes from indigenous elders in Australia. At the

time of the arrest, police allegedly stated that the action was in accordance with the Law on Mass Organisations, which mandates that consent to demonstrate would not be given to groups that are not registered with the Department for National Unity and Politics (*Kesatuan Bangsa dan Politik*, Kesbangpol), a government body within the Interior Ministry.

Arrests of activists in Boven Digoel justified on basis of Ormas bill

On 28 June 2014, 20 activists from the West Papua National Committee (*Komite Nasional Papua Barat*, KNPB) were reportedly arrested at their Secretariat in Boven Digoel. Around 50 regional police officers reportedly searched the KNPB Secretariat, confiscating several items including five mobile phones, a digital camera, KNPB flags, banners and money from the Secretariat. While the 20 activists were subsequently released, the Head of Boven Digoel Regional police, Iswan Tato, reportedly told the activists that police raided the Secretariat because of an incident when the KNPB flag was raised in front of the Secretariat. He further explained that this was in accordance with national regulations, stating that all organisations not registered with Kesbangpol were considered illegal and therefore associated items, such as flags, were also banned.

Demonstrations Recorded in Papua from April 2013-December 2014

Date	Demonstration	Location(s)	Arrests	Reported violations
30/04/13	Aimas 1 May commemorative activities	Aimas district, Sorong	7	Arbitrary detention; Intimidation of lawyers; Ill treatment on arrest; Unfair trial
01/05/13	Timika flag-raising 1 May	Timika	15	Arbitrary detention (15); Denied access to lawyers (5); Torture in detention (5)
01/05/13	Biak 1 May	Biak	6	Arbitrary detention; Unfair trial
01/05/13	Abepura demo 1 May	Abepura, Jayapura	1	Arbitrary detention
13/05/13	Demonstration demanding accountability into 1 May arrests	Jayapura	7	Arbitrary detention (7); Ill treatment on arrest (6); Torture on arrest (1)
10/06/13	Demonstration supporting West Papuan membership of the MSG	Sentani	3	Arbitrary detention
12/06/13	UNCEN demo	Abepura, Jayapura	1	Arbitrary detention; Ill treatment on arrest
18/06/13	Demonstration in support of MSG meeting in New Caledonia	Biak	0	Notes: Demonstrators negotiated with police who did not want them to carry out a long march. They agreed for the demonstrators to use three vehicles provided by the police for their demonstration instead of walking down the street.
05/07/13	Bloody Biak memorial	Biak	1	Arbitrary detention
25/07/13	Demonstration on freedom of expression and political prisoners	Fak-Fak	0	Notes: 200 or so people protested against restricted international media access and political prisoners. Police told some people to take off shirts that had the Morning Star flag on them. The demonstration was dispersed 40 minutes after it began.

29/07/13	Demonstrations supporting ICCPR review	Jayapura	4	Arbitrary detention; Ill treatment on arrest
13 and 14/08/13	Cultural parade arrests	Fak-Fak	9 arrested on 13th, 150 arrested on 14th	Arbitrary detention (159); Ill treatment on arrest (17)
15/08/13	Cultural parade arrests	Waena, Jayapura	16	Arbitrary detention
14/09/13	Freedom Flotilla demonstrations	Fak-Fak	0	Notes: Interestingly after the mass arrests in Fak-Fak last month, this demonstration was tolerated by the police. Posters and placards of the Morning Star were not confiscated.
16/09/13	International Day of Democracy demonstrations	Sentani Toladan, Jayapura	9	Arbitrary detention
16/09/13	International Day of Democracy demonstrations	Sentani Sektor Gunung Merah, Jayapura	20	Arbitrary detention; Ill treatment on arrest
16/09/13	International Day of Democracy demonstrations	Waena, Jayapura	10	Arbitrary detention (10); Ill treatment on arrest (7)
16/09/13	International Day of Democracy demos	Taman Imbi, Jayapura	14	Arbitrary detention
16/09/13	International Day of Democracy demonstrations	Sorong	27	Arbitrary detention
16/09/13	International Day of Democracy demonstrations	Nabire	8	Arbitrary detention
18/09/13	Freedom Flotilla demonstrations and commemorating Biak massacre	Biak	4	Arbitrary detention
25 and 26/09/13	Freedom Flotilla demonstrations	Yapen	2	Arbitrary detention
19/10/13	Third Papuan Congress anniversary	Fak-Fak	22	Arbitrary detention
19/10/13	Third Papuan Congress anniversary	Biak	28	Arbitrary detention

07/11/13	Demonstration against Otsus Plus	Waena, Jayapura	15	Arbitrary detention; Ill treatment in detention; Denied access to lawyers
08/11/13	Demonstration against arrest of students the previous day and against Otsus Plus	Waena, Jayapura	16	Arbitrary detention; Ill treatment on arrest (1) and Ill treatment in detention
25/11/13	Demonstration in support of Sorong to Samarai campaign and opening of FWPC office in PNG	Waena, Jayapura	16	Arbitrary detention; Ill treatment on arrest
26/11/13	Demonstration in support of Sorong to Samarai campaign and opening of FWPC office in PNG	Timika	32	Arbitrary detention
26/11/13	Demonstration in support of Sorong to Samarai campaign and opening of FWPC office in PNG.	Jayapura	28	Arbitrary detention; Ill treatment in detention (25); Denied access to lawyers (12)
26/11/13	Demonstration in support of Sorong to Samarai campaign and opening of FWPC office in PNG	Sorong	3	Arbitrary detention
26/11/13	Demonstration in support of Sorong to Samarai campaign and opening of FWPC office in PNG	Fak-Fak	1	Arbitrary detention
10/12/13	Gempar human rights demonstration	Jayapura	0	Notes: Students were not allowed to do a long march so they made speeches in the campus and later on used trucks arranged by the police Head to travel to the DPRP office to continue activities there.
13/01/14	Aimed at the visiting MSG delegation	Jayapura	7	Arbitrary detention; Ill-treatment on arrest
02/04/14	Global Day of Action for Papuan political prisoners	Jayapura	2	Arbitrary detention; Torture on arrest; Torture in detention
03/07/14	Boycott of Presidential elections	Jayapura	6	Arbitrary detention; Ill treatment on arrest
04/07/14	Boycott of Presidential elections	Timika	7	Arbitrary detention; Ill treatment on arrest; Ill treatment in detention (1)

05/07/14	Boycott of Presidential elections	Fak-Fak	1	Arbitrary detention
12/07/14	Boycott of Presidential elections	Wamena	22	Arbitrary detention; No arrest warrant (18); Torture on arrest (18); Torture in detention (18)
17/07/14	Calling for a referendum	Timika	25	Arbitrary detention (25); Ill treatment on arrest (15); Ill treatment in detention (3); Torture in detention (1); Cruel and degrading treatment (3)
23/07/14	UNCEN demonstration calling for replacement of Dean of the Medical School	Waena, Jayapura	6	Arbitrary detention; Denied access to lawyers
15/08/14	Gempar demonstration against NY? agreement	Waena, Jayapura	11	Arbitrary detention; ill treatment on arrest (3)
13/10/14	Calling for the release of French journalists	Merauke	29	Arbitrary detention
13/10/14	Calling for the release of French journalists	Jayapura	17	Arbitrary detention
19/10/14	Commemorating 6 th KNPB anniversary	Nabire	10	Arbitrary detention; Ill treatment on arrest (1); Ill treatment in detention; Denied access to lawyers (6)
19/10/14	Commemorating 6 th KNPB anniversary	Dogiyai	12	Arbitrary detention; ill treatment in detention (9); Torture on arrest (3); Ill treatment in detention (4); Denied access to lawyers (4); Denied access to healthcare (5)
10/12/14	Gempar human rights day demonstration	Jayapura	0	Notes: Students were not allowed to do a long march so they made speeches on campus and later on used trucks arranged by the police Head to go to the DPRP office to continue activities there.
27/12/14	Protest against President Joko Widodo's visit to Papua	Jayapura	23	Arbitrary detention
Total arrests at demonstrations during period			653	

2.3 Human Rights Defenders

In 2014, human rights organizations observed a sudden increase in attempts to criminalize, intimidate or even physically attack human rights defenders, when elections brought a period of political instability to West Papua. The threats and physical offenses against human rights defenders are closely related to the Indonesian government's conservative security-based approach, which is fueling human rights violations and attacks on human rights defenders. The high number of cases indicates an increasingly shrinking democratic space in West Papua.

As in many conflict-affected areas, human rights defenders in West Papua have to work in an all-pervasive atmosphere of fear and are subject to repressive actions, intimidation or even physical attacks. Human rights defenders and journalists working independently or from small local organizations are particularly vulnerable. Until now, Indonesia has restricted the presence of international human rights organizations and human rights observers in West Papua, even though local human rights activists frequently report about ongoing human rights violations in Indonesia's easternmost provinces of Papua and Papua Barat. As a result of a regressive government policy, several international organizations had to leave West Papua. This has isolated the conflict region further from international human rights observation.

Harassment of human rights lawyer Eliezer Murafer

According to a press release issued by senior Papuan lawyer Yan Christian Warinussey, human rights lawyer Eliezer Murafer of LBH(?explain) Papua has experienced harassment and physical threats throughout 2013 and 2014 while defending treason cases in Timika and Serui.

Unknown men threaten to burn house of human rights defender Yusak Reba

On March the 18th 2014 at 11:20, five men came to the house of Yusak Reba, the director of the Papuan Institute for Civil Strengthening (ICS) and

lecturer for law at Cenderawasih University, and threatened to burn his house to the ground. The five men were angry because Yusak Reba had demanded the prosecution of two provincial government officials, who had been charged in relation to a corruption case in Lanny Jaya regency. Moreover, they threatened Yusak Reba, saying that he should stop criticizing the provincial government policies or otherwise he would pay for it¹.

Police officers threaten Human Rights defender Yones Douw in Nabire

On 23 April 2014 at 11:30 local time, Yones Douw, a human rights defender from the human rights desk of the Tabernacle Church Papua (Kingmi Papua), was threatened by several police officers. When he was trying to attend the plenary meeting of the local election commission (KPU) in Nabire, police officers intercepted Yones Douw as he entered the building, leading to a dispute between Yones and the police officers. As, five crowd control (DALMAS) police officers saw the incident, they approached Yones Douw. One of the police officers intimidated Yones by placing his hand on the gun holster, as if to draw his weapon. Another police officer named Sukifri yelled from a nearby police vehicle to the other officers "Just kill him, shoot him or beat him up!" Police Officer Sukifri already knew Yones Douw from a previous incident at the Tumartis Market Nabire in 2009. At that time the officer had threatened Yones Douw at gunpoint, then released several shots in another direction. This

¹ E – document: <http://tabloidjubi.com/2014/03/18/akibat-kritis-kebijakan-gubernur-direktur-ics-diancam-orang-tak-dikenal/>

was because Mr. Douw complained against the excessive use of force against a Papuan man during the attempt to resolve a conflict between two local residents².

Human Rights Lawyer Anum Siregar becomes victim of knife attack in Wamena

On September the 16th 2014 at 19:00 hours, Ms Anum Siregar, a human rights lawyer of the Democracy Alliance for Papua (ALDP), was attacked with a knife as she returned to her hotel following a high profile pre-trial hearing against the head of district police Jayawijaya in Wamena. The pre-trial hearing was launched because police officers in charge violated the criminal procedure code (KUHAP) during the arrest of her client Areki Wanimbo, a Papuan political prisoner originally arrested in August alongside two French journalists (see below). The perpetrator attacked Ms. Siregar in front of her hotel with a knife and injured her hand. After that, he managed to grab Ms. Siregar's bag and run away. The cut required two stitches,³ and Ms Siregar has yet to recover normal functioning in her hand. Police were extremely reluctant to respond to the case. They then made a public statement saying that the incident had nothing to do with the trial. This statement was somewhat premature seeing as there had been no police investigation into the attack.

Arrest and prosecution of 2 French journalists

(See section on media freedom for more information on this case)

Judge files complaint against prominent Human Rights Lawyer Gustaf Kawer

On August the 22nd 2014, Papuan Lawyer Gustaf Kawer received a letter from the Crime Inves-

tigation Department (DIT RESKRIMUM) of the Papuan Regional Police (POLDA Papua), which summoned him to testify as a witness in a case against himself. This case related to his protest on June 12, 2014 in a trial at the Jayapura State Administrative Court. At that time, Gustaf Kawer had requested the adjournment of the verdict, because he was not able to attend the hearing as attorney of the plaintiff. The plaintiff wanted to cancel the issuance of a land certificate by the National Land Agency (BPN) of Jayapura Regency. The letter from the Crime Department of the Papuan Regional Police to Kawer refers to the criminal charges as "Crimes Against Public Authority", as defined in Articles 211 and 212 of the Indonesian Criminal Code (KUHP), as the legal basis for the investigation. As the judges began with the reading of the verdict, the hearing was only attended by the plaintiff, the defendant and the defendants' lawyers. Gustaf Kawer was only informed by sms, that his request to adjourn the verdict was rejected by the panel of judges, so he went to Jayapura State Administrative Court and demanded the judges to stop the reading of the verdict. Although Gustaf Kawer interrupted

Who is a defender: "Human rights defender" is a term used to describe people who, individually or with others, act to promote or protect human rights. Human rights defenders are identified above all by what they do and it is through a description of their actions and of some of the contexts in which they work that the term can best be explained. (UN Special Rapporteur on the situation of human rights defenders, More at: <http://goo.gl/3hTWaz>)

2 JPIC KINGMI (24.04.2014): Terror dan Intimidasi terhadap anggota KPKC, KINGMI Papua

3 E – document: <http://tabloidjubi.com/2014/09/17/usai-mempraperadilan-polisi-anum-siregar-ditikam/#>

the reading of the verdict, he did not undertake acts of violence, threats of violence or coercion against the judges. The case indicates that judges at the Jayapura State Administrative Court and the Papuan Regional Police are trying to criminalize Gustaf Kawer as an attempt to deliberately complicate and hinder Gustaf Kawer in carrying out his profession as human rights lawyer. The legal process was finally ended after religious leaders, Lawyers Association PERADI

and inter-/national human rights organizations had urged the police and judge association to withdraw the criminal charges⁴. Throughout the duration of this incident, lasting around three months, Gustaf Kawer was forced to relocate for his own security. This incident followed a previous attempt to prosecute Gustaf Kawer in 2012 while he was representing defendants in a high profile treason case.

4 Urgent Appeal of Civil Society Coalition for the Enforcement of Law and Human Rights in Papua, ICP and TAPOL (04.09.2014): Attempted Criminalization of Papuan Human Rights Lawyer by Law Enforcement Authorities

2.4 Extra-judicial Executions

Between April 2013 and January 2015, at least 22 people in West Papua became victims of extra-judicial executions. Most executions resulted from the use of excessive force during sweeping operations and violent dispersals of peaceful gatherings or protests. All victims of extra-judicial executions were indigenous Papuans, which demonstrates the racial discrimination inherent in the use of excessive force. With no efficient mechanisms available for investigation or prosecution, security force members who commit these crimes enjoy impunity.

Over the past two years the number of reported extra-judicial executions has increased, with remote areas in the central highlands such as Puncak and Puncak Jaya becoming hot spots for violence. Many extra-judicial executions go unreported because human rights defenders and journalists have limited access to these regions.

Of the cases of extra-judicial executions reported in 2011-2012, several resulted in military investigations and trials. None of the cases reported in the period 2013-2014 has led to prosecution, even though there is strong evidence and the identity of the alleged perpetrator is known in many cases. Although there are mechanisms available for the investigation or prosecution of security forces, such as military tribunals and KOMPOLNAS or PROPAM for the police, these lack transparency and are rarely used to address cases of violence in Papua.

In 2013-2014, fewer cases were reported where violence was triggered by peaceful political activities such as protests. However, this is because freedom of expression in Papua has been restricted to such an extent that it became more difficult to engage in such activities. This is compounded by the ongoing killings of political activists such as Martinus Yohame, a KNPB leader.

Law 9/1998 on Freedom of Public Expression has increasingly been used to permit the temporary detention (“diamankan sementara”) of protesters or dissidents, creating fear and suppressing civil resistance.

Governor Lukas Enembe stated in January 2014 that shooting incidents in Puncak Jaya which were previously attributed to members of OPM will henceforth be categorized as the work of criminal gangs rather than political resistance. The term “KKB”, or Kelompok Kriminal Bersenjata (Armed Criminal Group) is now being used in order to depoliticize the violence in Papua and to detract attention from the motives of protesters and members of the resistance.

The killing of three uninvolved Papuan men that occurred in August 2014 in Abepura, as police forces carried out a sweeping operation at the Central Yotefa Market revealed, that security forces also conducted extra-judicial executions as spontaneous acts of retaliation.

Case examples:

Joint security forces kill three during crackdown in Aimas, Sorong

At 9:00pm on the 30th of April 2013, joint security forces initiated a crackdown on a peaceful gathering protesting the integration of West Papua into Indonesia. Security forces shot Abner Malagawak (22) in the chest and Thomas Blesya (28) in the back of the head. Two others were seriously injured during the violent crackdown of the peaceful gathering for the commemoration of the integration of West Papua into Indonesia in Aimas, Sorong. Ms. Salomina Kalaibin (37) was shot in the stomach and shoulder and taken to Sorong hospital for treatment. On 6 May 2013 family members witnessed an unknown man



Images 2.4-1: Victims of the security force crackdown in Aimas, Sorong: Salomina Kalaibin (L) and Abner Malagawak (R).

dressed as a doctor enter her room and inject a black substance into her IV drip. Salomina began convulsing and died shortly afterwards.¹

subsequently taken to the Jayawijaya Sub-District Police Station for interrogation and were allegedly subjected to ill-treatment.²

Military kill Arton Kogoya in Wamena

At 9:30am on 11 May 2013, Six members of the 756 Wimane Sili Military Batallion argued with Arton Kogoya (26) after seeing him shouting under the influence of alcohol in front of an internet café in Jl. Yus Sudarso. The military personnel argued with Arton, who eventually returned home accompanied by a witness to the dispute. The soldiers followed the two men home and shot Arton Kogoya six times. (graphical image omitted)

Police shoots Marthen Gobai Drunken man shot by police in Nabire

At 7:30pm on 5 September 2013, Marthen Gobai was escorted home by a police officer whilst drunk and was instructed not to leave his house again or else he would be shot by police. Marthen subsequently left his house again at 9:00pm. On the following morning, his family was informed that Marthen had been shot in the head and that his body had been taken to Siriwini Hospital. A witness testified to the family that the body had been taken to the hospital by police at approximately 12:30am. The doctor denied the family's request for an autopsy report, saying that he did not have police approval. (graphical image omitted)

Police murder mentally ill man in Wamena

At 10:30am on 8 August 2013, Irwan Wenda, a mentally ill man, was shot and killed by Brigadier Policeman Lusman Lua. The two argued outside a cyber café on Jl. Ahmad Yani in Wamena, Jayawijaya regency and Lua fired two warning shots into the air before shooting Irwan in the stomach, head and left arm. Prior to the shooting, two witnesses explained to Mr.Lua that Irwan was mentally ill. The witnesses were

Joint security forces attack on village unprovoked

At 6:30am on 29 November 2013, joint forces of police mobile brigades and the military after having received information that TPN OPM had organized a training camp near the village of

1 JPIC GKI Case Report (04/05/2013): Recent Incidents in West Papua related to the Commemoration of 1 May

2 Asian Human Rights Commission (20.08.2013):Police in Jayawijaya shoot a mentally ill Papuan to death.

Yongsu Spari village, approached the village unprovoked and opened fire. Residents did not resist, but sought refuge in the jungle. Eduard Okoseray, a resident of the village, was shot in the chest as he ran into the forest to seek shelter.³ (graphical image omitted)

Police officer and security guard beat indigenous Papuan to death

On 31 December 2013, Andri Paat, a security guard of the Dharma Agro Lestari company and Max M., a policeman from Okama beat Roby, a villager from Sanggase to death in Okaba, Merauke. Roby had been drinking as part of a new year's celebration when he was detained by the two security guards, who punched and kicked him repeatedly, causing severe head trauma and bleedings.⁴

Armed conflict in Yapen causes displacement and killings of victims

On 1 February 2014, joint security forces from Yapen police and Serui Military Command 1709 attempted to disperse a gathering of the armed resistance movement (West Papua National Army - TNPB). Two members of the security force and two civilians were shot during the conflict. Civilian Joshua Arumpayai was killed. Hundreds of residents were displaced from Sasawa, Kiminawa, Kawanda, Wartanen, Tindarek, Saubeba and Yobi villages. The incident marked the beginning of an outbreak of violence on Yapen island in 2014.

At 3:15pm on 1 March 2014, five mobile police brigade officers tortured Agus Wondowoy-Nuba (22) in his home. The police officers dragged him out to his yard, where neighbours were able to witness the deterring violence. They punched him, kicked him in the face and stomped on his back and head. 54 neighbouring families fled



Image 2.4-2: Dead body of Irwan Wenda with traditional facial paintings after his admission to the Wamena public hospital.

into the jungle for fear of becoming the next victims.

At 7:00pm on 22 March 2014, members of the mobile police brigade swept into Konti village. Police dragged Ms. Anatje Aurai (68) from her house and interrogated her. An officer hit her in the head with the muzzle of his rifle, instantly killing her.

On 10 June 2014, policemen from Yapen headquarters shot and killed Rudi Orarie (40). Although he was a member of an armed separatist group, he was unarmed at the time of the shooting and offered no resistance. The autopsy revealed that Mr Orarie was shot five times and that there were three wounds caused by sharp cutting devices on his body, which indicates that he was tortured by police prior to his execution. At 4:15pm, police burned down the house of Mr Orarie's father in law, Obet Worembai, in Kainui Village. His family were forced to seek shelter in the jungle.⁵

3 JPIC GKI (06.01.2014): Armed Clashes in Yongsu Spari cause death of papuan Man.

4 Awas MIFEE, 5.1.2014, Police and Company Security Guard beat a man to Death while in Police Detention.

5 ELSHAM Papua (October 2014): Armed Violence in Yapen Island

Killing of KNPB leader Martinus Yohame

On 26 August 2014, the body of Martinus Yohame, a leader of KNPB, was discovered in a gunny sack close to Nana Island, near Sorong. His hands and feet were tied and the body showed signs of torture, including a 1x1cm hole in the left side of his chest, a 2x3cm hole in the right side of his abdomen and evidence of severe beating to the face. Martinus had been missing since 20 August 2014. On 19 August 2014, he made a statement at a press conference regarding the visit of president Susilo Bambang Yudhoyono to Papua and made an appointment with a woman claiming to be a member of KOMNAS HAM for the following day. KNPB is a non-violent organisation advocating for independence through referendum. Former KNPB activist Mako Tabuni was killed by security forces in 2012. Allegations in Martinus Yohame's case point to the same perpetrators. (graphic image of Yohame's dead body omitted).



Image 2.4-3: Martinus Yohame attending a KNPB demonstration

Police complicit in mob attacks in Yotefa Market

At 1:00pm on 7 August 2014, a group of migrant residents heavily maltreated Daniel Bolepa (23) and killed his elder brother David Bolepa at the old Yotefa Market in Abepura. Daniel was stabbed and shot, but was able to escape. He sought medical care at Bhayangkara Police Hospital, but doctors refused to remove the bullet or close his wounds. His older brother, David Bolepa (29), was killed in the attack, after being chased and beaten with sticks and sharp objects. Robby

Fingcrew, an officer from Abepura District Police, was involved in the beatings. While it is not clear whether he fired the shots which injured the victims, it is known that he did not intervene to prevent the attacks.⁶

Soldiers fire on pig farmer at roadblock

On 18 September 2014, plainclothes military personnel in Nabire shot Videlis John Agapa (36). Agapa was a pig farmer and one of his pigs had been killed by a passing car. In the absence of reliable legal mechanisms to settle such disputes



Image 2.4-4: The body of David Bolepa (L), killed in an attack at the old Yotefa Market, and Daniel Bolepa (R), suffered stabbing and bullet wounds in the same attack.

6 JPIC GKI (08.09.2014): Papuan Man killed by a Group of Migrants at Pasar Lama Yotefa, Abepura.

he had set up a road block to stop passing motorists to ask for a compensation toll fee for the pig. Two soldiers approached the road block following complaints from motorists. As vehicles prevented them from reaching the road block by car, they opened fire from a distance on Agapa and his friends. He was shot in the back and died immediately. (graphic image omitted)

Papuan stabbed during interrogation in Sulawesi

At 2:30am on 23 November 2014, a local police officer stabbed Papuan student Charles Enumbi in the left hand and stomach in front of the Papuan student dormitory in Jl. Petterani, Makassar, South Sulawesi. After previous attack on the dormitory by a mob armed with stones, sticks and weapons police had asked Enumbi to come to the front of the dormitory alone and all other students to return to the building. During the following questioning, one of the police officers in plain clothes attacked the victim. None of the other police officers present attempted to intervene. The victim was taken to Faisal Hospital and died of his injuries two days later.



Image 2.4-5: Papuan student Charles Enumbi, admitted to hospital after being stabbed by police officers in South Sulawesi. He later died of his wounds.

Joint police and military forces kill 4 students and injure 17 civilians during crack down on a peaceful protest gathering in Enarotali, Paniai

On the evening of December the 7th, 2014, a patrol car with a group of security force members passed the location where Yulianus Yeimo (17 years) and some of his friends had built a Christmas Hut (“pondok natal”) in Ipakiye village, Madi district, in the east of Paniai Regency. Because the driver did not use any headlights, Yulius Yeimo urged him to switch on the headlights at night. Thereupon the security force members became angry and began to maltreat the young men. The following morning, on December 8, 2014, at 9.30 east Indonesian time, a group of tribesmen and relatives headed towards the local police station and the military base at Enarotali in order to protest against the maltreatments and demanding the prosecution of the perpetrators. Local residents witnessed that security force suddenly approached the protesters from different directions and released several warning shots. After that, the security forces began to aim their shots towards the crowd, gathering at the road junction near the district police station and the military base. According to eyewitness accounts from residents and security forces, the first shots were released by a military task force (KOPASGAS) from the direction of the airport. The crackdown was carried with excessive use of force against the protesters and caused the death of 4 pupils and at least 17 indigenous Papuans were injured. (see table 2.4-1)⁷.

What are extra-judicial executions?

An extra-judicial execution occurs where government authorities cause the death of a person without due process or the sanction of the judiciary. The killing of individuals outside the scope of the law violates the right to life, which is set out in article 3 of the Universal Declaration of Human Rights and article 6 of the International Covenant on Civil and Political Rights.

⁷ JPIC GKI (20.01.2015): Security Forces Kill 4 Pupils And Injure 17 Civilians In Enarotali, Paniai Regency.



Image 2.4-6: Apius Gobai, 16 years old (L), and Simon Degei, 17 years old (R), two victims of attacks by security forces on protests at Enarotali.

Table 2.4-1: List of victims of the shootings and excessive use of force by security forces on December 7 in Enarotali, Paniai

No	Name of victims	Age	Informations
Dead Victims			
1	Alpius Youw	18 years	bullet hit victim's left of the back
2	Apilus Gobai	16 years	bullet pierced victim's left side of the stomach
3	Simon Degei	17 years	bullet entered victims torso through the left side of the ribs
4	YuianusYeimo	17 years	victim's neck from the back
Injured victims			
1	Yerry Gobai	13 years	bullet pierced victim's foot
2	Oktavianus Gobai	18 years	bullet hits victim's thigh
3	Noak Gobai	25 years	bullet hits victim's right arm
4	Yulian Mote	36 years	victim suffer cutting wounds at the head, nose, and ear
5	Andreas Dogopia	23 years	bullet hits victim's stomach
6	Yulian Tobai	29 years	two bullets hits victim's right side of the lower back
7	Naftali Neles Gobai	44 years	bullet hits victim's right hand
8	Yeremias Kayame	59 years	fracture at the left hand caused by a bullet
9	Haliatalia Edowai	35 years	bullet hits victim's hand
10	Bernadus Bunai	10 years	bullet hits victim's right thigh
11	Ony Yeimo	-	bullet hits victim's right shoulder
12	Akulian Degei	-	student of senior high school, grade III
13	Bernadus Magai Yogi	-	student of elementary school, grade IV
14	Agusta Degei	-	house wife
15	Marci Yogi	-	house wife
16	Yulita edowai	32 years	bullet hits victim's right hand
17	Otinus Gobai	-	student of senior high school, grade II

2.5 Torture and Ill treatment

Indonesia has ratified the International Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) and is therefore legally obliged to prosecute perpetrators and investigate cases of torture and mal-treatment. Nevertheless, torture and ill-treatment are still commonly used by security forces in all regencies of West Papua. Most cases of ill-treatment in 2013-2014 were the result of excessive use of force during arrests and crack downs on peaceful gatherings and were carried out by police or joint security forces with the involvement of military personnel. In the period covered by this report, the number of reported cases of torture are on the rise. Information received also shows that the majority of those who faced torture while in arbitrary detention were involved in peaceful political activity and demonstrations. Reports show that detainees face torture on arrest as well as while being interrogated in detention. This section details 18 cases of torture.

Cases of torture occur frequently in West Papua for a number of reasons. Among the principal reasons are: the lack of victim access to national complaint mechanisms like the National Human Rights Commission KOMNAS HAM, the Internal Police Investigative Body PROPAM, or the National Police Commission KOMPOLNAS, which are all based in Jakarta. Even though KOMNAS HAM has a regional branch office in Papua, the organisation does not have a mandate to carry out legal investigations or forward a case to the Attorney General, who does have a mandate to file cases in the Indonesian Human Rights Court. In 2014, several Papuan based human rights NGOs have supported and encouraged victims of torture in Yapen and in the Central Yotefa Market, Jayapura to file reports to these institutions.

However, only PROPAM ultimately carried out an internal investigation in Jayapura and the results of this investigation were not communicated to the victims or to human rights organizations. A lack of transparency and an inability to prosecute police and military perpetrators has rendered these national mechanisms ineffective in providing access to justice for victims.

Moreover, Indonesia has not yet ratified the optional protocol to the International Conven-

tion against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT). This failure to ratify limits victims' access to international justice mechanisms.

Another major problem with regard to torture concerns the integration of the International Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) into national law. Even though it is stipulated in Regulation No. 8/2009 of the Chief of the Indonesian National Police regarding the implementation of human rights principles and standards in the discharge of duties of the Indonesian National Police that police officers are not allowed to use torture or ill-treatment, torture itself has not yet been introduced as a criminal offense into the Indonesian criminal code KUHP. This means that perpetrators cannot yet be held accountable and sentenced by court, as it is required in the International Convention against Torture.¹

In order to uphold human rights principles, fight terrorism and improve professionalism of its army and police personnel, the Indonesian government is maintaining international cooperation in the security sector with other countries in the region, e.g. Australia. However, this cooperation did not lead to the expected

¹ Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT)

outcome of increasing professionalism of security forces with regard to respect for human rights, as the high numbers of torture cases, violent crackdowns with civil victims and excessive brutality applied by security forces show.

Several cases of torture, which occurred in Jayapura regency during the last five years, have revealed that the police frequently applied torture during custody at Jayapura regency district police headquarters in Doyo Baru, which is located far from the center of Jayapura city and therefore less frequently visited by lawyers and family members.

A similar observation was made with regard to the Bhayangkara Police Hospital, which has repeatedly been involved in the cover up of cases of torture and extra judicial executions. Some victims of torture have stated that they did not receive proper medical treatment at Bhayangkara police hospital, because they were alleged to have committed a criminal offense. In June 2012, medical personnel had witnessed how the leader of the West Papua National Committee (KNPB), Mako Tabuni was deliberately denied medical aid after his admission to Bhayangkara police hospital. Tabuni was gunned down only a few hundred meters from Dian Harapan catholic hospital, but was brought to the Bhayangkara police hospital, where he died due to several bullet wounds.

Case Examples:

Kidnap and torture of high school student

At 8:30am on 19 March 2013, a group of three mobile brigade police officers under the command of Joni Maputra kidnapped high school student Pilemon Degei in front of YPPGI Enarotali Paniai High School. The officers approached in a bus bearing the number plate

DS 7244. The three masked officers jumped out of the vehicle, pulled Pilemon Degei inside the bus and left in the direction of Madii. After this abduction, the group went to the mobile brigade headquarters in Enarotali. On the bus, Pilemon was repeatedly beaten around the head as officers asked him whether he was a spy of an OPM group and whether he supplied that group with food. A classmate who witnessed the abduction reported it to the school principal, who went to the mobile brigade headquarters to demand Pilemon's release.

Upon arrival, the principal noted that Pilemon's lips and temples were covered in bruises. Following the intervention of the principal, Pilemon was released at 2:00pm that day. Later, the deputy chief of Panai Police Resort, Lukas Supusepa confirmed the arrest.²

Man beaten and detained by police

At 5:00am on 27 April 2013, police forces from district police Yapen heavily maltreated Yahya Bonai (33) during the arrest in front of his family, because he was suspected as the perpetrator in the killing of police officer Jefri Sesa in Menawi village three hours prior to the arrest. Yahya Bonai's wife, Karolina Karubaba, provided him with an alibi, saying he had been sick in bed since the previous afternoon, but police continued to drag Yahya Bonai from the house and beat him severely in front of his family. The officers then vandalized the house before taking Mr Bonai to Yapen District Police Station, where he was detained and prevented from seeing friends or family.

Security forces torture thirteen civilians in Timika

At approximately 1:00pm on 1 May 2013, joint security forces of civilian control unit (DALMAS) and, mobile brigade (BRIMOB) of Mimika Baru Police Station, and military force members (TNI)

2 JPIC KINGMI Papua (26.04.2013): Seorang siswa smu YPPGI Enarotali Paniai die tangkap oleh SATGAS BRIMOB Kepala Jakarta dengan menggunakan kendaraan umum (taksi) tanpa alasan.

under the command of Chief of Mimika District Police, Jermias Rontini, dispersed a peaceful gathering in front of the public primary school II (SD Negeri II) in Kwamki Baru, Timika. The security forces arrested at least 13 peaceful demonstrators in Kwamki Baru, Timika, who had raised the morning star flag during the gathering. The civilians were subject to torture and illtreatment in custody. Those mistreated included Domy Mom, Altinus Uamang, Musa Elas, Jhony Niwilingame, Hari Natal Limagay, Jhon Kum, Semuil Deikme, Miriyan Tzenawatme, Mon Deikme, Aminus Hagabal, Yacob Onawame, Hery Onawame and Biru Kogoya.³

Police forces torture seven men after arrest and shoot three in Biak

At 5:00am on 1 May 2013, joint security forces opened fire on a group of peaceful protesters raising the morning star flag in Adibay Village in East Biak and on a group of civil servants who were bystanders. Jantje Wamaer, Martinus Rumpaidus and Patty Nasarany were struck by bullets and had to be hospitalized. In hospital, Mr Rumpaidus was forced to sign a statement declaring that the injuries were the result of an accident. All of the protesters were tortured during their arrest and detention at the district police station. Yohanes Borseren suffered particularly extreme torture and was subsequently deemed too mentally ill



Image 2.5-1: Patty Nasarany during medical care, after joint security forces opened fire on him, his colleagues and a group of civilians who were raising a morning star flag in Adibay Village, East Biak.

3 Independent Human Rights Defenders (12.06.2013): A short account on cases of human rights abuse, arrest, detaining and shooting in Papua, 30 April 2013 – 22 May 2013

to be present at court to be tried for raising the flag.⁴

5 peaceful protesters detained and mistreated in Abepura

At 8:30am on 13 May 2013, SPPHAM (Solidarity for the Enforcement of Human Rights) organized peaceful protests at the Cenderawasih University campuses in Waena and Abepura. SPPHAM had submitted the required notification letter to the police (Number 00/SP/PAN-SPHAM-UTSN/V/2013). The protest demanded state accountability for the death of civilians in Aimas, and the unlawful arrest and detention of civilians in Sorong, Biak, Mimika, and Jayapura on the 30 April and 1 May 2013. The protests were broken up by force by police, who claimed that a permit would be required and no such permit had been issued. Five protesters, Victor Yeimo, Marthen Manggaprouw, Yongky Ulimpa, Elly Kobak and Markus Giban were arrested and tortured in front of the bus station of Cenderawasih University in Waena. Markus Giban had to be hospitalized after he was struck in the left hand with the butt of a rifle.⁵

Police cause motorbike accident and assault victim

At 9:00pm on 22 May 2013, Baltasar Wondiwoi was driving his wife to Serui Harbour by motorbike when police officer Mr. Karubaba of Angkaisera District jumped out of a trench in front of the motorbike to stop it. Mr Wondiwoi lost control of the vehicle and fell to the ground, slightly nudging officer Karubaba. The accident took place in front of INPRES 2 MENAWI elementary school. As a result of the incident, the head of subdistrict police Angkaisera, Mr. Arebo, who was also present approached Mr Wondiwoi, dragged him by the arm, punched him in the head six times and repeatedly kicked him as he was lying on the ground. The mistreatment by officer Karubaba and officer Arebo continued

4 Ibd.

5 Ibd.

until Mr Wondiwoi fainted and was admitted to hospital. He did not regain consciousness until the following day. Both Mr Wondiwoi and his wife's mobile phones and his wallet containing IDR 350.000 disappeared during the incident.⁶

Police shoot drunken man in Timika

At 9:30pm on 11 August 2013, Andarias Alismigau Moni was sitting with friends Kayus D, Junus M, Daniel M and N Musijau in his car, drinking beer. Members of the district police Mimika approached in a patrol car and asked the group which was Andarias. When Andarias responded, officers dragged him from the car, pinned him to the ground by his neck and began to punch his face and chest. Andarias escaped and began to run in the direction of the house of the Chief of the Moni tribe to seek shelter when police fired one warning shot, then shot Andarias twice into his left rip cage. Andarias was hospitalized and underwent two surgeries for bullet wounds.⁷

Police torture sexual assault suspect in Doyo Baru

On 18 September 2013, high school student Yakob Soumilena (18) was taken into custody at the Sentani District Police Station after being accused of sexual abuse. He was held in custody from 19 September 2013 – 15 January 2014 and during that time was systematically tortured in order to force a confession. Yakob was smothered in gasoline and chili sauce, electrocuted and had his genitals burned by police officers. He was denied access to medical care and legal representation. He capitulated due to torture and signed a confession, though he otherwise maintained his innocence. He was transferred to Abepura Prison on 15 January 2014.⁸

Police tortures Papuan student in Jakarta

On 19 September 2013, university student Zakaris Wenza Pikindu was beaten around the face and head by police officers and soldiers at a traffic police check in Cililitan, East Jakarta. He was taken into custody in a cell at Cililitan subdistrict police station and accused of membership of OPM. He was tortured until he agreed to sign a statement saying he was beaten by civilians after violating traffic rules. He was intimidated not to report the incident to the human rights organization KONTRAS or the national human rights commission, KOMNAS HAM.



Image 2.5-2: Left side of Zakaria's face showing a swelling and a bruise under the left eye, as well as a cut on the left eyebrow shortly after the maltreatment.

Military and police torture Nahor Yalak inside security post in Waena

On 26 September 2013, police officers arbitrarily arrested Nahor Stefanus Yalak, claiming that local residents had filed complaints against him. He was transported to the Perumnas III security post in Waena. He was punched and

6 Independent Human Rights Defenders (29.05.2013): Pengaduan keluarga Baltasar Wondiwoi terhadap perbuatan tidak menyenangkan dari KAPOLSEK dan anggota polisi POLSEK Angkaisera kabupaten Kepulauan Yapen

7 JPIC GKI Timika (20.08.2013): Laporan Penembakan Andarias Alismigau Moni

8 JPIC GKI (20.11.2013): Torture of Yakob Soumilena at the Sentani District Police Station

kicked repeatedly by two police officers and two soldiers to his back, head, face, thighs and knees. He was bound, his hands were stomped on and his back was whipped with an electrical cable. Upon release the following morning, he attended Dian Harapan Hospital and was issued with a medical report of his injuries. His attorney, Olga Hamadi, filed a complaint at the local police station, but never received a response clarifying the results of the investigation or the sanctions about the perpetrators.⁹



Images 2.5-3: Nahor Yalak's face and back showing severe bruises, cuts and swellings after the torture.

Beating of student caught on camera

On 15 November 2013 a journalist in Wamena was able to film four police officers repeatedly beating a student with rifle butts to the head. The student was held at gunpoint. The video was uploaded to the internet and shared on social media. The violence allegedly occurred after a riot between PGRI senior high school, Yapis senior high school Santo Thomas senior high school and 1 Wamena public senior high school in Wamena. The video is available at <https://goo.gl/BVCbvW>.

Police torture three Papuan men following a security sweep

On 26 January, joint security forces carried out sweeps in the villages of Dondowaga, Kulirik, Dolugowa, Yambidugun, Kalome, Yalinggua and Talilome in the regency of Puncak Jaya. The



Image 2.5-4: Screenshot of the maltreatment recorded on video in Wamena in November 2013.

operation was in response to the capture of eight firearms from a police post at Kulirik by local OPM forces. Thousands of indigenous persons were displaced and fled to Mulia, Wamena, Nabire and Jayapura. A GIDI church was burned to the ground and Yukiler Enumbi was shot and killed during the sweep as he tried to escape. Rev. Pamit Wonda and Les Murib were severely injured with bayonets and Yulina Wonda was badly beaten. All victims had to receive medical treatment at the public hospital in Mulia. Three men, Oktavianus Tabuni (15), Tigabur Tabuni and Caban Tabuni (29) were arrested and tortured by security forces. Tigabur, Caban and Oktavianus were brought to the head of the Puncak Jaya district police who identified the three villagers as perpetrators without any further questioning or police investigation. Subsequently, all three detainees were taken away from the police station to an unknown location. There, Tigabur was shot and killed. Oktavianus was shot in the left knee and in the lower abdomen in order to force him to confess to the theft of the firearms. Caban was shot in both knees and chest. Both men were evacuated to Bhayangkara Police Hospital in Jayapura, where Caban died on 29 July 2014 as a result of his injuries. Oktavianus was evacuated to Papua New Guinea by human rights defenders, where he was sent into surgery

⁹ JPIC GKI (05.11.2013): Torture of Nahor Stefanus Yalak at Permunas III Police Post in Waena



Images 2.5-5: Pictures of Oktavianus Tabuni taken during his surgery at Vanimo public hospital in PNG (left). The surgical scissor in Oktavianus Tabuni's stomach was first diagnosed via x-ray and then successfully removed.

at the public hospital. A surgical clamp was discovered in his stomach, left by doctors from Bhayangkara Police Hospital.¹⁰

Two students tortured by police in Jayapura

On 2 April 2014, police officers arrested the students Alfares Kapisa and Yali Wenda whilst leading a demonstration calling for the liberation of political prisoners in Jayapura. They were held in custody for 24 hours, where they were beaten with rattan sticks, rifle butts and kicked with heavy boots. Both were hospitalized at Dian Harapan hospital in Waena and Yali Wenda's wound at his ear required three stitches.

Police open fire on crowd of Papuans

At 6:00am on 6 May 2014, Jhon Anouw (18) and Yunsen Kegakoto (25) were struck by a truck and killed at Epeida village. The driver fled to the mobile police brigade headquarters in Moanemani. At 10:00am a crowd of relatives and tribesmen of the victims gathered in front of the headquarters, demanding to speak with the driver. After being turned away by police, the group angrily began to throw stones at the building. In response, police opened fire on the crowd with live ammunition, shooting Yulius Anouw (27) in the chest, Gayus Auwe (32) in the chest and thigh and Anton Edoway (28) in the left thigh, fracturing his femur. The injured men



Images 2.5-6: Pictures of Alfares Kapisa and Yali Wenda after their admission to Dian Harapan Hospital.

10 Independent Human Rights Defenders (18.11.2014): Kronologis penangkapan, penembakan, operasi hingga penemuan gunting beracun dalam tubuh Oktavianus Tabuni.



Images 2.5-7: Anton Edoway (28), Gayus Auwe (32), and Yulius Anouw (27) (from left to right) during medical treatment in Siriwini Hospital in Nabire.

were not participating in the violence but were trying to calm the crowd. In retaliation for the attack, local residents subsequently killed a non-Papuan resident.

Police involved in torture and alleged killing of three Papuan men as an act of retaliation in Yotefa Market

On 2 July 2014, a police officer named Asriadi was killed and his colleague Samsul Huda heavily injured whilst attempting to break up a dice game in the Central Yotefa Market in Abepura. His death resulted in a sweeping operation in several neighborhoods inhabited by indigenous Papuans from the central highlands. Sabusek Kabak (24 years), Yenias Wanimbo (20 years) and Demy Kepno (28 years) were killed during the attack by unknown perpetrators.

At 3:00pm, police opened fire on a public bus in Yotefa Market. Abis Kabak (20 years) was dragged from the bus and beaten by police. After that the police men pushed Abis into a crowd of migrants, who started to beat Abis with bare hands, hammers, wooden sticks and sharp weapons until he lost consciousness.

Meki Pahabol (14 years) tried to escape, but was caught and beaten by the crowd with clubs and a hammer until he lost consciousness. The men were admitted to Bhayangkara police hospital, where they were tortured by police. Abis was beaten in the head with an iron drip stand and was kicked with heavy boots in the back of the head. He was held in custody until 11 July 2014. Meki Pahabol was released on 7 July 2014.

On 3 July 2014, in response to the previous day's attacks, 11 police officers abducted Urbanus Pahabol (35 years) and Asman Pahabol (17 years) from the location Kilo 9 (Koya) in a police truck. They were told they would be executed by police and then were beaten whilst being questioned about a firearm lost during the killing of Asriadi the previous day. Asman was hit on the wrist and elbow. Urbanus was tortured with a knife, hit on the leg, left eye and back with a wooden club, kicked with heavy boots and struck on the head with a hammer. Urbanus was then forced to enter and stay in a cold pond for 5 hours, before being forced by police to march. He was hospitalized at Bhayangkara police hospital and received 12 stitches. At 3:00pm the men were taken to Jayapura District



Images 2.5-9: Three students killed during police sweepings in the aftermath of the riot at Yotefa Central Market Abepura. from left to right: Sabusek Kabak (24), Yenias Wanimbo (20) and Demy Kepno (28).

Table 2.5-1: Victims of extra-judicial executions and torture of the Yotefa Market case

No	Name	Age	Sex	Occupation	Location of Incidents	
Dead Victims						
I	1	Yenias Wanimbo	20	Male	Student	Killed in front of Yamas Campus, Tanah Hltam (Abepura)
	2	Demy Kepao	28	Male	Student at STIKOM YAPIS University Jayapura	Abducted in front of Multi Grosir Supermarket Tanah Hltam (Abepura)
	3	Sabusek Kabak	24	Male	Law student at Umel Mandiri University Jayapura	Killed in front of Bank Papua inside the Yotefa Market Complex (Abepura)
Victims of Torture						
II	1	Meki Pahabol	14	Male	Farmer	Torture at Yotefa Market
	2	Asman Pahabol	17	Male	Farmer	Arrested in Kilo Sembilan and tortured on the way to the police station
	3	Yan Urbanus Pahabol	35	Male	Farmer	Arrested in Kilo Sembilan and tortured on the way to the police station
	4	Abis Kabak	20	Male	Farmer	Arrested in Yotefa Market and Bhayangkara Police Hospital



Images 2.5-8: Left: The face of Urbanus full of injuries, sustained as a result of torture by police officers after the sweeping and arbitrary arrest at Kilo Sembilan (Koya). Right: Asman shows the wounds on his face as a result of torture after he was arbitrarily arrested in his home at Kilo Sembilan.

Police headquarters and on the way there were whipped with electricity cables. Both men were finally released on 7 July 2014. The case was forwarded to the Jakarta Ombudsman, the Papuan Ombudsman, KOMNAS HAM, ProPam, KOMPOLNAS and POLRI for investigation. Pro-

Pam carried out an investigation in Jayapura on 10 December 2014 but neither victims nor human rights organisations have received any further response.¹¹ (graphic images of killed victims omitted)

¹¹ JPIC GKI (20.08.2014): Violent Incident at Yotefa Market Abepura Ends with Arbitrary Arrests, Torture and the Deaths of 3 Papuan Men.

Two men stabbed by soldiers in Jayapura

At 4:00pm on 2nd September 2014 at Perumnas III in Waena, three unidentified soldiers from Abe 1701/JYP, a sub-district military command attacked Rigo and Digi Wenda. They were beaten and attempted to fight back, but were stabbed by the soldiers with bayonets. Rigo Wenda was stabbed in the thigh, knee, chest and stomach. Digi Wenda was stabbed in the left leg. Rigo was admitted to Dian Harapan Hospital. Rigo is allegedly a member of the West Papua National Committee which is advocating for a referendum about independence of West Papua. (graphic image omitted)

Man tortured by security forces in Berap

On 31 July 2014, joint security forces carried out a sweeping operation in Berap Village. 30 men in black clothing with red cloth on their heads and the emblem of an owl on their chests invaded the village. This is usually the uniform worn by the Indonesian Anti-Terror Unit DENSUS 88. Villager Yulius Tarkuo was asked at gunpoint to direct the officers to the OPM base camp and when he stated that he did not know its location, he was forced into the jungle and repeatedly beaten with machine guns until he collapsed. He was told by officers that he would be executed. He was able to escape by jumping down a ravine and hiding in the woods.

Sweeping operations were carried out again on 8th and 9th August 2014, during which property was damaged and confiscated by police. On 10th August 2014 21 villagers were arbitrarily arrested at the junction of Worambain and Berap, including a number of elderly people, women and children. Following an interrogation, nine

people were permitted to leave and twelve were detained. Six of the detainees spoke no Indonesian. All twelve were tortured whilst being interrogated by police. They were forced to wear camouflage clothing for a photograph which was sent to local media as evidence of their participation in violence. None of the detainees were permitted to access legal representation.¹²

Police shoot an 18 year old boy

On 18 September 2014, police attended an internal tribal conflict regarding the theft of a motorbike in Jayawijaya. Police opened fire on the crowd, shooting 18 year old Kukes Wandikbo in the left shoulder. Doctors at the hospital insisted that his wound had been caused by an arrow, traditional weapons possessed by local tribes. Human rights defenders who visited Wandikbo confirmed that the wound was caused by a bullet and Wandikbo stated that he had been shot by a police officer at a distance of 20 metres and was able to identify the perpetrator. Although this information was passed on to the police, no response was received.



Image 2.5-10: Wound at Kukes Wandikbo's left shoulder caused by a bullet piercing the shoulder/neck area.

12 JPIC GKI (12.09.2014): Sweeping operations in Berap village

Police retaliation against civilians in Sugapa

At 2:00pm on 29 September 2014, 40 police officers in Sugapa attended the central soccer pitch and opened fire on civilians. The attack was in retaliation for the beating of a mobile brigade officer by local residents who had referred to them as 'apes'. Seprianus Japagau (23) was shot in the left abdomen and Benyamin Agimbau (26) was beaten in the head with rifle butts. Both men were taken to the local clinic in Sugapa for treatment, but Seprianus Japagau had to be evacuated to Siriwini Public Hospital in Nabire the following day for emergency surgery.¹³



Image 2.5-11: Seprianus Japagau after his admission to the intensive care unit of Siriwini Public Hospital in Nabire.

13 JPIC KINGMI (30.09.2014): BRIMOB menembak Seprianus Japugau di Sugapa Papua

2.6 Horizontal Conflicts and Police Negligence

Papuan based NGOs and churches have reported an increasing number of horizontal conflicts in West Papua since the beginning of 2014. Some of those conflicts occurred between tribal groups, but the majority of reported cases reflect growing tensions between indigenous Papuans and migrants from other parts of Indonesia. In many cases human rights defenders have reported that the police were not acting impartially, but turned a blind eye to perpetrators who have committed criminal offenses against indigenous Papuans. In some cases, such as the religious conflicts in Sorong, police officers were directly involved in criminal offenses as perpetrators.

The frequent occurrence of tensions and conflicts between different cultural segments in Papua has been reported throughout the past century. Since 2014 many churches and NGOs have expressed concerns with regard to a growing number of violent clashes between indigenous Papuans and migrants from other parts of Indonesia. Several incidents indicate that anger amongst migrant groups and also indigenous Papuans has increased over the past few years due to a lack of cultural integration and growing social injustice between both groups, and has led to outbursts of violence.

The growing number of horizontal conflicts between Papuans and migrants can be traced to present unjust government policies, but are also partly rooted in previous government initiatives such as the transmigration program under Suharto. During the "New Order" ('Orde Baru'), thousands of Indonesian citizens from overpopulated islands were resettled in Papua, where they were assigned land, a house and provided with basic equipment for the agricultural development of land. Indigenous landowners are still claiming compensation from the government for the land, which was forcefully taken from them to build transmigration settlements or government owned palm oil plantations. Therefore, it is not surprising that some horizontal conflicts occurred in former transmigration settlement areas like Arso, where migrants reside in separated settlements, far from the traditional villages and settlements of indigenous Papuans.

Furthermore, the majority of migrants are Muslims, an additional barrier to integration into Papua, where the indigenous population is mainly Christian. Local governments have failed to introduce any programs to support cultural and social integration for non-residents and has failed to promote peace, tolerance and the prevention of inter-ethnic and inter-religious conflicts. It is likely that the ongoing uncontrolled influx of migrants from other islands will lead to further horizontal conflicts in the near future.

Another source of conflict is the current injustice with regard to health care and education facilities. The uneven distribution of teachers is just one of many examples which have led to allegations of a discriminatory development policy in Papua. A survey carried out by Rev. John Jongga and Dale Cypri revealed that education conditions in the Keerom regency are unequal. A teacher in districts like Towe, where the majority of the population are indigenous Papuans, was made to teach 52 elementary students, whereas teachers in migrant dominated districts like Arso or Skanto were only required to teach 11 students in average.

However, throughout 2014, human rights defenders and churches in Papua have frequently reported on horizontal conflicts between indigenous Papuans and non-Papuans in which police failed to protect indigenous Papuans, or did not undertake any steps to prosecute non-Papuan perpetrators. Amongst many indigenous Papuans, such cases have caused a loss of trust in the police as an impartial government agency and instrument for law enforcement.

Cases in 2014

Sub-district police officer Muara Tami fails to protect a school and clinic during tribal conflict

At 8:00am on 29 April 2014, the tribal leader of the Skow Mabo village, Yans Malo, and the former head of Skow Mabo, Teofilus Kemo, called the head of the Skow Sae village, Eduar Mutang, threatening to close down the access road to the junior, senior and vocational high schools and the village clinic located at Skow Sae village. In response, the head of Skow Sae village called the Muara Tami district police station to report the phone call and requested that police officers guard the schools and the village clinic. The police did not take any measures to secure the area. At 7:00am on 30 April 2014, a group of villagers led by the tribal leader and the former head of village of Skow Mabo chased a group of students from Skow Sae village with sticks and spears as they were on their way to school. After the incident, 150 villagers armed with chains, wooden sticks, machetes and spears from Skow Sae attacked the group from Skow Mabo. The violent clash led to several injuries in both conflict parties and the burning of a house owned by a Skow Mabo villager named Yakob Malo¹.



Image 2.6-1: Left overs of Yakob Malo's house after the tribal clash between villagers from Skow Sae and Skow Mabo

Police officers fail to protect Christians during religious clashes in Sorong

At 1:00pm on 21 April 2014, Muslims bringing wooden sticks, machetes and traditional slingshot darts gathered in front of the Syalom Congregation at Kledemak II, in Sorong because an Islamic preacher named Soleh Jauhari had been beaten up by two drunken Papuan men in the early morning. Subsequently, a group of people began to remove a cross from the front of the church and threw rocks and shot arrows at a group of Christians who had gathered in front of the church to protect the building. Violent clashes broke out between both groups, leading to injuries on both sides and the burning of one house. Although several police officers and the head of the Sorong local police department were present, they failed to protect the Christians and did not take steps to stop the group of attacking Muslims. Two of the police officers were seen throwing stones at the group of Christians who had gathered in front of the church. One witness also saw the same officers participating in the removal of the cross. The clashes stopped after military personnel and the mobile police brigade BRIMOB dispersed the crowd at 16.00. At the same time as the attack on the Syalom Congregation, several incidents occurred in other places in Sorong. Yeremias Homer was beaten up and attacked with sharp items while riding his motorcycle. He was stopped by a group of Muslims at Jenderal Sudirman street in front of the Citra Hotel who dragged him from his bike and attacked him with sticks and sharp items until he lost consciousness. The incident was witnessed by several residents at Sorpus, who blocked Ahmad Yani Street. As police forces removed the road block, they released several shots at local residents. Metusail Jitmau was shot in the left thigh and was admitted to the Public Hospital. On the same day, 17 year old Yusuf

1 JPIC GKI Jayapura (13.05.2014): Konflik antar Kampung: Anggota TNI Koramil Distrik Muara Tami Mengonsumsi Minuman Keras Bersama Kelompok Masa di perempatan jalan Skow Mabo dan Skow Sae

Maniageri was injured near the Manise Hotel, as he was riding his motor cycle to Siloam Senior High school. A group of migrants stopped him and burned his motor cycle before attacking him with a knife, injuring his ear, his back and his hand. When Yusuf said that he was a Muslim, the perpetrators forced him to prove his religious affiliation by praying.



Image 2.6-2: One of the victims from the church site suffering an injury caused by a slingshot dart when the group of Muslims attacked the church



Image 2.6-3: The house of family Bonai was burned to the ground by a group of Muslims



Taman Sari District Police attempts to cover up possible homicide of dead Papuan in Jakarta

On 1 April 2014, Adelina Tahalele received a phone call from a police officer of the Taman Sari district police station, informing her that her husband Jhon Lakupais had died of a heart attack in his hotel room in Jakarta. On 3 April 2014, Jhon Lakupais' body was brought to Fak Fak. As the family prepared the body for the burial ceremony they recognized blood at the back of the victim's head and right ear and bruises on his left hand. His little finger appeared to be broken, and there was swelling on the right knee. The family reported their observations to the Fak Fak district police. When the body was transferred to Fak Fak hospital for an autopsy doctors confirmed the findings and found another wound in the victim's crotch. The findings were listed in the autopsy report (Number: 445/30/RM 2014). When the case was resubmitted to Taman Sari district police on 18 June 2014, officers in charge stated that Jhon Lakupais' body did not show any signs of violence when police officers found the body and that a crime related cause of death could only be proven by a forensic specialist. Although the family urged police to launch an investigation, their request was denied.²



Images 2.6-4: Blood on the back of John Lokupais head and right ear after his body was transported from Jakarta to Fak Fak

2 Independent Human Rights Defenders (29.06.2014): Kronologis kematian Yohanes Lakupais di Hotel Arwana Room 310, Jln, Mangga Besar VIII No. 7, Jakarta Barat.

Police failed in the prosecution of arsonists responsible for burning 18 houses in Arso

On 6 September 2014, a Javanese woman named Catur Yuda (35) was killed in Arso I in Keerom Regency by her neighbor, Hilarius Gombo, a 40 year old Papuan from the Central Highlands. After the homicide, the perpetrator went to Keerom district police station and confessed. An hour after the perpetrator surrendered to the police, migrants from the villages of Arso 3, 4, 5, 6, 7, 8, 9, 10, 11, Swakarsa and Pir gathered to seek vengeance for the crime. The crowd burnt down the perpetrator's house, as well as 17 other houses owned by indigenous Papuans from the highlands. A group of migrants publicly announced that they would destroy the houses of all indigenous Papuans in the area if any migrants were harassed or their houses destroyed in retaliation. The police failed to take any steps to investigate or prosecute the perpetrators.³



Images 2.6-5: Two of 18 houses that were burnt down by a group of migrants as an act of revenge for the killing of a Javanese Woman named Catur Yuda.

3 JPIC GKI (24.09.2014): Polisi Gagal Menangkap Dan Memproses Hukum Pelaku Pembakaran 18 Rumah di Keerom

2.7 Violence against Women

LIPI and Komnas HAM made recommendations in 2008 and 2012 respectively, stating that the fulfillment of the fundamental rights of women¹ is an essential element in ending the conflict in Papua. The organisations noted that Article 28 of the constitution, which guarantees the right to truth, justice and compensation for women survivors of violence, is particularly relevant in the Papuan context, where gender based violence is common and the denial of women's rights is aggravated by the absence of government protection. Female narratives in Papua are dominated by complaints of the government's failure to fulfill its duty. Between 2012-2014, more than 1700 Papuan women were interviewed about their experience with violence, discrimination and marginalization. The following conclusions are drawn from these interviews.

Domestic violence is common in Papua, with one woman interviewed in the Kampung Teluk Wondama Sobey commenting that Papuan women "take violence like they take coffee-everyday". Interview results suggest that those who make complaints to the police rarely receive a response. This is partly because security forces are frequently complicit in attacks or indifferent to the plight of indigenous women, which frustrates any attempts to access the justice system and creates a culture of impunity. Domestic violence transcends social class and generations. In 2012-2013, cases are documented in cities (Biak, Jayapura, Manokwari, Merauke, Sorong, Timika, Wamena), remote districts in the highlands (Deiyai, Dogiyai, Intan Jaya, Nabire, Paniai, Tolikara, Yalimo) and remote districts in the coastal area (Asmat, Digoel, Fakfak, Kaimana, Raja Ampat, Serui, Soepiori, Tambraw, Wondama Bay and Waropen).

Considering how regularly domestic violence occurs, as well as the documented attitude of resignation by many women who experience it and the ineffectiveness of security forces in addressing it, it is extremely likely that cases in Papua are dramatically underreported.

Beyond the unwillingness of security personnel to assist victims of domestic violence, the heavy presence of police and military forces in the region in itself poses a risk to women, who are regularly subjected to physical and sexual violence by security forces. They receive no protection from the government, but instead live in fear of attack by military and police apparatus. This danger is exacerbated by reports of frequent drunkenness among armed security personnel.

There are a wide variety of issues currently specifically affecting women in Papua and their suffering is not limited to the impact of violence. Many women suffer neglect, particularly in remote highland areas where it can be more difficult to access assistance from the community or NGOs. Polygamy still occurs in Papua and can cause serious psychological harm to women and fosters an environment in which neglect and violence is more likely to occur. Substance abuse is also a problem for many women in Papua and it can be triggered by or worsen as a result of violence and neglect. In addition, women are often overburdened with domestic duties or physical labour, treated like slaves and motivated by fear of reprisals for work left undone.

¹ Selengkapnya, lihat teks Siaran Pers bersama Komnas HAM, Komnas Perempuan dan lembaga-lembaga masyarakat tentang penghentian kekerasan di Papua, Jakarta 2012; LIPI, Papua Road Map, Negotiating the Past, Improving the Present and Securing the Future, Jakarta: LIPI, 2008.

Case Examples:

Woman shot twice after asking security forces to stop shooting

On December 8th 2014 Mama Marci Yogi responded to the gunfire that killed four people in Karel Gobai by raising her hands and telling the security forces to stop the shooting. Two bullets hit her. The first one hit her *noken* (traditional bag) on her back. Fortunately, this bullet only left a small hole in her back as the Bible that was in her *noken* took most of the bullet's impact. The second bullet hit her left hand. Mama Yulita Edowai was hit by bullets in her leg while fleeing from the scene. 5th grader Oktoviana Gobai was hit in her foot while returning home from school. On the same day Mama Augusta Degei was working in the garden between the Karel Gobai field and the airstrip. She has been traumatized as a result of witnessing the shootings from close by.



Images 2.7-1: Left: Mama Marci Yogi shows her hand, bandaged after being shot by security forces. Right: The wound where the bullet struck her back during the shooting.

Women as victims of the shooting in Paniai

Women were among the victims of the December 2014 shootings in Paniai, which are detailed in section 2.4. Many women were selling their goods on the market, or were working in the fields at the time of the shootings. There were women present not only from the local area itself, but also from West Paniai, Yatamo, Kebo, Bibida and East Paniai, many of whom had their children present. They were forced to flee the scene, hide their children and wait till the shootings were over. These women and especially the families of the victims were traumatised by the shootings and performed their mourning ritual, known as '*menangis mandi pecek*'.

Domestic violence under Indonesian law

Domestic Violence has been considered a crime in Indonesia since 2004, with the implementation of Law 23 of 2004 on the Elimination of Domestic Violence. The law states that violence against women is a breach of human rights and a "crime against humanity". Domestic Violence is defined in the act as "any act against a woman and other subordinated groups which results in or is likely to result in physical, sexual, economic and or psychological miseries or sufferings, including threats of such act, coercion or arbitrary deprivation of liberty, within the scope of the household". Under the act, perpetrators of grave domestic violence could face up to 20 years imprisonment. However, the provisions of the 2004 law have not been fully implemented in Papua, with court procedures operating in accordance with the previous system and with access to crisis centres for women severely limited. Moreover, the act is reliant on police participation in the process, as all investigations are carried out by them and access to medical care depends on receipt of a letter of instruction from the police. Where police refuse to assist victims, no access to justice is possible.



3. ECONOMIC, SOCIAL AND CULTURAL RIGHTS

3. Economic, Social and Cultural Rights

3.1 Right to Health

The Indonesian Government is obligated under international law to provide the highest available standard of health¹. As part of Papua's special autonomy status (OTSUS) considerable funding is to be made available for the improvement of health services. However, misuse of these funds take place on a large scale. This, alongside a lack of proper management, results in negligence and the absence of healthcare workers from duty posts. The mortality and disease burden that results from a lack of availability of healthcare services in remote areas is of serious concern. Child and maternal mortality rates and the prevalence of HIV/AIDS in the Papuan provinces remain the highest within Indonesia.

The Papuan health system is slowly disintegrating. In and around the major cities there is still infrastructure and services available in the form of hospitals, HIV/AIDS clinics and primary health care centers. However, the primary health care system that should provide the necessary prevention, care and referrals at and from the community level is failing. In the remote areas, community health programs, health centers and district hospitals are in a dilapidated state. The effects of *Pemekaran* (the decentralization of regencies and districts in smaller autonomous units) are now fully visible. As each *Kabupaten* (regency) has the autonomy to use its funds as approved by the local parliament and locally elected *Bupati* (mayor), the different regencies operate separately and inconsistently. In theory, each regency should follow the national health strategy. In reality, governance, budget allocation and priorities vary greatly between the regencies. In Papua, the health sector has the same problems as education services; widespread absenteeism, poor management and accountability, and a culture of mistrust

between the population and the government services. There is no special provincial health strategy in place to address the numerous health problems. The province requires a culturally sensitive and autonomous health program, but *pemekaran* has led to fragmented health care services with limited coordination at and between districts. In the sections below, we highlight some key issues that require attention from a rights-based perspective on health.

HIV/AIDS and other sexual transmittable diseases.

The HIV/AIDS epidemic in Papua continues unabated. Indonesia is among a group of six countries "being left behind" in the push to ensure access to antiretroviral (ARV) therapy for people living with HIV/AIDS. Indonesia, along with the Central African Republic, the Democratic Republic of the Congo, Nigeria, Russia and South Sudan, is facing "the triple threat of high HIV burden, low treatment coverage and no or little decline in new HIV infections".² The number of

1 General Comment No. 14 of the Committee on Economic, Social and Cultural Rights (CESCR) The right to the highest available standard of health. 11.8. 2000. E/C.12/2000/4. (General Comments), available at: <http://www.unhchr.ch/tbs/doc.nsf/%28symbol%29/E.C.12.2000.4.En>

AIDS-related deaths in Indonesia increased by 427 percent during the period 2005 -2013, with UNAIDS noting that only 8 percent of people in the country living with HIV/AIDS had access to ARV therapy.²

In Papua the epidemic has, in the highlands at least, most likely become generalized (>5% prevalence of infections in the adult population) amongst the indigenous population. The only general HIV prevalence survey was conducted in 2006 and registered an average prevalence of 2.4 % in Tanah Papua. An updated figure is hence not available. As of October 2014, there have been 26.235 registered cases of HIV/AIDS infections in the province of Papua. In Papua, the Aids case prevalence of 359,43 patients/ 100.000 population is 15-times the national average rate.³ In 2008 the Ministry of Health initiated a program called 'Save Papua', under which mobile health teams were formed at district level to provide Voluntary Counseling and Testing (VCT) in remote villages. If individuals tested positive for the HIV virus, they were to be referred to a hospital to receive ARV treatment. This program functioned till 2010, and its outcomes are unclear. The program has not been continued by the government and has not been evaluated.

The national HIV/AIDS strategy 2010-2014 and action plan named the two Papua provinces as priority areas for prevention. "The implementation of this strategy had failed to take into account the cultural, developmental and socio-economic realities of Papua, especially in the highlands".⁴ In Tanah Papua, HIV transmission is almost entirely through heterosexual sex and indigenous Papuans are significantly more likely to be HIV positive than non-Papuans. Official data of Mimika province shows that 78 per cent of new infections in 2012 were among indigenous

Papuans, 98.7 per cent through sexual relations. The HIV epidemic in Papua "follows the social, economic and political fault lines that divide a society and puts the most disenfranchised segments of the population at risk".⁴

Although the exact prevalence is unclear, what is known is the number of people who come for VCT and treatment to clinics in the urban centers and this number is increasing rapidly. For instance, on 31 December 2011, the district AIDS commission (KPA) reported that the accumulated number of people living with HIV/AIDS was 1351 cases in the regency of Jayawijaya. As of 1 July 2014, this number had risen to over 5000 cases.⁵ Nearly all those persons are indigenous persons from the highlands, many in their early adult years, while many of them come from surrounding mountain districts such as Yahukimo, Tolikara, Puncak Jaya and Lani Jaya.

Although ARV treatment is in essence free, payment for additional medication (often provided via private pharmacies), care and food is required. Trust from the indigenous population in the often migrant staff at the hospital is limited, and they rather prefer care and follow-up via the church organizations. All in all uptake of ARV treatment remains limited. (For additional data, see the 2013 human rights report) Prevention from Mother to Child Transmission (PMCT) programs have been started up in cities near the coast and a pilot program was started in Wamena by the local hospital. In the highlands, pregnant women are not automatically screened for HIV. This is related to the limited maternal health services available, which is discussed further below.

2 UNAIDS. Gap report 2014. July 2014. Available via: http://www.unaids.org/sites/default/files/en/media/unaids/contentassets/documents/unaidspublication/2014/UNAIDS_Gap_report_en.pdf

3 Laporan Situasi perkembang HIV/AIDS di Indonesia. Tahun 2014. Triwulan 3. Available at <http://spiritia.or.id/Stats/StatCurr.pdf>

4 Carole Reckinger and Antoine Lemaire. Faultlines and fractures. Inside Indonesia 118 Oct.-Dec. 2014 <http://www.insideindonesia.org/faultlines-and-fractures>

5 Unpublished data by KPA Papua, as of 31st of December 2014.

The Ministry of Health Surveillance data (IBBS, collected in May 2011) shows that 25 per cent of Wamena sex workers were HIV positive, while 35.4 per cent were infected with gonorrhoea, 31.4 per cent had syphilis and 44.8 per cent had Chlamydia.⁶ These diseases, often occurring also in HIV patients, are under-diagnosed and deserve attention by the already overburdened health services.

Mother and child health

The Indonesian demographic health survey 2012 has indicated that the under-five mortality rate is three times higher (115 vs 43 per 1000 live births) in the two Papuan provinces than in the rest of the country, while skilled attendance during pregnancy and birth is about 30% lower than in the rest of the country. A key obstacle Indonesia faces in tackling both child mortality and maternal mortality is inequality in the delivery of health services, especially in its provinces in Eastern Indonesia.⁷

However, in the highlands of Papua maternal mortality rates as high as 500 per 100,000 live births might still exist.⁸ Factors that maintain this high maternal mortality are explained below. Officially in Papua, 40% of babies were delivered by a skilled provider: in Jakarta, the rate was 99%. In Papua, 27% of babies were delivered in a health facility; in Jakarta, the rate was 96%. Nevertheless, our observations are that the rate of skilled attendance during pregnancy and deliveries drops to under 10% in the highlands.⁹

A program instigated by the Indonesian government and supported by the Worldbank (2001-2003) to train and deploy village midwives in remote areas has not shown a long term impact. After the program and incentives for the midwives ended, most of them left the villages. The creation of new districts has only aggravated the problem, with many health posts in reality not operating. This means that immunization, growth and weight monitoring for under five children, ante- and postnatal care, detection of risk factors for delivery, do not function, or infrequently function in the rural villages. These services do exist to an extent in health centers in the urban areas, but are mainly visited by migrants and urban residents. Papuan highland women rarely deliver in health centers, mainly for socio-cultural reasons, and often do not even deliver in the traditional hut. Instead, they commonly deliver in the forest or the gardens, sometimes with the support of a traditional midwife. When women do rarely reach a clinic for emergency obstetric care, they usually attend at a late, very serious stage. Emergency obstetric care is non-existent in the highlands, aside from Wamena's general hospital. Stocks of medication (such as Oxytocin that stimulates contraction of the uterus) are left unused, out of cold chain, in the warehouses of primary health clinics and hospitals. C-Section is not possible in most district hospitals (except Wamena) because anesthetic facilities are not present. Another observation is that midwives and doctors in the clinics wait for the women to come to deliver,

6 Bobby Anderson. *Dying for Nothing*. Inside Indonesia 115: Jan-Mar 2014 Available at <http://www.insideindonesia.org/dying-for-nothing>.

7 Michael J Dibley. Meiwita Budiharsana. Keeping women and babies healthy within an unequal system. Inside Indonesia 119: Jan-Mar 2015 <http://www.insideindonesia.org/keeping-women-and-babies-healthy-within-an-unequal-system>.

8 Rees, S. J., van de Pas, R., Silove, D., & Kareth, M. (2008). Health and human security in West Papua. *Medical journal of Australia*, 189(11/12), 641-643. Available at: <https://www.mja.com.au/journal/2008/189/11/health-and-human-security-west-papua>

9 R. van de Pas. Comment on the article 'dying for nothing' April 2014. Available via <http://www.tanahku.west-papua.nl/index.php/nieuwsberichten/4522-comment-on-the-article-dying-for-nothing-by-bobby-anderson.html>



Image 3.1-1. On his *Dying for Nothing*, Bobby Anderson noted that only 27% of Papuan babies were delivered in a health facility.

rather than helping them to deliver at home. In one such rare occasion where the author was present, the (migrant) doctor didn't want to give a contraction stimulating medicine, because she was afraid that if it led to complications or stillbirth, the Papuan family would blame her. This aspect of distrust and blame is another reason why only limited births are attended in the highlands. Consequently, the maternal mortality rate in the highlands is considerably higher than as stated in official figures.

The UN Committee on Economic Social and Cultural Rights (CESCR) reviewed Indonesia's implementation of the International Covenant on Economic Social and Cultural Rights (ICESCR) in 2014 and called on Indonesia "to address disparities in the availability and quality of

maternal health care services, including by putting into place pre-service training, in-service training, supervision and accreditation of facilities".¹⁰

Health services

Indonesia is implementing a national health insurance scheme to guarantee access to essential health services. In Papua this is, in theory, already the case, as part of the OTSUS program and finances is a guarantee of free access to medication and health services. The real issue in Papua is gross neglect of management, misuse of funds and a lack of accountability in the health care sector. A *laissez-faire* attitude to attendance means that a majority of health posts in sub-districts in reality do not have health

¹⁰ 'UN Committee's concluding observations on Economic, Social and Cultural rights in Papua' July 2014. Available at <http://www.humanrightspapua.org/news/99-esrcr2014sum>

workers present. According to government data, these health posts are staffed, but staff (whether doctors, nurses or midwives) remain in the urban centers, while still receiving salaries and other benefits. Decisive leadership within these health structures is a rare exception. It is, however, not only a local governance issue. National authorities allow this to happen without monitoring, without asking for accountability and without interfering in the services or its management. And when they do interfere, as in the case of the 'Save Papua' program, it is mainly via the allocation of 'emergency' funds, without real involvement in its implementation.

Church organizations fill in many of the health services gaps in the remote highlands. They train health workers, often volunteers, to provide basic prevention and care via the existing widespread church network in the highlands. They visit the villages several times per year to provide health, education and other services. There are a handful of church-based clinics that provide HIV/AIDS care and treatment. Their financial means, staff capacity, coverage and inter-organizational coordination remain very limited.

International NGOs such as the Clinton Foundation, bilateral donors such as USAID and AUSAID, multilateral agencies like UNICEF and the Global Fund to Fight against Aids, Tuberculosis and Malaria have all supported the Indonesia government in strengthening the health services, and more specifically, the technical capacity to provide HIV prevention and care. It has, however, not led to a strong basic health system with participation from the communities, and staff, medication and finances in place. The underlying causes of ill health and

inequality amongst the indigenous Papuan people are not addressed by these programs, as this is normally not included in the Memoranda of Understanding between the Indonesian government and foreign actors.

Some anecdotes concerning the ailing health services include the following: in the district of Oklip in the Pegunungan Bintang regency there are no doctors or nurses any more, only a *mantri* (voluntary nurse) works is at the local post. At the district hospital of Yowari Sentani in the Jayapura regency, severely ill patients had to return home, as its inpatient ward had insufficient facilities. An AIDS patient shelter in the Jayawijaya regency was handed over to the Catholic Church by the government, as it was neglected.¹¹

A 19 year old girl from Hepuba in the Jayawijaya regency passed away in July 2014 at the provincial hospital Dok II in Jayapura after a large cancerous tumor was surgically removed from her abdomen. For more than a year, she had been seeking proper care at the hospital in Wamena and in Dok II. She had been turned away each time with the message that it was just a general abdominal pain, and no additional diagnostic tests were conducted. Finally, she presented as very weak and with an extended, painful stomach. Health staff only then realized that something serious was going on, but this realization unfortunately came too late for her.¹² There are many other examples of delayed care for indigenous people with severe health conditions, such as in Lolat in the regency of Yahukimo, where in April 2014 18 villagers died after "falling ill with swollen glands and tonsils". The village midwife did not obtain the appropriate treatment for them in Wamena.¹³

11 Situasi Pendidikan dan Kesehatan Papua 2014. Catatan SKPKC Fransiskan Papua

12 Direct communication between family and author, July 2014.

13 Michael Bachelard. High Tension in Papua and West Papua. The Sydney Morning Herald. February 2015. Available at: <http://www.smh.com.au/good-weekend/high-tension-in-papua-and-west-papua-20150206-12uc2d.html>

Psycho-social health problems

In the highlands, formal mental health care is not available. In the governmental health staff there is no one specializing in mental health treatment and care from a medical, nursing or psycho-social perspective.

An urgent, and very evident issue, is substance abuse, mainly among younger men who regularly gamble in the streets whilst drinking alcohol and among children, many of whom are addicted to sniffing glue (Aibon). This `lost generation` requires urgent attention and care, and besides the limited attention of church organizations, there is nowhere they can go. There are also occasional cases of Papuan people dying after drinking polluted, self-distilled, high percentage alcohol. Psychosocial rehabilitation of substance abuse services, rooted in customary values and principles is urgently needed. This is a neglected field, not only in the highlands, but all over Papua.

Substance abuse is also related to the high rate of domestic violence that occurs in the population, as discussed in section 2.7.

An Australian study reported in 2013 that over 80% of Papuans that have sought refuge in Australia reported post-traumatic stress disorder (PTSD).¹⁴ The extent of PTSD in the highlands is unknown, but with the rate of violence it is expected to be considerable.

Recommendations to the Indonesian government:

1. The Indonesian government is required to monitor, evaluate, and intervene in the execution of failing health services in the highland districts. The solution is not to

direct more funds, migrant staff or new programs to the region. Instead, the national health authorities should hold the districts accountable regarding its responsibility to provide essential health services. The current laissez-faire attitude by the government legitimizes the poor functioning of health services. The government should hold health district authorities accountable by law for the misappropriation of health funds provided under the rules of special autonomy.

2. The government should disaggregate data for different ethnic groups in its demographic and health service statistics, e.g. non-Papuan and Papuan inhabitants. This data would provide insight into existing health inequalities and could be the basis for a specific provincial Papuan health strategy where challenges such as HIV/AIDS, sexual and reproductive health, substance abuse and human resource difficulties can be addressed, programmed and funded.
3. The governments should create a health policy forum at provincial or highland district level, where participatory policy making can be made with direct input from the communities so that their grievances, expectations, and solutions can be sought for any future health strategies.
4. The government is recommended to urgently address the mental health and substance abuse challenges in the Papuan highlands. This can be done via culturally sensitive appropriate psychosocial services.

Recommendations to United Nations Economic and Social Council:

1. The council is recommended to assess and follow-up on the government's progress in the points mentioned above. Considering the extent of the HIV/AIDS epidemic, its failure to protect the right of highland

14 Susan Rees, Derrick M Silove, Kuowei Tay and Moses Kareth. Human rights trauma and the mental health of West Papuan refugees resettled in Australia. *Med J Aust* 2013; 199 (4): 280-283. Available at: <https://www.mja.com.au/journal/2013/199/4/human-rights-trauma-and-mental-health-west-papuan-refugees-resettled-australia>

indigenous citizens to healthcare and the considerable inequalities in the provision of healthcare, the UN Special Rapporteur on the right to health should visit not only

Indonesia's capital (a visit already planned and postponed for several years), but also the remote Papua province, including its highland districts.

Reproductive health and Demography: the low fertility rate of indigenous Papuans

The Papuan provincial health profile 2012 shows that the uptake of active family planning (49%) and skilled birth attendance (53%) falls far behind the rest of the country. According to the 2012 Indonesian Demographic and Health Survey (IDHS), Papua's fertility rate is 3.50, higher than 2.18 percent in 2007. The percentage of contraception (CPR) use dropped from 38.3 in 2007 to 21.8 in 2012.

The first statistic is consistent with reports that indigenous Papuans view family planning as a form of population control by the State. Anthropological research in the '90s has indicated that in the Baliem valley women traditionally have only 2 or 3 children, and that there are low total fertility rates of less than two live children per woman (in 1991, a sample research among a population of 20,000 even estimated an average total fertility rate of 1.46 live children per woman). The national '2 children only' family planning program, immunization schemes and growth monitoring programs are not tailored to the context and have not reduced maternal and child mortality rates in Papua.

"On three separate occasions, Dani men described the push towards family planning on the part of the government as a strategy to eliminate Dani and other tribal groups from the nation. Dani women do not produce enough children as it now stands to ensure the population continues to grow, and enforcing birth control in light of this demographic situation is, in the words of one particularly vocal critic, "genocidal." Again, while this may put too bold a stripe on Baliem valley relations, the issue remains that exceptionally high local infant mortality rates are treated with nation-wide infant health strategies that are irrelevant to the Baliem valley situation, and exceptionally low female fertility rates are treated with family planning seminars. The cost of assimilation is high." (Butt, 1998)

While the overall average fertility in Papua has increased over the last decade, this is certainly not the case for the indigenous people in the highlands. There are multiple causes of infertility, including chronic malnutrition in children and young adults, the alienation of traditional lands, the marginalized living conditions of highland Papuans living in urban areas on the coast, HIV-AIDS and STDs prevalence leading to infertility and traditional child spacing methods. Current fertility rates are unknown, as the national health survey does not disaggregate data based on ethnic background. The author roughly estimates that the average total fertility rate is somewhere between 1.5 and 1.8 child per adult woman for the Papuan people in the highlands. Moreover, the difference in life expectancy between the indigenous population and the migrant population has not been monitored or reported. There is a considerable gap that could perhaps be a difference of 10 years or more in life expectancy. This health inequity is officially invisible, as there is, apart from HIV reporting, hardly any differentiation of data on the health status of indigenous Papuans in relation to the rest of the population of Indonesia.

Research that analyzed the demographic trends in Tanah Papua predicted a catastrophe for the Papuan people. In 1971, they made up 96,09% of the population of the region. In 2020, they will make up only 28,99% of the population; a small and rapidly dwindling minority.

Sources:

Leslie Butt. *The social and political life of infants amongst the Baliem Valley Dani*, Irian Jaya. Doctoral thesis. 1998

Jim Elmslie. *West Papuan Demographic Transition and the 2010 Indonesian Census: "Slow Motion Genocide" or not?* CPACS Working Paper No. 11/1. September 2010.

3.2 Right to Education

Over the past years, the education sector in the highlands of Papua have continued to expand. New schools and medical centres are being built and thousands of teachers and health workers have been hired to work in the region. In spite of this, in some areas there has been a complete withdrawal of public services, which is causing literacy rates to fall, in remote areas to less than 10 per cent. The scale of the crisis is not acknowledged in official reports and its impact has been hugely underestimated.

A study conducted in 2014 in 40 villages in the regencies of Wamena, Yahukimo and Yalimo has shown that in many areas in the highlands, and in particular in those that are difficult to access, schools have been closed and teachers absent for several years. Many teachers who do not live in their designated workplace but in urban areas continue to receive wages, including bonuses for service in remote areas. Some teachers only attend their place of work once or twice a year for exams. Some headmasters, themselves mainly absent, employ under-qualified assistant

teachers who receive low and irregular salaries. The study covers an area of about 100.000 inhabitants, but is likely representative of most of the highland regencies. This is highlighted by mass media and NGO reports on the situation of basic education in the regencies of Pegunungan Bintang, Tolikara, Puncak Jaya, Lanny Jaya, Nduga, Puncak and Intan Jaya. That means that a high percentage of the 1,2 million Papuas living in those highland regencies is affected by the situation described below.

Table 3.2-1: Presence of teaching staff at the primary schools included in the study

Total number of teachers	Actively teaching	Only present for exams	Never present at workplace
87	48	15	24
near urban areas: 37	near urban areas: 28	near urban areas: 1	near urban areas: 8
further away from urban areas: 50	further away from urban areas: 20	further away from urban areas: 14	further away from urban areas: 16

Increasing illiteracy rates:

More than half of the villages in which research was conducted had a literacy rate of under 25% and one third had a rate of less than 10%. Since the 1960s, literacy programmes have been part of the basic services provided by local churches. Since the 1970s, this task has been gradually taken over by schools run by the churches

and the state. The extensive failure of primary education in the past ten years has created a educational vacuum in several areas. Official reports do not acknowledge the situation and continue to show a relatively high rate of graduates. However, the diplomas of these so-called graduates are often based on the results of examination questions filled in by the absent teachers themselves in order to save face.

Table 3.2-2: Villages with a literacy rate below 10% (40 villages in total included in research)

Village	Area	Population	Number of literate inhabitants
1. Konosa	Kosarek	292	12
2. Ultam	Kosarek	567	18
3. Walani	Kosarek	163	12
4. Hitlahen	Pronggoli	410	15
5. Mamion	Mabualem	370	10
6. Folmimpi	Ubahak	3.800 (= several villages)	Very few
7. Panggema	Panggema	642	35
8. Homtonggo	Panggema	544	6
9. Folungsili	Panggema	879	10
10. Yanggali	Panggema	838	49
11. Mumanggan	Panggema	645	41
12. Ubalih	Welarek	63	5
13. Pami	Welarek	200	6
14. Filihik	Apahapsili	46	4
15. Jakwa	Pagai	250	Very few

Table 3.2-3: Villages with a literacy rate below 25%

Village	Area	Population	Number of literate inhabitants
1. Pontengpilik	Pronggoli	480	50
2. Silong	Ubahak	265	38
3. Poik	Poik	391	82
4. Perang	Poik	204	26
5. Tukam	Panggema	250	30
6. Tahamak	Welarek	241	35
7. Tangumsili	Apahapsili	300	68

Table 3.2-4: Villages with a literacy rate below 50%

Village	Area	Population	Number of literate inhabitants
1. Meringman	Kosarek	75	30
2. Tanggeam	Yahuli Ambut	530	233
3. Panal	Poik	259	84
4. Kulet	Apahapsili	ca. 300	(estimated < 50%)
5. Hitugi*	Mugi	626	280
6. Sisiapoloa*	Mugi	411	80
7. Usagasem*	Mugi	374	113
8. Ibiroma*	Ibiroma	355	70
9. Kilise*	Kilise	226	80

* Proximity to urban areas and therefore relatively good educational standard explains the comparatively high literacy rate.



Image 3.2-1: The highlands children studied with very limited facilities to study. Photo: Dieng.

Results of the failing educational system:

This educational crisis is occurring at a time when Papuans are faced with unprecedented, highly complex challenges in the fields of development, politics, administration, economy, finance, law, and healthcare. In terms of public expenditure alone, the amount of funding available is 30 times higher than it was prior to the beginning of special autonomy¹. Through the implementation of the government's strategy plan for rural development (RESPEK) a lot of the funding has reached remote areas². Large sums of money are handed over to officials on the

district and village level, often in front of the local residents. Adapting to this shift in political power and responsibility as well as handling the influx of money requires a high level of educational qualification among the local population. This, however, is not available and the educational deficit has caused a number of significant problems:

- Since every new district and even the smallest villages have well-paid positions and regular project funds and budgets available, a rapid political fragmentation is taking place. For example, in 2013, a small village in the highlands of Papua with a population of 800 was able to divide itself into eight villages. Each of these villages now has a town hall, 13 paid positions and an increasing flow of state funds. Close by, there is a little hamlet with 5 families that have founded their own village and could therefore register nearly each of their adult members in state payrolls.
- The region of Yalimo has no more than 18.000 inhabitants. However, there are approximately 81.000 inhabitants registered in order to create as many administrative units as possible. At the moment, this means five districts with approximately 35 civil servants per district, 300 villages with 13 paid workers each, as well as the regional government itself which employs approximately 800 civil servants. Including teachers and health workers, these are 4.875 posts in the region which are paid for by the state. Most of them have no responsibilities, apart from delivering an obligatory annual report to collect their salary. Very few sit in their offices, even fewer teach classes. Qualified workers have left to pursue careers in urban areas. Those who remain cultivate

1 In 1999 it was 250.000 Rupiah per capita, in 2013 8,3 Million Rupiah pc. The rate of inflation was on average 7,3% (Papua Public Expenditure Analysis Overview Report, World Bank, Indonesia 2005; <http://global-rates.com/wirtschaftsstatistiken/inflation>).

2 Some charter aeroplanes for 2.000-3.000 Euro, sometimes using private, sometimes public funds. According to their public statements of accounts, three pairs of candidates standing for the post of regent in the area of Yalimo in 2011 (with a population of just 18.000) spent around five million Euro during their four weeks of campaigning. Satellite dishes and flat screen televisions are no longer rare; a 100 Euro fare is no longer an obstacle to hire a taxi for a journey of 12 kilometres; cranky toddlers are given 50.000 Rupiah bills by their mothers to calm them, etc.

a no-show job culture without fear of sanctions.

- As a result, almost all other economic initiatives have come to a halt, apart from trading rice, instant noodles and cigarettes. In places where there used to be production and business with rattan products, nets, jewellery, bows and arrows and agricultural products, prices for food have exploded, as there are hardly any fields or orchards being tended. For many young Papuans, no-show-jobs have replaced all other career aspirations.
- The opportunity to hold a political office, moderate public events, lead meetings, file applications and implement projects means an incredible gain in experience for some. One continually meets gifted and communicative young Papuans. Many civil servants are however, children of the current educational crisis. Some mayors are not able to read their mail and confuse millions with billions. Some of their superiors can read, but have no political experience. The lack of experience and education leads to mismanagement and stymies attempts to improve the current system.

Positive examples

Aside from the no-show-workers, there is a small group of assistant teachers and health workers who are not state approved. They use their basic education or knowledge obtained in crash courses to keep schools and medical stations in their own villages up and running. Their work is mainly supported by local churches and NGOs.

In rural areas, evangelists receive recognition for their multifunctional, reliable service. Where no teachers, medical staff or mayors are present,

they take over responsibility for educational, healthcare and social projects. The training of evangelists, which was discontinued in 2005, will now be resumed due to demand by many workers in the highlands. The church leadership has realised the importance of the service of the evangelists and that they are the last remaining bearers of services to the public in many places in Papua.

Alongside the state education system, which is failing because of its teachers' unwillingness to work, there is a parallel, temporary education system run by volunteers and evangelists. It has insufficient funding and operates with limited resources, but works because of the high commitment of those involved. This cannot be a feasible permanent solution. For the time being, however, it is the only opportunity for thousands of Papuans to take part in any type of educational process.

Recommendations

To the national and provincial government:

1. The government should evaluate its programs based on disaggregated data.

To the provincial government:

1. Policy making should be based on participatory processes and aimed at culturally sensitive education programs.
2. Disciplinary measures and reliable management practices need to be adopted to ensure the presence of teachers and other education workers in remote schools

3.3 Right to Food and Cultural Rights

Large investment projects can seriously detriment the environment and the land rights of indigenous persons which are set out in other sections in this report. In addition, the conversion of forest area into palm oil plantations or areas used for logging can also lead to displacement, impoverishment and malnutrition in local communities. This is demonstrated by the case of the Yerisiam tribe in Yaur district, Nabire.

PT Nabire Baru and the Yerisiam¹

Chronology of the case

2008:

17.000 hectares of forest and customary land were released as a result of an agreement between Imam Basrowi, a business representative, and a Yerisiam member. Consequently, the Nabire regency government issued permits for the creation of palm oil plantations.

2008-2010:

Permission for PT. Nabire Baru (PT NB) plantations was given in Sima village in Yaur district.

2010-2011:

Permission given for PT. Nabire Baru for timber.

2011:

Permission given for PT. Sariwarna Unggul Mandiri (PT SUM) for timber.

2013:

Most of the land owned by PT. Nabire Baru is handed over to PT. Sariwarna Adi Perkas (PT SAP). Originally the land for palm oil plantations was granted to PT. Jati Dharma Indah, which controls most of the production forest in Nabire.

Case Study Analysis

The Yerisiam tribe consists of four sub-tribes, with fifteen related tribes inhabiting the area. Their livelihood is based on farming, fishing and forest produce. The initial release of the forest and customary land was undertaken without consultation with the Yerisiam chief. The agreement stated that PT Nabire Baru would manage the land, but in practice PT SAP

is developing the palm oil plantations while PT SUM manages the timber logging.

All three companies have ignored the provisions and relevant laws governing forest management, especially those requiring the free prior and informed consent of the indigenous community. The investors have destroyed the forest and have not provided compensation to the local people for the loss of livelihood. Culturally important locations including sacred places and sago areas which had been maintained by the Yerisiam for generations have been demolished.

From 2011-2014, the Yerisiam chief was active in ensuring that the tribe's situation has been on authorities' agendas. In November 2014 he gave a testimony at the palm oil meeting with the local government, Nabire police, the human rights commission (Komnas HAM), the Nabire parliament, the Minister of Forestry, NGOs and media present. However, the meeting had no clear outcome or benefits for the Yerisiam people. For the community, it is very difficult to meet with PT management, as the area is heavily guarded and the security forces are working on behalf of the corporations.

The presence of this consortium of investors puts pressure on the livelihoods of the Yerisiam and is a divisive force between them. Since PT NB, PT SUM and PT SAP began operations in the area, indigenous peoples can no longer make use of the forest as is necessary for their culture activities and to maintain a steady food supply. As a result, household incomes have diminished and cases of child malnutrition have increased.

1 Source: SPH / YM / fjtiki



Image 3.3-1: Bulldozers destroy the Yerisiam people's sacred lands around Wami and Sima villages. Thousands of hectares of forest and hilly ground are being destroyed for oil plantations by PT Nabire Baru in Wami and Sima villages, Yaur District Nabire, West Papua.

Although the request for consultation and compensation has been made to the companies responsible, no villagers have received money for medical expenses, education, housing or economic initiatives. In the villages, people experience severe restrictions in their freedom of expression, as the companies limit movement and criticism and reportedly pay silence money to ensure that members of the tribe would not speak out.

Recommendations

- Yerisiam Chief Simon Peter Hanebora proposes to sit together with the stakeholders – companies, government, communities and others – to talk about settlements.
- Broader civil society demands an independent investigation into the actions taken by the company in order to ensure justice.
- Companies should provide compensation for livelihoods lost as a result of their actions.
- The security forces and the mobile police brigade should be withdrawn from the Yerisiam territory and investor companies should no longer be linked to security forces.
- The local communities should be part of the decision-making process on the use of forest areas.

3.4 Discrimination against Women

The 1945 constitution guarantees basic rights for all, including the right to fulfillment of basic needs and the right to education, work and healthcare. In Papua, women not only face the same violence and developmental challenges as men, but they are also subject to additional structural poverty, as they have little access to or ownership over economic resources.



Image 3.4-1: Papuan women work in a traditional market.

Based on focus group discussions and interviews with more than 1700 women from all over Papua (2012-2014)¹, three forms of marginalization and discrimination of Papuan women were identified:

1) Exclusion of Papuan women from the economic system

Papuan women face difficulty in meeting their basic needs on a daily basis, including food, water, adequate housing, health and education. Their poverty is often inter-generational as a result of the structural isolation and disempowerment of women. Factors that contribute to this include:

- Lack of infrastructure that connects women to markets
- Expensive transportation restricting access to communities and markets
- Dominance of non-Papuan vendors in all sectors of the economy

2) Dilution of identity and poverty as a result of loss of natural resources

The acquisition or appropriation of natural resources by investors in collaboration with the national or local government results in a loss of land and resources for Papuan communities.

1 Pendokumentasian Anyam Noken Kehidupan (ANK)

Cases of expropriation without informed consent and fair compensation were documented:

- Palmoil plantations in Keerom and Digoel
- Timber in Fakfak, Raja Ampat, Biak and Wasior
- Minerals and sand in Tambraw, Timika and Wasior
- Transmigration sites in Digoel, Keerom and Wasior
- Airfield in Asmat, Tambraw and Timika
- Military headquarters in Wamena and Biak
- MIFEE in Merauke

This issue is discussed further in chapter 4. It particularly impacts women, who are more isolated than men and are unable to access alternative food sources. One woman from Keerom explained that they had no choice but to surrender their lands: "If we do not submit (land) forests, they say we're protecting the OPM in the woods..." Security forces also play an important role, as they support the customary tenure and conversion of forests. Women in a number of other districts underline the testimony from

Keerom, where security forces serve as guards for the investors. Village women are endangered by the presence of these security forces which prevents them from accessing their land, which is their livelihood.

In addition, the identity of Papuan women is closely connected to land and nature. It is not only a deprivation of food, livelihood and economic assets, but also an appropriation of their traditional identity.

3) Lack of political participation of Papuan women

Women in Papua have extremely limited involvement in political activities due to their impoverishment and isolation. The standard quot of 30% of political candidates being female is almost never implemented in the region. Papuan women are rarely part of decision-making in local politics and within the bureaucracy and this is not a priority for political parties.



4. INDIGENOUS PEOPLES RIGHTS

4. Indigenous Peoples Rights

4.1 Demographic Analysis of the Population of West Papua

This section seeks to understand the changing demographics in the region widely known as West Papua (referring to the Indonesian provinces of Papua and West Papua). The basic population dynamic is that the original Melanesian inhabitants are being challenged by a large influx of non-Papuan migrants who started arriving after West Papua's disputed integration into Indonesia in 1969. Non-Papuans now make up a majority. This paper examines how this process is unfolding and what the future demography may look like. Of course such projections can only be made by extrapolating past and current trends and are therefore speculative, but are nevertheless germane in understanding the massive changes now taking place in West Papua.

Papuan and Non-Papuan populations in the 2010 Census.

The 2010 Indonesian census (the next census is due in 2015) shows the population for the two Indonesian provinces of Papua and Papua Barat as 3,612,854¹. In this analysis I am treating the two provinces together, using the term West Papua, as they were previously one province and the historical data reflects this. The 2010 census does not break the population down to its two main segments: Papuans and non-Papuans (migrants from other parts of Indonesia and their offspring). However previous censuses have recorded ethnicity and it is possible to extrapolate from historical data to determine the current ethnic makeup of West Papua and how quickly demographic change is occurring. As base line figures I will only use published Indonesia data, although some may dispute the accuracy and objectivity of these figures.

Indigenous Papuans were identifiable as a distinct population segment in the 1971² and the 2000 censuses³. In 1971 they were referred to as "Irian born", while in the 2000 census a comprehensive breakdown of different tribal populations was undertaken. By examining how the two population groups have grown over this period we can determine two quite different growth rates: the Papuan rate driven exclusively by natural increase (births less deaths), and the non-Papuan rate, caused primarily by inward migration from other parts of Indonesia as well as natural increase.

The Papuan population increased from 887,000 in 1971 to 1,505,405 in 2000. This represents an average annual growth rate of 1.84%. The non-Papuan population increased from 36,000 in 1971 to 708,425 in 2000. This represents an average annual growth rate of 10.82%.

The 2010 census figures only give a total population figure without breaking that figure down

1 Hasil Sensus Penduduk 2010, Data Agregat per Provinsi. Badan Pusat Statistik, Jakarta, 2010.

2 Chris Manning and Michael Rumbiak, 'Irian Jaya: Economic Change, Migrants, and Indigenous Welfare' in Hal Hill, Ed., *Unity and Diversity, Regional Economic Development in Indonesia since 1970*. Oxford University Press, Oxford and London, 1991, p.90

3 Hasil Sensus Penduduk 2000. Badan Pusat Statistik, 2000.

into ethnic groups, however we can determine the ethnic breakdown by using the historical growth rates of the Papuan population. Assuming the historical Papuan annual growth rate has been maintained over the course of the last decade the Papuan population in mid-2010 (at the time the census was conducted) would be 1,790,777. This equates to 49.55% of the total 2010 population of West Papua of 3,612,854. Accordingly the non-Papuan population would have been 1,822,677, or 50.45%.

Alternatively we can estimate the non-Papuan population by using the 2000 census number, 708,425, and applying the historical growth rate of 10.82%. This would give a mid-2010 non-Papuan population of 1,882,517, or 52.10%. Accordingly the Papuan population would be 1,730,336 or 47.89%. These two sets of calculations results in very similar outcome, indicating that historical growth rates for both populations have continued.

This analysis shows that the Papuans had already become a minority in West Papua in 2010 from being an overwhelming majority (96.09%) less than four decades previously.

Papuan and non-Papuan population estimates for 2015

In the most recent statistics available on the Indonesian Statistics Office (BPS) website there are both projections for population growth and the actual rates of population growth in previous periods. The actual rate of population growth for the period 2000-2010 was 3.71% for West Papua Province and 5.39% for Papua Province. The weighted average annual growth rate for the two provinces, the growth figure for West Papua as a whole, is 5.09%. If this rate was maintained after 2010 the total population for West Papua (West Papua Province and Papua Province) would be 4,642,000 in 2015. The BPS projection for 2015 is only 4,020,900 which indicates a much lower growth rate of less than 2.2%.

This is hard to understand and seems erroneous – anecdotal evidence would suggest that the population growth rate post 2010 has been even greater than the pre-2010 rate due to large inward migration of spontaneous migrants and especially agricultural workers associated with oil palm plantations. If we assume that the population rate will increase at the same rate post-2010 as in the preceding period (a conservative estimate in my mind) the current total population for West Papua of Papuans and Non-Papuans would be 4,642,000.

If we assume that the population growth rate for Papuans continued its historic rate of 1.84% (which may be optimistic given the poor health and living conditions for many Papuans) the total number of Papuans in 2015 would be 1,961,000. Papuans would therefore represent 42.24% of the total population of West Papua (West Papua Province and Papua Province) in 2015.

Population projections to 2020

In my previous analyses of West Papuan demographic transformation I projected the Papuan and non-Papuan populations as growing at their past respective rates. Using this approach the Papuan 2010 population of 1,760,557 would continue to increase at an annual rate of 1.84% and there would be 2,112,681 Papuans in 2020. Likewise if the non-Papuan population continues to increase at its historical (1971-2000) rate of 10.82% there would be 5,174,782 non-Papuans in 2020. This would give a total population of 7,287,463 of which Papuans would make up 28.99% and non-Papuans 71.01%.

Projected population breakdown for West Papua in 2020:

Papuan population	2,112,681
28.99%	
Non-Papuan population	5,174,782
71.01%	
Total population	7,287,463
100%	

Alternative population projection to 2020

In the current BPS figures the projected population for West Papua (West Papua Province and Papua Province) is 4,020,000 in 2015 and 4,417,000 in 2020. As discussed this used a growth rate of less than 2.2% for the period 2010 to 2015. The projected population for 2020 of 4,417,000 reflects a growth rate of less than 2% for the period 2015-2020. I consider this unrealistic given the past growth rates.

If we adjust this analysis and use the BPS historical annual 2000-2010 growth rate of 5.39 % then the projected population would be 6,122,693. If the number of Papuans in 2020 is maintained as above (on their long term growth rate of 1.84%) then the population breakdown would be:

Papuan population 34.50 %	2,112,681
Non-Papuan population 65.50 %	4,010,012
Total population 100%	6,122,693

Projected population growth rates

The key component of this analysis has been the use of historical population growth rates to predict future growth. The rates used have varied from Indonesia's BPS predictions which are very low – less than 2.2 % for the periods after 2010 while the 2000-2010 historical rate by BPS' own reckoning was 5.39% for West Papua (West Papua Province and Papua Province). I think continuing the 2000-2010 growth rate is not only logical but probably underestimates the real growth rate because of:

- Massive industrial and agricultural projects such as the Merauke Integrated Food and Energy Estate (MIFEE) which plans to convert millions of hectares of forest into palm oil and other plantations and eventually employ millions of predominantly non-Papuan workers who will add to the permanent population.

- Ongoing spontaneous inward migration of non-Papuans seeking employment and economic opportunities, especially in the proliferation of the number of Regencies from nine in ?? to above 40 now?.
- The historical trend for an increasing population growth rate for West Papua from 2.31% in the 1970s; to 3.46% in the 1980s; dipping slightly to 3.22% in the 1990s (probably due to the Asian Economic Crisis) then to 5.39% in the 2000s.

There is also the real possibility that the Papuan growth rate has dipped below its long term average due to the serious health challenges faced by the Papuans including the HIV/AIDS epidemic, malnutrition and high rates of infant and maternal mortality.

Comparison with Papua New Guinea population growth rate

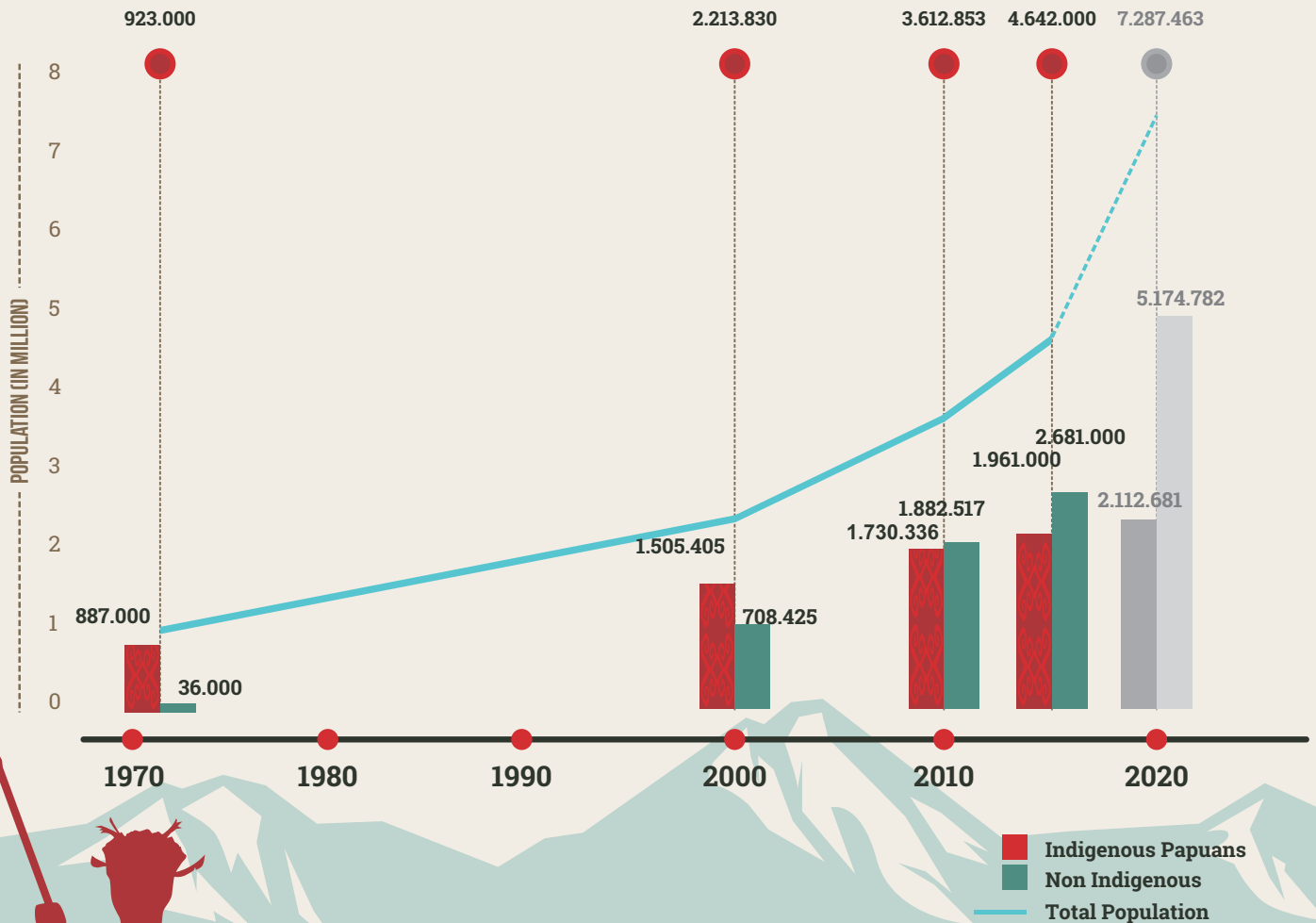
Comparison is sometimes made between the demographics of West Papua and Papua New Guinea – the fellow Melanesian country that occupies the eastern half of the island of New Guinea. The Melanesian people of this region are historically closely linked having lived on the same island for millennia. The average growth rate for PNG since independence in 1975 has been 2.6% per annum. If the Melanesian people of West Papua had enjoyed this rate of increase since the 1971 census, where they numbered 887,000, there would now be 2,744,000 Papuans or 783,000 more than the current estimated population of 1,961,000.

There are many factors that might explain this discrepancy, such as the influence of successful Indonesian family planning programs on Papuans. It may also indicate an enforced lower growth rate through general lower health; casualties and displacement from armed conflict and poor living conditions. The Indonesian population growth rate country-wide was 2.31% in the 1970's; 1.98% in the 1980's; and 1.49 from 1990 to 2010.

DEPOPULATION OF PAPUAN PEOPLE 1971-2020



TOTAL POPULATION



What these figures do mean is that the Melanesian population is considerably less than it would have been if West Papua had not been under Indonesian control, but an independent nation like PNG.

Consequences of demographic transition and Papuan minoritisation.

While it is difficult to generate precise demographic statistics it is possible, as this paper has argued, to clearly establish the demographic trends underway in West Papua: the number of Papuans is declining in relation to the number of non-Papuans; they are now an overall minority, and they will become an ever smaller minority if current Indonesian policies remain unchanged.

This demographic transformation, however, is not uniform across the whole of West Papua. Most of the non-Papuan population is in urban areas; anecdotally they are a clear majority in most urban centres, such as Jayapura, Merauke and Sorong. Conversely the population in rural areas, particularly the central highlands region, is still majority Papuan. This imbalance creates conflict, most seriously with ongoing military

operations against 'separatists'. Non-Papuans also dominate economic activity and formal employment, causing further tensions with, and discrimination against, Papuans. Claims of genocide are often heard and need serious consideration and deserve proper investigation⁴. Ongoing serious human rights abuses are well documented.

In West Papua a demographic transition is well under way and it is one of the drivers of conflict in the region. More research is required to fully understand this process, and hopefully to mitigate or limit future mass migration of non-Papuans; the Melanesian population fears it is suffering a demographic catastrophe such as happened to the Australian Aboriginal people, although not in the colonial era of the nineteenth century but in the globalized twenty-first century. Given the rapid changes in mass communication through the internet and social media, this conflict can no longer be hidden from the world. It is in Indonesia's interest to address this issue directly or face international condemnation as the dire situation of the Papuans becomes more widely known.

⁴ See, Jim Elmslie and Camellia Webb-Gannon, *A Slow-Motion Genocide: Indonesian Rule in West Papua*, Griffith Journal of Law & Human Dignity, Vol. 1 [2] 2013, pp.142-165.

4.2 The Right to Self-determination

Self-determination is a right attributed to indigenous peoples, including those of West Papua, and its implementation is the responsibility of the state. As a member of the United Nations, Indonesia has an obligation to guarantee the right of self-determination for the peoples of Papua, and in particular to facilitate their internal self-determination. Indonesia has produced laws which can be interpreted as a domestic legal guarantee of the right to internal self-determination of Indonesian citizens. For example, Law 9/1998 on Freedom of Expression in Public and Law 21/2001 on West Papuas Special Autonomy. Despite the existence of such laws in Indonesia, the lack of implementation has clearly shown that government policies and acts of the state apparatus contravene these laws.

One example of such contravention was the arrest of Buchtar Tabuni on 3 December 2008 in his house in Sentani in the Jayapura regency. He was arrested for organizing a peaceful demonstration on 16 October in support of the launch of International Parliamentarians for West Papua in the UK Parliament. On the day after his arrest, fifty protesters gathered outside Jayapura police station to call for his release.

Prosecutors sought a ten-year sentence against him on three criminal code (KUHP) charges: an act of treason (Article 106), provocation (Article 160), and acts against the state (Article 212). Buchtar's attorneys described the case as an attempt to stifle free speech in Papua, questioning, "If outside Papua, people can freely raise their opinions - why is free speech still restrained in Papua and treated as treason?" Amnesty International considered Buchtar Tabuni to be a prisoner of conscience, "imprisoned solely for peacefully expressing [his] views". Human Rights Watch also lobbied for his release and the release of other non-violent Papuan political prisoners.

On 8 June 2012, Buchtar was arrested again in Jayapura on charges of organizing violent protests. On 23 July another activist, Yusak Package, was arrested during Buchtar's trial for having a penknife in his bag. Package was charged with "possession of a weapon", which carries a maximum sentence of ten years' imprisonment.

Similar cases have taken place all over West Papua. Many young people, human rights

activists, journalists, women and leaders have been tortured, jailed, prisoned and/or murdered because of their struggle to realise their right to self-determination. Therefore, there is an urgent need to guarantee that West Papua's indigenous peoples will be able to enjoy their right to self-determination.

One possible approach is the implementation of a survey on self-determination with the involvement of churches and universities in West Papua, publicly discussing the issue and providing a legal and political solution for West Papua's indigenous peoples and the enjoyment of their right to self-determination. This legal and political solution can be utilized as a tool for future lobby and advocacy work.



Image 4.2-1: Newly developed road in the Papuan highlands.

Self-determination in International Norms

The UN Covenant on Civil and Political Rights (ICCPR) and UN Covenant on Economic, Social and Cultural Rights

Article 1

1. All peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.
2. All peoples may, for their own ends, freely dispose of their natural wealth and resources without prejudice to any obligations arising out of international economic co-operation, based upon the principle of mutual benefit, and international law. In no case may a people be deprived of its own means of subsistence.
3. The States Parties to the present Covenant, including those having responsibility for the administration of Non-Self-Governing and Trust Territories, shall promote the realization of the right of self-determination, and shall respect that right, in conformity with the provisions of the Charter of the United Nations.

The UN Declaration on the Rights of Indigenous Peoples (UNDRIP)

Article 3

Indigenous peoples have the right to self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.

What is self-determination?

Self-determination theory (SDT) is a macro theory of human motivation and personality, concerning people's inherent growth tendencies and their innate psychological needs. It is concerned with the motivation behind the choices that people make without any external influence and interference. SDT focuses on the degree to which an individual's behavior is self-motivated and self-determined.

Based on this theory, the right to self-determination, as set out in article 3 of the UN Declaration on the Rights of Indigenous Peoples, is the right to freely determine their political status and freely pursue economic, social and cultural development.

Self-determination is divided into two components: external and internal. External self-determination is a legal right to secession. Secession is defined as '...the creation of a new State upon territory previously forming part of, or being a colonial entity of, an existing State'. Internal self-determination concerns the protection of a variety of human and cultural rights such as the protection of an ethnic group's language and religion, as well as a right to autonomy. According to some commentators, this includes the right to democracy.

In West Papua there is confusion over the meaning of self-determination and over how it can be made manifest, which has sometimes created conflict. For most West Papuan people, self-determination is intrinsically bound up in the notion of a referendum to determine independence. Some local politicians and local government officers have defined self-determination as autonomy. Other civil organizations like churches, NGOs and military and police apparatus have not taken a clear position with regard to the definition of self-determination.

4.3 Landgrabbing

There are a number of problems associated with the growing plantation industry in Papua, including military and police playing a double role as acting as private security guards for companies while exercising the authority of the State, a lack of respect for Free, Prior and Informed Consent (FPIC) principles, broken promises, deception by companies and the payment of insufficient compensation for land. In the establishment and construction of new plantations, the rights of landowners are routinely not respected. Although some indigenous communities have managed to resist plantation plans, many others have felt they have been tricked, intimidated or manipulated into accepting plantations they would not have freely chosen. Once work starts, communities have found themselves impoverished, as their traditional forest-based livelihoods are no longer possible and companies retreat from their promises to provide decent work, healthcare and education.

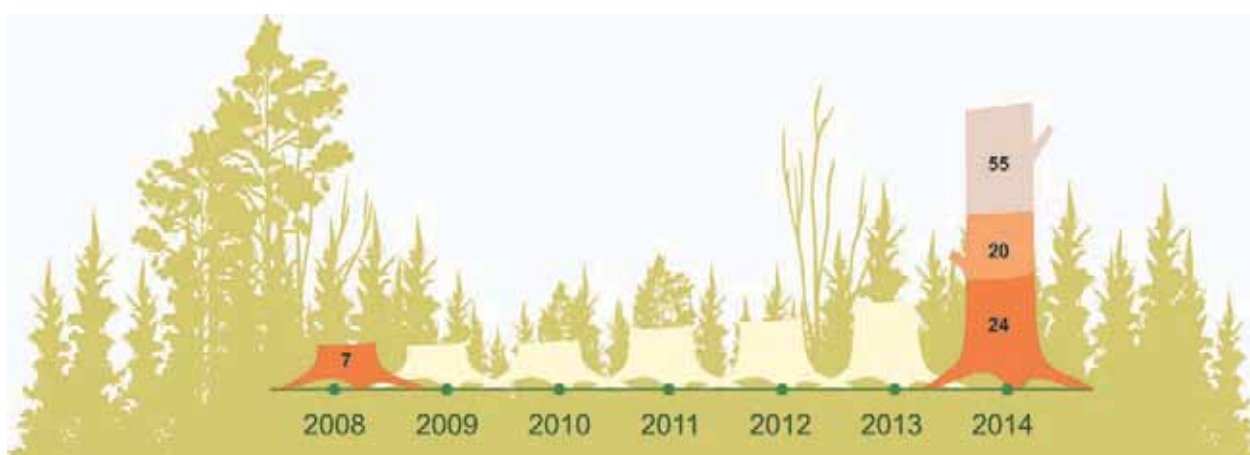
Papua has become the focus for new plantations as land for agriculture is becoming scarce in Kalimantan and Sumatra. Many major players in the logging industry have switched their focus to obtaining plantation permits. As a result of this development, land conflicts with local communities in Papua are increasing, as is the number of plantation companies operating in the region.

Local communities are facing the consequences of expansion of plantations, namely the loss of their territories and forests, insufficient compensation for their land, broken promises and intimidation if they refuse to cooperate.

Emblematic of the many problems the plantation industry is causing in Papua is the Merauke Integrated Food and Energy Estate (MIFEE), operating in the far south-east of Papua. In other regencies of Papua, the expansion of plantations is swallowing traditional land and causing conflict between the communities and the companies, the communities and state security forces or even within the communities themselves.¹

Plantation Companies in West Papua

- permit application
- permit application & nearly ready to process
- operating



¹ As the plantation industry develops in Merauke, a significant number of companies are seeking land in neighbouring regencies in Southern Papua, notably Boven Digoel and Mappi regencies. Other areas experiencing a rapid expansion in the oil palm industry are the swathe of lowland forest between Sorong and Bintuni, the hinterland of Jayapura as far inland as the Mamberamo Valley, and to a lesser extent the coastal areas near Nabire and Timika.

a) Presence of military and police as security staff in companies

With the opening of new plantations, the number of security personnel in an area increases. This is because a plantation company will usually employ police or military to provide security. As they then protect the company's interests, they are not able to be impartial if there is local opposition to a plantation project. This conflict of interest endangers the villagers's demonstrations and actions against the company.

1. Case Study 1: PT Nabire Baru

At the PT Nabire Baru plantation, the company engaged the Police Mobile Brigade (Brimob) from Nabire police headquarters to provide its security. Over the last two years, local activists have alleged that a string of violent incidents involving these Brimob guards have taken place. One example took place on 26th June 2013. Titus Money, who was both a customary land-owner and was also working for PT Nabire Baru, was handcuffed and beaten with rifle butts after he protested that his wages were late. According to his brother, Imanuel Money, 'The delay in the payment of the wages of the workers, including my brother, was a common practice of the plantation, however no one dared to protest because armed police personnel were employed by the plantation to pacify the situation to their benefit.'³

Also, when companies approach communities to ask them to surrender their land, they are usually accompanied by police or military officers. Even when these officers are mere passive observers, many communities feel intimidated by their presence. This fear is related to previous experience of police brutality or knowledge of the ongoing conflicts in Papua. In a few cases, indigenous communities have been threatened

Free, Prior Informed Consent

The principle of FPIC means that indigenous people have the right to refuse or accept developments on their land without pressure or compulsion. It is enshrined in the United Nations Declaration on the Rights of Indigenous People. Indonesian national law also recognises the land rights of indigenous people and article 43 of the Papuan Special Autonomy Law (2001) explicitly recognises indigenous land rights (*ulayat rights*), and states that an agreement must be reached in a general meeting (*musyawarah*) before indigenous land can be surrendered for any other purpose. In 2012, the legal position of indigenous people was strengthened by Constitutional Court decision 35/PUU-X/2012, which confirmed that indigenous lands were not state forest land.

that they will be regarded as Organisasi Papua Merdeka (OPM-Free Papua Movement) if they do not comply. As OPM is outlawed in Indonesia and people regarded as OPM-members are jailed for treason⁴, this is a severe and effective threat. The accusation may be aggravated if weapons are found in the communities. As working tools such as machetes or bows and arrows may be interpreted as weapons, this is also a viable threat.

Case Study 2: Yowid, Merauke:

In July 2013 news emerged that community leaders had signed a document presented to them by PT Mayora Group, which was trying to obtain land for three 40,000 hectare sugar cane concessions in the area. They were threatened that if they did not sign the document, they would be treated as OPM. Company representatives also claimed that weapons were being stored in the traditional meeting house. The company had obtained a leaflet

3 <http://suarapapua.com/2013/06/tuntut-pembayaran-gaji-ke-perusahaan-brimob-aniyai-warga-sipil/> (no longer online 28/01/2014, English translation available at <http://westpapuamedia.info/2013/06/30/nabire-brimob-assaults-a-civilian-due-to-wage-demands/>)

4 20.04.2015, HRW, <http://www.hrw.org/news/2014/10/24/dispatches-indonesia-s-papua-paranoia-jails-foreign-journalists>

about human rights in Papua published by the West Papua National Committee (KNPB) which the deputy traditional leader had brought from the city, and fearing repercussions and knowing villagers were preparing to run to the forest in fear, community leaders signed the document. During the process, the PT Mayora Group was accompanied at all times by fully-armed Brimob guards.

b) Legal avenues

When demonstrations take place, people are in many cases criminalized and threatened by security forces. People in Indonesia acting against companies, which do not pay the workers on time or pay an inappropriate amount, or which do not keep their compensation promises, should fear legal retribution. Although we presently cannot report any cases of plantation law 'Perkebunan' 39 of 2014 being implemented against workers demonstrating, certain articles of that legislation, for example 55⁵ and 102⁶ may be interpreted to justify criminalizing protest if actions against plantations disturb plantation work. This could easily become a threat to human rights. In general, the criminalization of workers helps the companies to operate undisturbed – at the cost of the workers rights.

Case Study 3: Keerom Regency:

Two employees of PT Tandan Sawita Papua (Rajawali Group) in Keerom were arrested in April 2014 after they received letters ordering them to report to the police. It appears that the company had accused Alexander Tnesi and Marthen Watory of threatening its staff during a demonstration over pay and conditions held

on 2 January 2014. The two men were held in custody for over two weeks and on release were asked to sign statements that they would be fired from the company and would not make any further demands.⁷

c) Lack of clear communication and fomentation of conflicts

Although in West Papua indigenous land rights are technically recognized by law, the implementation of this principle is limited and the principle is effectively symbolic. Some degree of compensation for the land and timber it contains is invariably paid, but usually this is very far from the ideal of Free, Prior and Informed Consent (FPIC) involving the whole community. In practice, companies are able to obtain rights to indigenous land even when there is substantial community opposition. A lack of understanding of complex contracts amongst tribal leaders and communities makes it easy for companies to trick land owners, especially when companies are not implementing FPIC.

In West Papua there are frequent allegations that plantation companies use some of the following tactics in order to give the impression they have obtained community consent:

c.1) Co-opting leaders.

Especially in cultures that have a traditional tribal leader or clan chiefs, companies may offer compensation money to individuals under the pretext of working with traditional leadership structures, rather than waiting for communities to meet together and decide.

5 Each person unlawfully prohibited: a. work, use, occupy, and / or control of plantation land;

6 Article 102 (1) In addition to the State Police officials investigating into Indonesia, officials of certain civil servants whose scope of duties and responsibilities in the field of Plantation also given special authority as investigators civil servants as defined in the law on criminal procedure law to conduct criminal investigations in Plantation field.

7 <http://www.fransiskanpapua.net/2014/05/1349/upah-buruh-menunggu-kebijakan-bupati-jayapura.php> (English Translation <https://awasmiffee.potager.org/?p=850> Another incident of workers being fired for demanding their rights can be read here: <http://www.mongabay.co.id/2013/09/25/derita-buruh-sawit-rajawali-group-di-papua-protas-beban-kerja-berbuah-pemecatan/>



Image 4.3-1: Logging near Sorong for palm oil plantations.

Case Study 4: Iwaka, Mimika:

Dominicus Mitoro, the deputy leader of the Kamoro Indigenous People's Association (LMA), testified about how an oil palm company, PT Pusaka Agro Lestari, had approached his community: 'The company only had to trick the tribal chiefs to get the land. The tribal chiefs handed over their land without the agreement of the wider community which holds the land rights, for which they received a low compensation, far below what the land is worth.'⁸

c.2) Fomenting inter-community conflict

The compensation money companies offer, although small compared to the worth of a forest, still represents a significant lump sum for a community. This sudden influx of money

often leads to a split in the community structure, with one part supporting the company's plans and another wanting to protect the community forest and lifestyle. The resulting community breakdown is often mentioned by Papuans when they describe the problems associated with plantations. Similar disputes can also arise where two villages or clans claim ownership of the same land. An unscrupulous company can exploit these conflicts and disunity to force its way in. Another method companies use is to bring some chosen villagers away from the village to negotiate and come back with a contract. In the case of PT Usaha Nabati Terpadu (a subsidiary of the Menara Group), the people of Meto village, Boven Digoel Regency, didn't even know if the contract and money was for compensation, or merely a sign of goodwill.⁹

8 Profil Kasus – Presented at „Temu Rakyat Korban Investasi Kehutanan dan Perkebunan Besar“ 4th-7th November 2014, Kasus Kelapa Sawit di Mimika. Original quote "Perusahaan hanya memperdayai para Kepala Suku untuk mendapatkan tanah. Kepala Suku menyerahkan tanah tanpa persetujuan masyarakat pemilik tanah dan diberikan kompensasi yang tidak sebanding dan murah.". More information: <http://www.papuatime.com/2014/11/masyarakat-dan-lsm-tuntut-pemerintah.html>

9 Informasi Aktivitas Investasi PT. Usaha Nabati Terpadu (Menara Group) di Kampung Meto dan Ujungkia, SKP KAME, June 2014.

Case Study 5: Onggari / Domande, Merauke:

Plans by the Rajawali Group to plant two sugar-cane plantations triggered horizontal conflict between the two villages and also between different clans. Paulinus Balagaize from Onggari village explained the problems affecting his neighbouring village, Domande: "People in Domande were persuaded and so signed their land over to the Rajawali company ... However, conflict subsequently broke out between clans over the land the company had annexed. There were also conflicts about the boundaries between hamlets and villages, as the company's claim to ownership was based on statements from a few clans which had not reached agreement with other neighbouring clans."¹⁰

d) Breaking promises

A community may be convinced by a company that they will benefit from new facilities that the company will build in exchange for land, such as healthcare and education facilities and scholarships. In many cases, companies have breached contracts and reneged on these promises once they have obtained community permission and other permits needed for their plantations.¹¹

Case Study 6: Klawatom village, Sorong:

PT Inti Kebun Sejahtera has been operating in Sorong since 2008, but many of the promises it made to local communities regarding housing, education, healthcare and a smallholder program (which is a legal obligation) have yet to be realised. In May 2014, the community planted stakes tied with red cloth in the ground by the plantation, which is a customary practice intended to stop the company expanding

further before meeting its commitments to the community.¹²

Case Study 7: Zanegi Village, Merauke:

PT Selaras Inti Semesta made various promises to the community of Zanegi before beginning to clear their land for an industrial timber plantation in 2010. They promised education provision for the village. However, by April 2014, villagers were complaining that the company had failed to meet its commitment. Residents had been told that after operations commenced, older children would be eligible for scholarships. Younger children were not able to continue studies in nearby villages with middle schools, as their parents could not afford to pay for their daily needs. The company had also not provided sufficient houses for the seven teachers based in Zanegi and the government also refused to step in and build them, as the company had already committed to build the extra accommodation.¹³

e) Insufficient payment

Indigenous communities have no say in setting the level of compensation and don't have access to information on the value paid for comparable land in other regions. The compensation paid by plantation companies is invariably extremely low. The money comes nowhere near reflecting the market value nor the regular income they will need to sustain their families after losing the land they previously relied upon. In many cases, the forest or land historically provided an income through sale of forest products and helped to meet their subsistence needs.

Below is a table of some of the compensation provided by companies in recent years. Exchange rates have varied, but 10,000 Rupiah is usually around US\$1.

10 Profil Kasus – Presented at „Temu Rakyat Korban Investasi Kehutanan dan Perkebunan Besar”, 4th -7th November 2014, Kasus Perkebunan Tebu di Onggari, Merauke

11 Some examples of this: <http://www.fransiskanpapua.net/2014/05/1345/potret-kenistaan-perusahaan-sawit-kepada-masyarakat.php>, <http://pusaka.or.id/masyarakat-tagih-janji-perusahaan-kelapa-sawit-pt-iks/>

12 <http://pusaka.or.id/masyarakat-tagih-janji-perusahaan-kelapa-sawit-pt-iks/> (English Translation: <https://awasmifee.potager.org/?p=887>)

13 <http://pusaka.or.id/janji-perusahaan-sis-tak-kunjung-datang/> (English Translation <https://awasmifee.potager.org/?p=802>)

If compensation is shared between all the families in a village, each family may receive no more than a few million Rupiah (a few hundred dollars). This usually leaves them completely dependent on obtaining employment with the company.

Case Study 8: Klamono and Klayalili, Sorong Regency

Since 2004, the companies PT Henrison Inti Persada (HIP) and PT Inti Kebun Sejahtera (IKS) have operated in the districts of Klamono and Klayalili in the Sorong regency. Several clans from the Moi Kelin tribe released their land to these companies for palm oil plantations. In

Malalilis, the Do and Klasibin clans received a very low payment and they attempted to access the Memorandum of Understanding (MoU), a contract document, but were denied. This contradicts the principles of FPIC. In the process, the Do family was compensated with a land price of Rp 33.333 = 2,40 Euro/ha for a total area of 420 hectares, whereas the Klasibin clan, for a total area of 840 ha, only received Rp. 22.619 = 1,63 Euro/ha¹⁴. This is next to nothing and cannot compensate the local people for the ecosystem services of the land, which will now be converted into monoculture farmland. Also, the sale of land usually leaves the people completely dependent on obtaining employment with the company.

Village	Company	Compensation (Rupiah / Hectare)
Kaliki, Merauke	PT Cenderawasih Jaya Mandiri / PT Karya Bumi Papua (Rajawali Group)	254,000 ¹⁵
Suskun, Keerom	PT Tandan Sawita Papua (Green Eagle Group / Rajawali)	384,000 ¹⁶
Sidey and Masni, Manokwari	PT Medcopapua Hijau Selaras (Medco Group)	450,000 ¹⁷
Wayau, Merauke	PT Papua Agro Sakti	228,000 ¹⁸
Malalilis, Sorong	PT Henrison Inti Persada (Noble Group)	33,300 ¹⁹

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15 Korporasi Politik dan Perampasan Tanah, Laksmi A. Savitri, Insist Press, 2013, p. 62

16 <http://www.downtoearth-indonesia.org/story/women-and-oil-palm-investment-region>

17 <http://jasoilpapua.blogspot.fr/2011/12/sawit-hanya-sebuah-harapan-kosong.html>

18 http://www.cenderawasihpos.com/index.php?mib=berita_detail&id=7329(English Translation <https://awasmiffee.potager.org/?p=1068>)

19 Profil Kasus - Temu Rakyat Korban Investasi Kehutanan dan Perkebunan Besar November 2014, Kasus Kelapa Sawit di Moi Kelin, Sorong

4.4 Deforestation and Natural Resources

Papua is extremely rich in natural resources. Besides forests and fertile soil in the highlands, Papua is home to gold, nickel, copper, seas with abundant fish, oil and gas. This wealth has lured major mining, logging and plantation companies to the region and caused extensive deforestation and the displacement of native peoples.

The remnants of primary forests are being threatened by the development of remote areas. Land scarcity in other parts of Indonesia is causing many people to move to Papua for plantation expansion. In 2011, the government of Indonesia enforced a presidential instruction for a moratorium on new concession permits for peatlands and primary forests. The first period of two years was prolonged and will now once again either end or be prolonged in 2015. Since the moratorium is not protecting land from deforestation if the concession was given before 2011, primary forest can still be destroyed. Moreover, in a number of reported cases¹, concessions have been given even though primary forest was in the concession area.

In the Indonesian National Development Plan (MP3EI), Papua is noted as the granary for Indonesia. MP3EI plans to advance the construction of streets, harbours and transportation in Papua to improve access to

remote areas. Once this program of development commences, remote areas will become more attractive to plantation and extraction companies, with devastating consequences for the environment and the native peoples. One of the consequences which is already visible is regular flooding caused by the lack of trees holding back water and solid matter. MIFEE (Merauke Integrated Food and Energy Estate) is one of the most rapidly advancing programs and it provides a first frightening insight to what is to come in other parts of Papua. Since Jokowi took over the presidency, the terms MP3EI and also MIFEE were retired, but the content of the program remains the same.²

Deforestation

Indonesia overtook Brazil as the leader in total area of deforestation in 2012. But in many parts, Indonesia is running out of forest. Java, Sumatra and Kalimantan have almost been entirely

Impacts of deforestation

The impact of deforestation in Papua is ongoing: soil is washed away, especially in steep areas, which is causing mud floods and decreasing the fertility of the soil. There are more frequent floods because trees are not holding back the water anymore, there are higher emissions of carbon and methane (on peatland), there is haze as a result of fires and rising temperatures in the deforested areas. The construction of roads for transportation for companies working in mining, logging and plantations will lead to more deforestation in the area as forests are replaced by highways and polluted by emissions.

In terms of the social consequences of deforestation, biodiversity is decreased and traditional hunting and the collection of plants or firewood becomes more difficult for local peoples. Through the import of foreign work forces, the social structure of the regions is changing, which causes inequality and conflict.

The ecological damage caused by the clearing of areas which had previously been covered with primary rainforest has caused floods which affected the five Komoro villages in July and September of 2014, namely Miyoko, Aika Wapoka, Atuka, Kekwat and Timika Pantai. The floods have forced villagers to leave the area. According to tribal residents of these villages, this was the first time floods had occurred.

1 <https://awasmiffee.potager.org/?p=857>

2 <https://awasmiffee.potager.org/?p=1127>

deforested, or at least entirely sold. As many of the remaining forests and few protected forests are located in Papua, high deforestation rates are predicted in future. The Moratorium on deforestation was recently prolonged, but is not successfully protecting the remaining forests in Indonesia or Papua. Instead of the government aiming to protect forests, megaprojects like MIFEE are further threatening nature, livelihoods and biodiversity. With the development of highways in the highlands, that fertile region will be the next target for plantations.

In many parts of Papua, deforestation is currently ongoing, for example, the MIFEE program is still functioning. Although MIFEE is not going ahead as envisaged, the permits cover an area of more than the originally planned 1,2 million ha. There is significant resistance against plantation companies in the area of Merauke, but it is difficult for locals and NGOs to obtain information because travelling between villages is difficult and few NGOs are active in the region, so that few villages know about the existence of concessions or the consequences of plantation industries.

Permits for plantations

If a company intends to operate an oil palm plantation it must obtain a series of permits at the regency, provincial and national level:

The first step is to approach the regency government and ask for an In-principle Permit (*izin prinsip*) which will be converted into a Location Permit (*izin lokasi*) once a proposed location can be found.

A company will then need an Environmental Permit (*izin lingkungan*), including an Environmental Impact Assessment (AMDAL), which in Papua is issued at the provincial level. If the land is classed as state forest land, permission is needed for the land to be degazetted (released from the state forest estate), which can be obtained from the Forestry Ministry at the national level. The company will then need to present a series of documents, including the environmental permits, in order to obtain a Plantation Business Permit (IUP - issued by the local regency government).

Before they can operate, a company will also need to show that it has lawfully acquired the land from the indigenous landowners (*ulayat* rights holders). If they have also released the land from the forest estate, then they are eligible to request Cultivation Rights (*Hak Guna Usaha*) from the National Land Agency, a kind of property right which is valid for 30-35 years.

In practice, this permit system is not transparent or consistent, which is a major barrier to indigenous communities obtaining unbiased information about proposed plantations prior to commencement of operations. Especially at the local and provincial level, access to information is often dependent on having a personal connection with someone in the government and in many cases the government is reluctant to give out information. In reality, the first time indigenous communities are likely to hear about a project on their land is when company negotiators show up, often accompanied by police and military guards.

In a Papua-wide meeting of affected communities held in November 2013, Donatus Mahuze from Muting in Merauke Regency explained why many indigenous Papuans are bitter about this permit process, which excludes them from decisions about their land: *"What is particularly upsetting is the way companies use documents such as Ministerial Regulations, decrees by Governors and Bupatis or Environmental Impact Assessments as a weapon to facilitate their project and obtain the people's land. Indigenous peoples are not involved in any way, they know nothing and are never given any information about the contents of these documents which form the basis for a company to be able to conduct its activities. The only thing communities receive is the compensation companies allocate for land compensation. Although it is a small amount, it is not at all appropriate for the amount of land to be used."*



Image 4.4-1: Deforestation in Papua causes serious impacts.

The most important natural resources in Papua are gold, copper, nickel, coal and forest. Besides these goods, importance may be given to resources located offshore, such as oil and gas, and fish. As land and human labour are both cheap and plentiful in Papua, the exploitation of natural resources is inhibited mainly by conflicts and insufficient infrastructure. Through the

National Development Plan, the infrastructure has already improved significantly and it will likely continue to do so. This makes Papua an increasingly attractive prospect for investors, which may result in more concessions being handed to companies, increased deforestation, land conflicts (see section 4.3), and forced displacement.



image 4.4-2: Oil palm plantations in Sorong, Papua.

Recommendations on Landgrabbing and Natural Resources Extraxtion

a) To the Indonesian Government

Recommendations with focus on Papua:

- Stop the expansion of plantations:** In order to protect water and air quality, biodiversity and the traditional communities which rely on them, remaining forests in Papua, Sulawesi and the Moluccas should not be converted into plantations. Kalimantan and Sumatra stand as examples of the impact of land rights issues developing as a result of awarding concessions in a populated area. In both islands the rates of land conflict are increasing from year to year.
- Implementation of an effective Moratorium:** In Papua and the Moluccas, the last primary forests of Indonesia are threatened by plantation expansion. The government of Indonesia can protect them with a permanent moratorium, excluding all remaining primary forests from development and protecting disturbed forests so that they can recover from exploitaiton. The moratorium should be enforced with monitoring and trained personnel.
- Implementation of transparent concession permits:** The system of concession permits is very complicated and leaves space for bribery and other forms of illegality. A transparent system should be introduced, one that is accessible online and easy for indigenous persons in remote areas to locate and understand. FPIC and land rights must be guaranteed in a form that meets

the needs of the communities. In Papua especially, lack of education and information is an obstacle. Decisions should be made in accordance with customs and traditions and special measures should be taken to include vulnerable groups in negotiations.

- **Justice for past land dispossession in Papua and punishment for companies not respecting the FPIC:** Past land confiscation should be punished and victims compensated. Where possible, the land should be given back to the former owners with additional financial compensation, depending on the victims' preference. The government should implement effective systems to control and monitor activities of companies holding concessions. Withdrawal of concessions should be used as a punishment for serious violations of human rights and government regulations.
- **Stop Megaprojects:** MIFEE and other megaprojects are heavily influencing the social structure of Papua. With the influx of employees, the population of Merauke Regency will change so that more than half of the population is made up of migrants, diminishing the presence and power of indigenous peoples. Furthermore, agricultural megaprojects in Papua cause environmental changes such as a higher risk of flooding and lower water and air quality. The infrastructure needed for the projects will prompt the uncontrollable expansion of construction projects in proximity to activities and employees.

General Recommendations:

- **Criminalization of resistance:** Punishment for people expressing peaceful resistance against plantation companies which are violating their rights should be stopped by the government of Indonesia.
- **Double role of security forces:** The government of Indonesia should implement regulations to prevent police, military and state executive personnel to work in security positions for plantation companies.
- **Obligatory human rights policies for companies:** Company leadership needs to develop detailed corporate policies on human rights and land rights that are consistent with international standards. Swift implementation of training for all staff in their companies, subsidiaries and contracted firms. Leaders must then hold staff, subsidiaries and contractors accountable for their performance in relation to these new policies.
- **Meaningful recognition of customary land rights:** Companies and the international environmental NGOs which engage with them must commit to and prioritize the implementation of programs to formally recognize the customary land rights of indigenous peoples and communities. They must either return confiscated lands or renegotiate contracts, if that is the desire of local communities. The Voluntary Guidelines for the Responsible Governance of Tenure of Land, Fisheries and Forests, of which Indonesia is a signatory, is a suitable framework to adopt.
- **Transparent audits of company performance:** Companies need to commit to conducting regular, independent and fully transparent audits of their performance on human and land rights issues by international human rights organizations. Leading forestry, food and agriculture companies have conducted such assessments across their multi-national holdings in recent years, thereby proving that it is not only possible, but in some cases advantageous for their companies to do so.

b) To the International Community

- **Support the government of Indonesia in implementing improvements:** Indonesia is making slow progress in implementing the claims for human rights of the UN, but its participation deserves to be lauded. To support this progress and to enhance it by reviewing and following up on progress should be the task of the UN and foreign governments.
- **Reject palm oil and products being produced by companies not respecting human rights and primary forests:** The use of biofuels is still subject to debate in Europe, despite awareness of associated human rights problems and the massive carbon and methane emissions caused by palm oil. Europe should abolish the import of tropical wood for instruments and art in order to protect primary forests. European governments should punish companies not respecting FPIC and human rights by placing sanctions on their products.



5. CONFLICT TRANSFORMATION

5. Conflict Transformation

5.1 Peacebuilding initiatives

There were high expectations in Papua during the last presidential election, as many Papuans believed that new President Joko Widodo would bring real change to Papua. During the 2014 presidential elections voters in Papua had put their trust in Jokowi¹. This popular phenomenon is similar to, but indeed even stronger than in the previous presidential election, when SBY was re-elected for the second term. The campaign created new momentum, raising the hope of Papuans and other stakeholders to address the ongoing conflict in Papua which has remained unresolved over the past fifty years. In light of this recent development, this section will reflect on peacebuilding initiatives over the past year which have simultaneously occurred at the three different levels: local, national and international.

Inspired by an American peacebuilding scholar John-Paul Lederach (1997), the term 'peacebuilding initiatives' refers to a process that requires investment, materials, architectural design and coordination of labour in order to lay a solid foundation and detailed finish work, as well as continuing maintenance. In other words, peace is about a social construct rather than merely being a stage or a condition.

A clear understanding of this concept is important, as the term 'peace' has been interpreted in different ways in the social and political context of Papua, as reflected in various slogans and banners displayed in the streets. For instance, the army and the government are keen to display the banner 'Damai itu indah' (peace is beautiful) in various spots in the city of Jayapura. On the other hand, *Jaringan Damai Papua* (Papua Peace Network) and Papuan civil society organisations promote the slogan 'Papua: Land of Peace'. The term refers to a social construct that is derived from a long process of reflection and engagement of the Papuan community on

the negative realities that confront them, such as violence, poverty, environmental degradation and discrimination. It incorporates their vision of a new Papua that is characterised by justice, peace and reconciliation.

At the international level, influenced by Boutros-Boutros Gali's *Agenda for Peace* (1992), peacebuilding is often understood as one of four stages of diplomacy, including *preventive diplomacy*, meaning actions to confine conflict and prevent it from further escalation, *peacemaking* as action to bring hostile parties to agreement, *peacekeeping* as the deployment of a UN security presence in the field and post-conflict *peacebuilding* as "the construction of a new environment." Within this framework, peacebuilding is conceived as a later stage which occurs after conflict is resolved. This is not the focus of this section. Instead, it will examine the dynamics of relationships between different actors with significant roles and influence in crafting Papuan social and political networks.

1 The final votes for Joko Widodo and Jusuf Kalla from the Province of Papua were 2,026,735 out of 2,795,867 votes whereas in the Province of Papua Barat the pair won 360,379 votes out of 532,907

votes. See http://www.kpu.go.id/koleksigambar/DD1_Pilpres_2014.pdf accessed on 23 January 2015.

Therefore, the emphasis is on 'networks' and 'dynamics', rather than on structures or institutions as commonly found in analyses of Papuan politics. The rationale is that an analysis of networks and dynamics more effectively captures the fluidity of actors and their relationships and the different ways they wield power.

a. Local level: the neglected issue of *pendatang*

The Papua Peace Network (*Jaringan Damai Papua/JDP*) remains instrumental in cultivating dialogue as part of the implementation of the broader concept of 'Papua: Land of Peace'. The secretariat remains active in promoting the idea of dialogue between Papuans and the national government. Borrowing Lederach's methods of peacebuilding which address bottom-up, middle out and top-down approaches, over the past year JDP has concentrated on the top and bottom levels. Efforts to organise dialogue among the migrant community resulted in a public consultation with the non-indigenous Papuan community on 21-22 January 2012 organised by *Aliansi Demokrasi untuk Papua* (see Siregar, Mustafa, Conoras & Silpa, 2013).

The consultation captured 24 key issues which are fundamental but which have been overlooked in existing analyses of Papuan politics. Given the limited space, however, this report can only highlight several elements, and in particular the term *pendatang* (referring to non-Papuans or migrants). The migrant community believes that term 'pendatang' has a pejorative connotation as it creates divisions between indigenous and non-indigenous Papuans. More importantly, it cultivates resentment and a sense of the domination of the *pendatang* over the Papuans, especially in the field of local economy and business. Unfortunately, there is no alternative word available to cover both Papuans and non-Papuans without emphasising their binary opposition.

This element has contributed to the widening gap between indigenous and non-indigenous Papuans in their daily interactions. Although the gap has not reached the stage of explicit segregation, as in the Maluku post conflict situation, it is possible that the creeping tension between the two ethnic groups will erupt to a more serious situation.

This reality, however, frequently escapes the attention of major actors in Papua, including the local and national governments, the religious leaders and civil society organisations. Representatives of the migrant community have expressed that they feel caught between the stigma of outsiders by the indigenous Papuans and the fact that the government ignores their struggle to be acknowledged as legitimate ethnic communities and only counts their votes for elections (Siregar, et al., 2013: 27).

Despite the tireless efforts of JDP in promoting dialogue among different ethnic, political, and ideological groups in Papua, the initiative remains limited in its capacity to ignite a popular movement. Various influential groups outside JDP, such as the Papuan church leaders, human rights NGOs, Papuan women's groups and student movements are not directly engaged with JDP activities, although they remain supportive of the idea of dialogue. This reality might be linked to the fact that the focus of JDP's lobbying activities is Jakarta rather than Papua.

b. National level: state-centric activities

Up to the end of its second and final term in power, there was no evidence that the SBY government would honour its promise to church leaders to facilitate dialogue with Papuans, which was conveyed during a private meeting with the Papuan church leaders in February 2012. (Hernawan, 2013). However, the Papuan people remain persistent in forging dialogue with the national government to address the protracted conflicts in Papua.

Dialogue as a concept seems straightforward, but it is not the case in reality. As a result of the unfulfilled promise of SBY, LIPI adopted a different strategy. Instead of concentrating its efforts on the president, the LIPI team organised a series of 'explorative meetings'. The meetings are designed to create an open and comfortable space for frank discussions between JDP and key government agencies, including the security sector. Meetings have been held behind closed doors, but the Chatham House Rule has not been adopted. LIPI organised five rounds of meetings in different cities outside Jakarta, but the last meeting in Semarang² was coloured by an embarrassing incident which reflects the sensitivity of talking about Papua even among government agencies.

Despite the presence of senior officials from various government agencies and security institutions, LIPI discovered a bug wire that had been installed under the table inside the meeting room. Retired Major General Sudrajat, a former TNI spokesperson who chaired the meeting, was upset and other senior officials immediately reported the incident to the Minister for Security and Political Affairs.

The incident is crucial for our analysis, not only to highlight the sensitivity of the issue of Papua, but to understand that the many levels of authority do not necessarily share and adopt a common policy. This reality often escapes analysis by NGOs and observers, which tend to think of the government as monolithic. The idea of the government as a network might serve analysis better by enabling the identification of different and conflicting interests, actors and unequal power relations, as became evident at the meeting in Semarang. The practice of intra-governmental espionage might not be uncommon, but it reflects the degree of mistrust and disunity within government agencies in Indonesia. Such practices can be disastrous

when it comes to addressing protracted conflicts like that of Papua.

One prominent example of conflicting policies is UP4B. Although the unit has concluded its term, it is important to record that during its period of activity, the unit proactively undermined the dialogue that JDP promotes. This effort might have contributed to reluctance and suspicion amongst government agencies engaging in dialogue between Jakarta and Papua.

c. International level: the rise of the Melanesian Spearhead Group

A number of key international actors continue to promote Papuan peacemaking at the international level, including a number of international NGOs, academics and politicians. However, an unprecedented movement arose in the form of the Melanesian Spearhead Group, a sub-regional forum of Pacific Island nations.

During the Melanesian Spearhead Group (MSG) Summit in June 2013 in Noumea, New Caledonia, leaders made groundbreaking decisions by [1] inviting representatives of the Papuans as an official delegation to the summit³, [2] considering the membership application of the Papuan representatives, [3] highlighting the situation of human rights in Papua and [4] sending a delegation to visit Papua. These decisions were important in recognising Papuans as a separate political entity in the MSG forum, acknowledging the human rights situation and recognising the sovereignty of Indonesia over Papua. Most critically, MSG leaders made commitments to visit the country and to meet with the Papuans. This decision demonstrated their strong resolve to take action to contribute to finding peaceful solutions for Papua. Such decision is remarkably different from other diplomatic gestures such as the Universal Periodic Review at the UN Human Rights Council, in which international actors tend to restrict engagement with Indonesia within

2 Interviews with a LIPI senior researcher and a senior government official in Jakarta.

3 See <http://pacificpolicy.org/blog/2013/06/28/out-of-the-shadows-west-papua-takes-its-place-at-the-msg/>

the UN space and disregard the reality in Papua. None of the multilateral fora (such as European Union, APEC, ASEAN) have been willing to send a delegation to visit Jakarta and Papua to contribute to peace building processes.

Despite the promise of the summit, the MSG delegation's visit to Jakarta, Ambon and Jayapura was of disappointment. The delegation only spent a couple of hours in Jayapura and simply met with the bureaucrats, so they were not able to engage fully with the Papuan conflict (Hernawan, 2014). This result, however, will be assessed during the MSG Summit 2015 in Honiara, Solomon Islands, to analyse whether the delegation fulfilled the mandate of the 2013 MSG Summit Communiqué.

In line with the spirit of the MSG, Vanuatu, as the only long-standing Papua supporter at diplomatic fora, continued its ongoing campaign. Vanuatu highlighted the issue of Papua and specifically asked for the appointment of a UN special rapporteur to investigate the situation of human rights in Papua in the UN General Assembly and Human Rights Council. This motion was unprecedented. Following its intervention at the 62nd Session of the UN General Assembly in November 2013, Vanuatu faced diplomatic pressure from the United States and Australia, suggesting that the intervention was unnecessary and a potential cause of instability in the Pacific region.

Vanuatu reiterated its appeals to the UN Human Rights Council during the 25th session in Geneva, Switzerland, in March 2014⁴. The reaction at the Geneva level was rather different from that of at UNGA. Despite overwhelming applause from member states and NGOs immediately after the speech of Prime Minister Kalosil, Vanuatu did not obtain any new allies as a result.

Apart from international actors such as the MSG and Vanuatu, Papuan leaders themselves

ended 2014 with a historic decision. Facilitated by the Vanuatu government and witnessed by Vanuatu chiefs, major Papuan political organisations such as WPNCL, NFRPB and the West Papua National Parliament signed an agreement on 6 December 2014 in Port Villa to form a united umbrella organisation called the United Liberation Movement for West Papua. This new organisation is a major development as it rejected the presumption that Papuan organisations were unable to be united. The Papuan leaders did not elect a new chair or president, but instead chose a secretary general and a spokesperson to represent ULMWP. This is a strategic decision to respect the authorities of the existing three political organisations and prevent discussion of who should be the leader, which has in the past hindered progress. By democratically electing a secretary general and a spokesperson, the three organisations only deal with administrative representation, which does not challenge the existing authority of the three political organisations.

Although more time is required to assess the effectiveness of the new organisation, ULMWP does not have such luxury. They must be prepared to appear at the upcoming MSG summit in support of the application for membership.

Reflecting on peacebuilding progress in Papua, it is clear that it has taken a different trajectory to what has been seen previously in Papua or in Aceh or Timor Leste. For instance, the issue of *pendatang* and the role of a sub-regional forum did not have a significant impact on the peace building situations of Aceh and Timor Leste. Peacebuilders who are interested in Papua's peacemaking should direct their attention to these two areas of concern.

The creeping threat of the widening gap between Papuans and *pendatang* should not be underestimated. Perhaps the role of the Papuan

4 See <http://m.thejakartapost.com/news/2014/03/21/is-a-un-resolution-papua-impossible.html>

Church leaders, who have been instrumental in promoting 'Papua: Land of Peace', can be revived and reinforced in order to facilitate dialogues between different ethnic groups in Papua. More importantly, the issue of *pendatang* should be discussed publicly in order to encourage all sectors within the Papuan community to participate in finding a feasible solution. Learning from ethnic conflict in Ambon and Sambas, caution should be exercised in this endeavour.

Another area in need of attention is development at the MSG level. While political pragmatism may not value the dynamics of the sub-regional forum, the recent development at the MSG reflects important dynamics that demand a space for dialogue between Papuans and Jakarta. This dialogue took place during the last MSG summit, where Papuan and Indonesia delegations sat together as equal at the same table. This situation will be repeated if the MSG leaders decide on the application to grant membership status to ULMWP. If this is the case, perhaps there will be different dynamics at the national level, with the government more open to negotiation with Papuans.

The current national situation, however, has not shown significant development. Both JDP and LIPI have done their best to persuade the SBY government to engage with the Papuan people during its two terms, but to no avail. This might suggest that both JDP and LIPI should revisit their strategy by paying more attention to the 'middle out' level, that is the church and other religious leaders, in confronting the growing concern of *pendatang*.

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5.2 Papua in Jakarta Politics

The presidential transition from Susilo Bambang Yudhoyono to Joko Widodo (Jokowi) ignited new hope of a non-violent conflict resolution for Papua. This is partly because most Papuans gave credence to Jokowi in the 2014 presidential election (72% in Papua province and 67% in West Papua province). According to some prominent Papuan figures, most Papuans have confidence on Jokowi because of his track record in governing Solo and putting the creation of dialogues as his main approach in tackling a number of social issues. In the last presidential campaign, Jokowi was enthusiastically welcomed and hugged by crowds in Jayapura. They held his hands, hoping that if Jokowi were elected he would bring an end to the ongoing conflict in Papua.

Jokowi has received information and suggestions from churches, ethnic groups and NGOs in Papua, including the Papua Peace Network and LIPI. It was recommended that The Unit for the Acceleration of Development in Papua and West Papua (UP4B) – which had been appointed by the previous president to coordinate development in Papua – should not be extended due to its failures in conducting dialogue with indigenous Papuans. It was also recommended that it is necessary to establish a presidential emissary to handle all issues concerning disputes in Papua in order to facilitate coordination between Papuans and the national government. Thirdly, the suggestion was made that there should be a new ministry for addressing Papuan issues. Fourthly, there was a call for developing a presidential palace near Lake Sentani and commissioning the Mama-Mama traditional market in Jayapura as a symbol of respect from the central government to the Papuan people. Of the four suggestions, the first and fourth are being addressed.

After Jokowi and Jusuf Kalla's (Jokowi-JK's) 100-day administration period, there have been a number of negative developments regarding Papua. Firstly, the plan to set up a Regional Military Command (Kodam) in West Papua as presented by Home Minister Tjahjo Kumolo, based on a recommendation coming from the National Intelligence Agency (BIN) is problematic. The Army Chief of Staff General Gatot Nurmantyo has confirmed that this would

expend the 2016 military budget. Secondly, the planning of transmigrant placements in the provinces of Papua and West Papua as proposed by the Villages, Disadvantaged Regions and Transmigration Minister on 30 October 2014 is a dangerous initiative. He contended that individuals are unlikely to migrate to Papua voluntarily due to the ongoing conflict, although land is plentiful and rich. He made assurances that the ministry would cooperate with the TNI and National Police to ensure transmigrants' security. Thirdly, investigations concerning the Paniai shooting incident on 8 December 2014 have not been concluded. The massacre claimed the lives of four senior high school students and according to the investigation of the National Commission on Human Rights (Komnas HAM), the 7-8 December 2014 Paniai incident was triggered by Army Infantry Battalion [Yonif] PFC 753/AVT soldiers who brutally hammered a teenager at the Christmas Hut in Kampung Ipakiye, East Paniai. Unfortunately, the Commission of Inquiry on Human Rights Violations (KPP-HAM) has as of February 2015 yet to investigate the Paniai shooting.

Despite this, Jokowi's administration has generally received a positive response. The President visited Jayapura and Sorong on 27-28 December 2014 to meet with governors and prominent figures in Papua and West Papua. He promised to open dialogue between all parties, including TNI, National Police and the Free Papua Movement (OPM), to discuss how to end political violence

and develop Papua. The President has pledged to terminate the UP4B and his administration has announced programs and political strategies to resolve various problems in Papua.

However, there is a gap between the President and his ministers' intentions and their policies. For instance, the government's plan to establish a new Kodam in West Papua is likely to intensify political violence and this tells us that the government has not truly changed its security approach to resolving conflict in Papua. The government's hesitation to instal the KPP-HAM reflects the reality that Jokowi-JK's administration has yet to make a strong commitment to the resolution of human rights abuses.

Along with various ministries and institutions, LIPI assists the government in creating policies and programs for Papua. In 2009, LIPI's Center of Political Research and the Vice President Official Secretariat have helped to initiate dialogues between the traditional people of Papua and the central government. The organisation has conducted several programs, including establishing the prototype of Papua Peace Network (JDP), which was initially a joint venture with the Secretariat of the Diocese of Jayapura (SKP). SKP held a peace conference in 2010. LIPI has also implemented dialogue training for the people of Papua in seven regions. Former participants now make up the JDP, which works voluntarily to promote dialogues and facilitate preliminary steps toward dialogue between the government and the customary inhabitants of Papua. Thirdly, LIPI has hosted five explorative meetings between delegations of traditional tribes and the government in Denpasar, Manado, Mataram, Yogyakarta and Semarang.

At the last 2014 meeting in Semarang, delegates reached an agreement on the cultural, social and economic aspects of indicators, but were unable to do so in respect of political, legal and

security indicators. Moreover, the working team issued some policy recommendations for peace in Papua which were directly addressed to the president in a ceremony in LIPI on 25 September 2014. It urged the government to identify the roots of conflict in Papua and address top priorities such as erasing the separatist stigma attached to Papuan individuals, awarding an amnesty to all political prisoners to show the government's good intentions, putting in place effective law enforcement to prevent and prosecute violations of human rights, establishing a moratorium on the creation of new provinces or regencies in Papua and reconsidering the access restrictions on foreign journalists, researchers and international organizations in Papua.

The political integration of Papua into Indonesia has been ongoing since 1963, but the question of how the Papuans should be treated in Indonesia remains unanswered. Following the 2014 presidential election, Jokowi could write a new story of integration if he can reach the Papuans' hearts, developing the sense of nationhood and putting an end to political violence. As the government does not respect traditional Papuan identity, Papuans would in many senses still be dispossessed. Efforts to crush ethnic identities, such as Government Regulation No. 77/2007 on the prohibition of separatist symbols, exacerbate conflict and drive OPM supporters and common Papuans to pursue independence. Conflict resolution can only be attained through dialogue.

Recommendation to the Indonesian government

Jokowi-JK's administration must appoint a special team for preparing dialogues and setting agendas, encouraging Papuans to choose their own representatives, nominating emissaries and identifying who should facilitate dialogue.

5.3 Papua at the United Nations Human Rights Mechanism

During the two year period of 2013-2014 Indonesia has undergone three reviews by key UN human rights treaty bodies covering civil and political rights, economic, social and cultural rights as well as the rights of the child. The human rights situation of West Papua has received attention by the UN High Commissioner for Human Rights and during speeches of the Prime Minister of Vanuatu before UN bodies. Discussions about the recommended visit of the UN Special Rapporteur on Freedom of Expression have not resulted in a visit.

The UN High Commissioner for Human Rights Ms. Navi Pillay

On 2 May 2013, the United Nations High Commissioner for Human Rights, Ms. Navi Pillay, expressed serious concerns regarding the brutal crackdown on mass demonstrations across Papua since 30 April 2013, with police reportedly using excessive force and arresting individuals for raising pro-independence flags. She stated: 'These latest incidents are unfortunate examples of the ongoing suppression of freedom of expression and excessive use of force in Papua,' Calling on those responsible, she continued, 'I urge the Government of Indonesia to allow peaceful protest and hold accountable those involved in abuses.'¹

This statement was delivered following an incident on 30 April 2013 when police shot and killed two protesters in Sorong as they were preparing to mark the 50th anniversary of Papua's integration into the State of Indonesia. At least 20 protesters were arrested in the cities of Biak and Timika on 1 May 2013.

Earlier in 2012, during her mission to Indonesia, Ms. Navi Pillay expressed concerns about the human rights situation in Papua. 'I also raised concerns with the Government about increased violence in Papua... and recommended that

the Government take further steps to ensure criminal accountability. I was also concerned to hear about activists being imprisoned for the peaceful exercise of freedom of expression.'²

Statement of Prime Minister of Vanuatu at the UN General Assembly and the UN Human Rights Council

The then Prime Minister of Vanuatu, Moana Kalosil Carcasses, made two strong public statements at the United Nations in support of the people of Papua. The first statement was delivered at the 68th Session of the UN General Assembly in New York, on 28th September 2013, where he called on the UN to appoint a Special Representative to investigate alleged human rights abuses in the Papuan provinces of Indonesia and to review its political status. Prime Minister Carcasses stated that the West Papuans have been consistently denied any recognition by the world body. 'How can we then ignore hundreds of thousands of West Papuans who have been brutally beaten and murdered? The people of West Papua are looking to the UN as a beacon for hope... Let us, my colleague leaders, with the same moral conviction yield our support to the plight of West Papuans. It is time for the United Nations to move beyond its periphery and address and rectify some historical errors.'³

1 See the Statement of the UN High Commissioner on Human Rights at: <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=13287&LangID=E>

2 See the opening remarks by UN High Commissioner for Human Rights Navi Pillay at a press conference during her mission to Indonesia at: <http://reliefweb.int/report/indonesia/opening-remarks-un-high-commissioner-human-rights-navi-pillay-press-conference>

3 See the statement of Prime Minister of Vanuatu during the 68th Session of the UN GA at http://gadebate.un.org/sites/default/files/gastatements/68/VU_en.pdf

The second statement was delivered during a High Level Segment of the 25th Session of the UN Human Rights Council in Geneva on 4 March 2014. Speaking in a stronger tone, the Prime Minister of Vanuatu reminded members of the Council of the chronic human rights challenges that have affected the indigenous Melanesian peoples of West Papua since 1969. The Government of Vanuatu expressed its concerns about the way the international community has neglected the voice of the indigenous Papuan people and the ongoing suppression of their human rights since 1969. In his concluding remarks, Prime Minister Carcesses asked the UN Human Rights Council ‘...to consider adopting a resolution to establish a country mandate on the situation of human rights in West Papua’. He suggested that the mandate include an investigation into alleged human rights violations in West Papua and provide recommendations for a peaceful political solution in West Papua.⁴ This is the first time a call at this level has been made in the United Nations.

UN Human Rights Committee

The UN Human Rights Committee is an independent expert body that monitors the implementation of the International Covenant on Civil and Political Rights (ICCPR) in States that are party to the treaty. The list of States includes Indonesia, which ratified the ICCPR in 2006. In July 2013, for the first time, the UN Human Rights Committee examined the implementation of the ICCPR by the Government of Indonesia. The review, held in Geneva, was based on the national report, the response of the Indonesian government to the list of issues prepared by the Committee and civil society submissions.

Violations of human rights in Papua were part of the discussions between members of the Committee and the delegation of Indonesia. In

particular, it focused on human rights violations that have occurred during the ongoing conflict in the provinces of Papua and West Papua. In its Concluding Observations, the Human Rights Committee expressed its concern regarding the increased reports of excessive use of force and extrajudicial killings by the police and the military during protests, particularly in West Papua, Bima and West Nusa Tenggara. The Committee was particularly concerned by reports that the State party uses its security apparatus to punish political dissidents and human rights defenders. The Committee is also concerned that the National Police Commission, which is mandated to receive public complaints against law enforcement personnel, is weak, as it has neither powers to summon law enforcement personnel nor a mandate to conduct independent investigations.⁵

Therefore, the Committee recommended that Indonesia take concrete steps to prevent the excessive use of force by law enforcement officers by ensuring that they comply with the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials. They recommended that it should also take appropriate measures to strengthen the National Police Commission to ensure that it is able to effectively handle reports of misconduct by law enforcement personnel. Furthermore, the Committee recommended that Indonesia take practical steps to put an end to impunity for its security personnel regarding arbitrary and extrajudicial killings, and take appropriate measures to protect the rights of political dissidents and human rights defenders. The Committee observed that the State party should systematically and effectively investigate and prosecute cases of extrajudicial killings and, in the event of a conviction, punish those responsible and provide adequate compensation to the victims’ families.⁶

4 The full statement of the Prime Minister of Vanuatu during the 25th Session of the UN Human Rights Council is available on the Extranet page of the UN High Commissioner for Human Rights, at www.ohchr.org

5 See the Concluding Observations of the UN Human Rights Committee for the review of Indonesia, para. at paragraph 16, http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CCPR%2fC%2fIDN%2fCO%2f1&Lang=en

6 Idem.



Image 5.3-1: Papuan children.

Finally, the Committee paid particular attention to the issue of freedom of expression and assembly in Papua. It recommended that Indonesia take the necessary steps to ensure that any restrictions on freedom of expression comply fully with the strict requirements of UN norms, and in particular with article 19 of the ICCPR. The Committee reminded Indonesia of its obligation to ensure the enjoyment by all of the freedom of peaceful assembly, to protect protesters from harassment, intimidation and violence and to consistently investigate violations when they occur and to prosecute those responsible.⁷

UN Committee on the Rights of the Child

The UN Committee on the Rights of the Child (CRC) is a body of 18 independent experts

whose task is to monitor the implementation of the Convention on the Rights of the Child (CRC) by State parties. Indonesia ratified the Convention in 1990. In May 2014, the Committee examined the third and fourth periodic reports of Indonesia.

In the Concluding Observations of the Committee, the human rights of Papuan children were highlighted several times. The Committee expressed its concern about the increase of HIV infection rates among Papuan children, as well as the general increase of HIV infections in Papua. Therefore, it recommended that the Government of Indonesia develop and strengthen policies and programmes to prevent the spread of HIV/AIDS and to provide care and support for children infected or affected by HIV/AIDS.⁸

7 Idem, para 28

8 See the Concluding Observations of the UN Committee on the Rights of the Child for the review of Indonesia at http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRC%2fC%2fIDN%2fCO%2f3-4&Lang=en

Whilst speaking about poverty, the Committee noted that children in Papua are put at a disadvantage due to urban, rural, ethnic and gender disparities. To address this issue, the Committee recommended that Indonesia establish poverty reduction strategies and programmes which should include a specific focus on rural and remote areas, that it ensure equitable access to services and in particular adequate nutrition, housing, water and sanitation, education, social and health services, and that it provide assistance to economically disadvantaged families.

Finally, the Committee expressed its concern regarding Papuan indigenous children, who are affected by poverty, as mentioned above, but are also subject to militarization, extraction of natural resources on their lands and suffer as a result of poor access to education and health care. In conclusion, the Committee urged Indonesia to take all necessary measures to eliminate poverty among indigenous communities and monitor progress in this regard. Indonesia was also asked to provide equal access for the indigenous communities to all public services, to pursue demilitarization efforts and to ensure the free, prior and informed consent (FPIC) of indigenous peoples with regard to the exploitation of natural resources in their traditional territories.

UN Committee on Economic Social and Cultural Rights

The Government of Indonesia ratified the United Nation's International Covenant on Economic, Social and Cultural Rights (ICESCR) in 2006. In June 2014, the first and initial report of Indonesia was examined by the Committee on ESCR. Apart from the State report, the Committee also took into consideration reports submitted by civil society organizations.

Franciscans International (FI), the International Coalition for Papua (ICP), VIVAT International, Justice Peace and Integrity of Creation/Gereja Kristen Injili di Tanah Papua (JPIC/GKI-TP), supported by several other organisations, made a joint submission focusing on human rights violations in Papua linked to the exploitation of natural resources. The absence of a recognition of the 'free, prior and informed consent' (FPIC) rights of indigenous Papuans, the existence of various forms of discrimination against Papuans, the lack of fulfillment of the right to an adequate standard of living, the right to health, the right to education and various other cultural rights were among the issues addressed in the submission.⁹

The experts of the Committee asked some specific questions about Papua, focusing especially on the issue of the impact of extractive activities on Papuans, the rights to education and health and the unequal development in remote areas such as Papua.

While acknowledging the challenges posed by the geographical configuration of Indonesia, the Committee expressed its concern that the minimum essential levels of economic, social and cultural rights are not guaranteed in remote islands and in areas such as Papua and other parts of the country, primarily due to the unavailability and poor quality of public services, including in education and health. Furthermore, the Committee expressed its concern at the lack of access to remedies for violations of human rights and at the lack of comprehensive knowledge of the human rights situation in those areas.¹⁰

The Committee made several recommendations to the Government of Indonesia, including a request to accelerate the delivery of quality public services in remote islands and areas in

9 See the NGO Joint Submission to the UN Committee on Economic, Social and Cultural Rights at http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=INT%2fCESCR%2fCSS%2fdn%2f16701&Lang=en

10 See the Concluding Observations of the UN Committee on Economic, Social and Cultural Rights the review of Indonesia at http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=E%2fC.12%2fdn%2fCO%2f1&Lang=en

Papua and other parts of the country by allocating the necessary human and financial resources by monitoring delivery of these services to ensure that they reach the intended beneficiaries, and by clearly defining the responsibilities of the various levels of Government to ensure that judicial remedies and non-judicial institutions, such as the State party's national human rights institutions, are accessible in those areas. The Committee also recommended that Indonesia undertake the collection of information on the fulfillment of economic, social and cultural rights of ethnic groups in the highlands (of Papua), in remote and border islands and areas and in collaboration with the national human rights institutions and civil society organizations.

UN Special Rapporteur on Freedom of Expression

In response to an open invitation in a statement made by Mr. Marty Natalegawa, Indonesian Minister of Foreign Affairs in 2013,¹¹ the UN Special Rapporteur on Freedom of Expression has requested a visit to Indonesia in 2013. According to the source at the secretariat of the Rapporteur, there were several exchanges between the Rapporteur and the delegation of Indonesia to plan the visit. The Rapporteur included a visit to Papua in his schedule. However, the Indonesian government decided to postpone the visit without proposing an alternative date. As of the end of December 2014, the visit has not taken place.

NGO Contributions at the UN Human Rights Council

Throughout 2013 and 2014, members of the ICP resident in Geneva were very active in their efforts to highlight issues of human rights violations in Papua at the UN Human Rights Council. The following are two examples of statements made at the UN Human Rights Council.

During the 23rd Session of the UN Human Rights Council in June 2013, ICP and Franciscans International delivered a statement to the Council, condemning the killing of two indigenous Papuans, Mr. Abner Malagawak and Mr. Thomas Blesya, during a peaceful demonstration in Sorong on 30 April 2013 in commemoration of the inclusion of Papua into the State of Indonesia. The statement read: 'The Government of Indonesian has continuously denied the right to freedom of expression, of association of the Papuan. The suppression of political protest in Papua both fuels existing resentment and creates new ones. The policies used to clamp down on free expression and limit democratic space send a message that peaceful means will not be tolerated, increasing the incentive to turn to other means of expression. Civil society live in an atmosphere of intimidation, fear, mutual distrust and any residual faith in the justice system is eroded, many groups are increasingly oriented towards the international community rather than trying to pursue justice at the local and national levels.'¹²

11 See the statement of the Mr. Marty Natalegawa, the Indonesian Minister of Foreign Affairs to the Human Rights Council at <http://mission-indonesia.org/article/293/opening-statement-by-h-e--dr--r-m--marty-m--natalegawa--minister-for-foreign-affairs-of-indonesia--at-the-13th-session-of-the-working-group-meeting-on-the-upr-for-indonesia>

12 See the full NGO joint statement during the 23rd Session of the UN Human Rights Council at <http://franciscansinternational.org/23rd-Session-of-the-UN-HRC.260.0.html>

On March 2014, during the 25th Session of the UN Human Rights Council, ICP together with FI, VIVAT International, the World Organizations against Torture (OMCT), and Dominicans for Justice and Peace made another statement on the continuing isolation of Papua from the international community. 'We also express our concern on the continuing isolation of Papua from international observers such as foreign journalists and UN Special Procedures. Foreign journalists are not given permits to report on the situation in Papua or are only given access when accompanied by a minder from the state intelligence.'¹³ This statement was linked to the uncertainty of the visit of the UN Special Rapporteur on Freedom of Expression. In June and September 2014, ICP and its members made statements during the Human Rights Council Session, addressing the issue of Freedom of Expression, including the detention of two French journalists, Mr. Thomas Dandois and Ms. Valentine Bourrat,¹⁴ as well as Freedom of Assembly and the rights of Papuan Indigenous Peoples. In response to the intimidation of Mr. Gustav Kawer, a Papuan human rights lawyer, a coalition of Papuan human rights NGOs, Indonesian NGOs and international NGOs delivered a strong message to the Council to condemn the government's effort to criminalize human rights lawyers.

Members of ICP with other partners also submitted urgent appeals in response to various situations in Papua.

For example, on 10 December 2014, following the arbitrary and extrajudicial killing of six Papuans on 8 December 2014, Franciscans International, the Papuan Customary Council of Paniai, VIVAT International, the ICP and several other national and international organizations sent an urgent appeal to the Special Rapporteurs on Extrajudicial, Summary or Arbitrary Executions; Torture and Indigenous Peoples.

The coalition of NGOs condemned strongly the incident and demanded the investigation of the case without delay and the protection of witnesses to the incident. It recommended, '*To undertake, without delay, a sub-poena investigation by the Indonesian Commission on Human Rights (KOMNAS HAM) and ...to investigate the case without delay.*'¹⁵ ICP met with the Special Rapporteur on Extrajudicial, Summary and Arbitrary executions, Mr. Christof Heinz, as a follow-up to the Urgent Appeal on the Paniai killings. On 23 December 2014, the newly elected President of Indonesia Mr. Joko Widodo promised that the Paniai incident would be investigated by the relevant authorities.

During the Human Rights Council Session in September 2014, members of the ICP had an in-depth discussion with the newly appointed Special Rapporteur on the Rights of Indigenous peoples, Ms Victoria Tauli-Corpuz and with the Special Rapporteur on Freedom of Expression, Mr. David Kaye, to discuss the development of the human rights situation in Papua.

13 See the full NGO joint statement during the 25th Session of the UN Human Rights Council at <http://www.humanrightspapua.org/news/92-freedom-of-expression-and-assembly-in-west-papua-indonesia>

14 See the press coverage on the statement at http://franciscansinternational.org/News.111.0.html?&tx_ttnews%5Btt_news%5D=455&cHash=8ca5499aa0bb0663dc67154702100863

15 See the joint urgent appeal on the extrajudicial killing in Paniai, Papua at <http://www.humanrightspapua.org/news/120-urgent-appeal-extrajudicial-and-summary-execution-of-five-indigenous-papuans-by-indonesian-national-army>

5.4 Timeline of Papua at UN Indigenous Peoples Rights Mechanisms

In 1982, the United Nations established the Working Group on Indigenous Populations. Viktor Kaisiepo Msn went to Geneva on behalf of the indigenous people of West Papua. He also became involved in the working group for the Declaration on the Rights of Indigenous Peoples, established in 1985. In his book, “*Satu Perspektif untuk Papua*” (one perspective for Papua), he said: “When I came to the UN for the first time, my big finding was that our nation already has one biodegradable affair. We already have been one indigeous nation without knowing it. We already have our rights, and there is one (place) in the UN, where we can stop by”.

Since that time, more Papuan peoples have become involved in the indigneous peoples forums at the United Nations, advocating for the recognition and implementation of the basic rights of indigenous Papuans. There are several young Papuans in the Netherlands, such as Grace Roembiak, Inaria Kaisiepo and Leonie Tanggahma, who actively engage in these forums.

The first Papuan Indigenous Peoples Conference in 2002 paved the way for the establishment of the Papuan Customary Council (DAP). Through this forum, individuals such as Leonard Imbiri, Joab Syatfle, Ephraim Yoteni, Roberth Ambumi, Septer Manufandu and Rosa Moiwend were sent to participate in indigenous community forums, such as the United Nations Permanent Forum on Indigenous Issues (UNPFII), the United Nations Expert Mechanism on the Rights of Indigenous Peoples (EMRIP) and the World Conference on Indigenous Peoples (WCIP). Various indigenous issues were raised in these forums through the reading of statements and through side events, organized as a part of a certain topic or with regional focus on West Papua.

In addition, a Papuan delgation also had the opportunity to meet with several UN Special Rapporteurs on indigenous issues in order to share information on the various problems, which indigenous peoples in West Papua face. One case that was well documented and reported to the UN Special Rapporteur on Indigenous Peoples, James Anaya, was the shooting of Opinus Tabuni during the comemmmoration of the International Day of Indigenous Nations on August 9, 2008.

During the indigenous peoples fora, the Papuan delegation also had the opportunity to share their experiences with other indigneous peoples from Asia, Pacific, America, Latin America, Africa and Europe in workshops, seminars and cultural performances. The Papuan Customary Council (DAP) was actively involed in the establishment of the International Indigenous Peoples Movement for Self-Determination and Liberation (IPMSDL).

One of the results of these meetings, and one which is particularly relevant to the Papuan struggle in indigenenous community forums, is Valmaine Toki’s study on decolonialization in the Pacific, which includes specific recommendations with regard to indigenous Papuans’ right to self-determination (E/C.19/2013/12).

“When I came to the UN for the first time, my big finding was that our nation already has one biodegradable affair. We already have been one indigeous nation without knowing it. We already have our rights, and there is one (place) in the UN, where we can stop by” -Viktor Kaisiepo

The struggle at the United Nations, especially in the indigenous peoples forums, is not an easy task, as described by Viktor Kasiepo: 'The ways of the United Nations are more complex than I had ever thought. One must see the United Nations as a post office with a big wall with hundreds of post boxes, and one has the task to submit your affair to the right receiver'.

These fora are opened to indigenous peoples from Papua to set the pace, strategy and agenda

in pushing the issue of Papua. Careful preparation and the provision of adequate resources will make it possible to direct the Papua issue to the correct post box.

Recommendation

Increase the capacities of young Papuans to participate in indigenous peoples' mechanism and engage with these organisations.



6. INSTITUTIONS, LEGAL SYSTEM AND SECURITY SECTOR

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AN DI KOTA JAYAPURA YANG TIDAK BER-
IRIKAN BANGUNAN GEDUNG

6. Institutions, Legal System and Security Sector

6.1 Military and Security Approach in Papua

The Government in Jakarta has responded to the situation in West Papua with various legal and project approaches. The latter focusses on economic development. However, the ongoing heavy military deployment causes human rights violations. The new administration under President Joko Widodo has to address several challenges if he wishes to change the general policy towards Papua. A priority must be to reduce military deployment and provide for accountability mechanisms.

Legal and Project Approach

A constructive dialogue for Papua has still not yet been implemented¹, the government instead made a policy that translates the complex issues in Papua into merely economic problems. This is reflected in the Government Regulation – ‘Substitute of Constitution (PERPU) Number 1/2008’. This has been revised from ‘Constitution Number 21’ 2001, which is about Special Autonomy and the establishment of the Special Unit - Acceleration of Development in Papua and West Papua (UP4B) based on President Regulation (Perpres) Number 66 2011. In the priorities of UP4B, there was an assignment and function regarding politics, security, law and human rights. This function has still not yet been fully implemented as intended. During the period of President S.B.Yudhoyono’s Government, at least 264 violent incidents occurred with the number of deaths noted at 54, while injuries were numbered at 863.² Also in the era of President Yudhoyono, the government made a regulation regarding a development in Papua called UP4B. However, during the Presidency of Mr. Joko Widodo, this

regulation, ‘UP4B’ has been disbanded. The UP4B regulation did however, successfully conduct a few programs. But, it has failed to implement programs that tackle cultural and political issues, which are fundamental for a dialogue between Jakarta and Papua to take place. According to UP4B data, as a result of the policy, 500 Papuans were given the opportunity to study at numerous high schools in Bali and Java in 2013 while 1,370 students pursued higher education at a number of universities throughout the country.³

Military deployment and its impact in Papua

The criminalization of civilians in Papua, that occurs as a result of flag raising incidents will always be perceived as, against the unity of Indonesia. Such civil activities that highlight political aspirations of Papuans are vulnerable to being labelled as acts of treason. Even though, these actions are peaceful and unarmed. On the other hand, the apartheid issue is indeed purposefully raised and it becomes a reason for various state policies that lead to operations in Papua including those conducted by the

1 KontraS’ Report of 10 Years of Susilo Bambang Yudhoyono’s Government, “Hak Asasi Diakui Tapi Tidak Dilindungi”

2 KontraS, SBY 10 Years Report. Hak Asasi Manusia Diakui Tetapi Tidak Dilindungi. 2014

3 Source: www.jakartapost.com Margareth S. Aritonang. Jokowi Told To Disband UP4B in Papua. 8 September 2014.

national intelligence (BIN), the Indonesian National Military (TNI) and the police.

The government had decided to use the securitization approach in Papua to keep peace in the region. During the 'New Order Era' of President Suharto, the government created a Military Operation Area in Papua to secure Papua from any armed civilians groups and this Military Operation Area was abolished when the 'New Order Era' came to an end. However, till today there is an ongoing concern about the securitization of Papua with the widespread and increasing use of military and police troops in order to eradicate conflict in Papua and to abolish armed civilians groups. The concepts of nationality and national integrity is being used to create peace in Papua by increasing the number of National Military with the idea of strengthening the value of a single nationality.

In 2014, TNI planned to develop several military bases in Papua, especially for the Navy (*Angkatan Laut-AL*) to build the third Armada in Sorong, with the addition of a marine Division. This Armada would have as its task to supervise maritime security in the eastern part of Indonesia.

Currently, Indonesia has two naval forces. They are the *Armada Barat* (Western Armada) in Jakarta and *Armada Timur* (East Armada) in Surabaya. If the planned East Armada for Sorong, goes ahead, then the naval forces that are located in Surabaya will supervise maritime security in the central part of Indonesia. Meanwhile, the Air Force (AU) has plans to build two new airports at Sorong and Manokwari. Previously, the Air Force had four airports in Jayapura, Biak, Merauke and Timika. Based on Imparsial research on the TNI reform in Papua that was published in 2012, the number of the Navy personnel in Papua was estimated at around 1,272 personnel and the Air Force around 570 persons. The development plan for the Eastern Armada in Sorong and the Air Force's plans for new airports in Sorong and Manokwari will automatically increase the deployment of troops to Papua.

In the past few years, the human rights situation in Papua has got worse. What is most noteworthy in this context is that: the government continues to ignore the protection of its citizens and the supremacy of the Rule of law is almost non-existent in Papua. As a result, welfare and justice still remain a dream and are considered to be more distant than ever by the people of Papua. Human rights abuses are spreading rampantly, and the victims are not only civilians, but also on the side of the Indonesian National Military (TNI) and National Police (Polri) have also become the victims.

The existence of security troops in Papua is increasing with the aim of protecting but not actually protecting the local citizens at all. Instead they are protecting the migrant citizens. Human rights violations that occur in Papua actually come from the state security forces. Therefore, the addition of extra security troops is not the way to resolve the conflict in Papua.

Basically, state security forces have a duty to protect their citizens and create a sense of security for all the citizens. It is also their duty to protect the country from outside threats based on the Constitution Number 34/2004. Regarding the National Military Forces (TNI) article 7 point (1), the major assignment of the TNI is to protect state sovereignty, maintaining the unity of state territory of Indonesian Republic based on Pancasila and 1945 Constitution, and to protect the people from any threats from intruders.

If the government of Indonesia's reason for increasing military troops in Papua is to protect citizens from the armed groups, such as Independent Papua Operation, this is not considered as a good solution. The assignment of the National Military Forces to protect the citizen from apartheid groups as stated in article number 7 Constitution Number 34 2004 is also interpreted wrongly by the government. There is no official assignment to increase the number of security forces in Papua and this is hugely questionable. The existence of an apartheid

group, or in this case we can say the armed civilians groups is because of the lack of attention from the government itself. There are plenty of Papuan factions that the government should be aware of. There are some armed civilians group that the government should be dealing with, not by considering them as enemies of the state, but by making an approach to them for a peaceful dialogue. The government actions to solve the conflict means in effect that they abandon the rights of indigenous people in Papua and make one sided regulations, coming from the central government in Jakarta without engaging in a dialogue or having any peaceful resolution of the Papuan conflict with the indigenous people of Papua.

The New Administration and its Challenges with regard to Papua

There is no sign from the government side of a guarantee for a dialogue or indeed any peace solution that might include, a) the completion of outstanding human rights cases and b) a variety of other problems that have long been demands of indigenous people in Papua. Due to economic interests in Papua that remain a priority for the central government in Jakarta, any improvement with regard to the resolution of human rights violations in Papua remains static.

In mid-2014 the transfer of national leadership from Mr. Susilo Bambang Yudhoyono to Mr. Joko Widodo had an impact on Papua and West Papua. A total of 72.49% people in Papua and 67.63% people in West Papua supported Joko Widodo (Jokowi) as the 7th president of Indonesia. During the legislative and presidential election campaign, Jokowi made two visits in Jayapura. These visits were the first visits of an Indonesian presidential candidate, so they created great sympathy and support from the people. So the people's expectation that Papua and West Papua's situation would be safer and free from violence was placed in Jokowi's hands. As a newcomer, Jokowi does not have a bad track record related to human rights violations in Indonesia. It is different from his rival, Lt. Gen.

Ret. Prabowo, a former son in law of the former President Suharto, who had a record of serious human rights violations in Mapenduma-Papua in 1996 and an enforced disappearance case in 1997/1998. Furthermore, the vice president who accompanied Jokowi was M. Jusuf Kalla (JK). Mr. Kalla had encouraged a peace process in Aceh in 2005 through a peace treaty with the *Gerakan Aceh Merdeka* (GAM). Kalla is expected to continue his efforts to encourage peace in Papua through peaceful dialogue with representatives of the Papuan People.

During President Jokowi's visit to Papua to attend the National Christmas celebrations at Stadium Mandala in Jayapura on December 28, 2014, he stated that he regretted the violence in Enarotali - Paniai and empathized with the victims of violence and their families. Jokowi also stated that this case should be resolved as soon as possible, so that it will not happen again in the future. Jokowi also promised to visit Papua at least 3 times a year to listen to the voice of the People of Papua and to dialogue with them in order to build trust between himself and the Papuan People. Jokowi stated that the conflict in Papua should be terminated, and urged groups that are still living in the forest and mountains (the guerillas) to come down. He hopes that Papua can be built together as a land of peace.

At the same time, Mr. Joko Widodo started the regulation of widening the military operation area (Kodam Jaya) in Papua. However this regulation - Kodam Jaya - has not yet been implemented. Mr. Joko Widodo has misinterpreting the problems in Papua Conflict. The origin of the conflict comes from the lack of accountability in the security forces. By increasing the number of military troops in Papua, the people of Papua suffer more and they will feel abandoned in their own land. We can conclude that, despite a change in leadership, the government still chooses the conservative approach, with a strong emphasis on 'securitization' which only makes the conflict worse. Decreasing the number of armed civilian groups, promoting justice and a peaceful dialogue would be a softer and better approach.



Image 6-1.1 Monument in Sorong symbolizing military power.

What Jakarta should prioritize

The Indonesian Institute of Sciences (LIPI) has already mentioned in the 2008 Papua Road Map, that there are four major problems in the Papuan conflict. First, regarding the marginalization and discrimination that has been felt by the indigenous people in Papua as an impact from the economic development, culture policy and mass migration in Papua since 1970 until today. Therefore, affirmative policy such as recognition should be developed. Second, the failure of development that needs a new paradigm for the development of Papua. Third, the existence of a contradiction in the understanding of history and political identity between Papua and Jakarta. Fourth, the long historical experience regarding the political abuses in Papua, especially those that been carried out by the state actors towards civilians in Papua.⁴

However, after the inauguration of President and Vice President on October 24th, 2014, the policies of Jokowi-JK concerning Papua and West Papua still does not show any significant change. Imparsial has noted at least four big issues that have human rights implications for the situation in Papua and West Papua. The first was the shooting into the crowd that allegedly was committed by the military in Enarotali-Paniai on Monday, December 8th, 2014, which resulted in the death of four high school students and injuring dozens of people. Second, the assignment of Ryamizard Ryacudu as Minister of Defense. The background of Ryamizard Ryacudu is that he was a conservative general who may have been responsible for the loss of civilian lives during martial law in Aceh, his tough stance towards the groups that were labelled as separatist, and one of the most controversial statement from him was that the killers of Theys

4 Lembaga Ilmu Pengetahuan Indonesia. Papua Road Map : Negotiating the past, Improving the present and Securing the Future. (Jakarta : LIPI, 2008). Hlm.2

Eluay are heroes. Third, the statement of Jokowi that the government was reviewing the plan to establish a new military regional command in West Papua (*Komando Daerah Militer or Kodam*). Fourth, the Government's planning through the Minister of Defense Ryamizard Ryacudu to propose three Bills: the National Security Bill, the State Secrecy Bill, and the Reserve Component Bill (*Komponen Cadangan Pertahanan Negara-Komcad*). All of them could potentially disrupt democracy and human rights in Indonesia. People in Papua are expecting Jokowi to keep his promise. At least, in 2015 the Enarotali case must be solved.

It is mandatory for the Indonesian government to halt the ongoing conflict in Papua, by conducting several steps that place more focus on security forces accountability in relation to the promotion of human rights principles. As long as human rights violations in Papua keep increasing, the welfare of the people of Papua will be difficult to achieve because of the absence of a sense of security that belongs to the people of Papua. Therefore, we can conclude that what is the actual need of the people of Papua is equal treatment with other Indonesian citizens in other provinces. Papuans have every right to expect a peaceful environment and a

better welfare system. Economic development that is happening in Papua, and the benefit of this economic development is still not having a positive impact on the lives of the people of Papua. They still suffer in poverty, with health issues such as HIV/AIDS.

Recommendations

The Government of Indonesia should

- stop the plan to establish a new military command in West Papua,
- stop the deliberation of the bills that threaten democracy and human rights protection, no more violence against civilians in Papua.
- implement the long term constructive dialogue with the indigenous people so that the central government will understand the basic and actual needs of the people of Papua. Political recognition is really needed by the people of Papua so they will not feel that they will become a stranger in their own land.
- resolve human rights related violence in Papua by establishing a Human Rights Court so that human rights issues become the first priority in conflict resolution in Papua as a step towards economic development for the people of Papua.

6.2 Criminal Procedure and Law Enforcement

Based on experience during the provision of legal support in various places in Papua, like Sorong, Biak, and Jayapura between April 2013 and December 2014, one can still observe violations of the Indonesian Criminal Procedure Code (KUHAP), legally protecting the rights of suspects, their families and lawyers during law enforcement. These violations are closely related to Papuan political history and the latest developments in Papua and are abused by the government and security forces to uphold a negative and stigmatized image of Papuan civil society members and human rights activists.

Currently, there are three major issues of concern:

1. Restrictions of freedom of Expression

The restriction of the freedom of expression through security force violations and limitations of peaceful protests, are usually accompanied by the unlawful arrest and legal prosecution of demonstrators. Moreover, such cases are usually accompanied by the use of excessive violence during arrest, such as occurred when supporters of the student movement GEMPAR peacefully protested for the release of political prisoners on April, 2, 2013. Another example is the excessive use of force during the dispersal of a group gathered for worship, which was organized by Isak Klaibin and his friends in Aimas on April 30, 2013, which caused the death of three civilians, without any of the perpetrators undergoing legal prosecution. A similar incident occurred in the east of Biak island, as Oktavianus Warnares and some of his friends raised the morning star flag at a civil servants training institution on May 1st, 2013. As members of the military witnessed the flag raising, they opened fire, injuring two civil servants and Yance Wamaer in the leg. Another crackdown in Biak was carried out on October 19, 2013, where people had gathered to commemorate the third Papuan Peoples Congress. Several participants were beaten up.

2. Denial of access to lawyers

Another issue of concern is the denial of lawyers' access to detainees. If lawyers want to provide legal assistance, particularly shortly

after arrest, police officers deliberately hinder access to detainees with excuses, such as, that the detainees are currently being interrogated, superiors or persons in charge are not available, or shifting liabilities between investigator, Head of Criminal Investigation Unit and the local police chief. Such difficulties occurred after lawyers wanted to provide legal support to several KNPB activists, who participated in a peaceful demonstration on November 26, 2013, and finally were denied a visit by lawyers. Another incident was the peaceful demonstration organized by the student movement GEMPAR, where protesters were arrested and charged. Lawyers were denied access to the detainees so as to cover up an incident of torture. The arrest of 12 persons in Warambaim on August 10, 2014 was another such incident, where lawyers were hindered during their attempt to provide legal support to the arrested. Apart from obstruction this case shows a clear indication of criminalizing various student activists, who repeatedly wanted to draw attention to government failures and the human rights situation in West Papua.

3. Trade of illegal fire arms

There is an increase in the trade of illegal fire arms in West Papua. The weapons are purchased outside of West Papua e.g. in Ternate or Papua New Guinea, or are sold directly by members of the Indonesian Police and Military to civil society members. In 2013 joint police and military forces carried out sweeping operations in Yongsu, because two persons who were brought in from Ternate, had taught local

villagers how to build fire arms. It is undeniable that shootings occurred in several places in West Papua throughout 2014, which resulted in casualties amongst both civilians and security forces. This development has been used by the Papuan Regional Police (POLDA Papua) and leaders of the regional Papuan Cenderawasih military command for the justification of troop deployments and sweeping operations in which security personnel destroyed peoples' properties and carried out acts of torture, resulting in the displacement of local residents.

During the operations security forces arbitrarily arrested and often tortured people, violating the criminal procedure code. Such incidents happened in Puncak Jaya, Lani Jaya and Yapen Regency, in the villages Yongsu and Berap. During these operations the security forces arrested and prosecuted only people that were helping to hide or carried weapons and ammunition, but did not undertake efforts to investigate the main actors and masterminds of the weapons trade. In the cases where police initiated a criminal prosecution, the legal processes were not transparent, indicating an effort to cover up those government institutions that were involved. In most cases security forces failed to arrest the perpetrators of these shootings, leaving us with the impression that they were deliberately left out of the legal process.

Systematics in Criminal Procedure

The above mentioned issues have given the handling of such cases in West Papua its own nuances: the negative stigma amongst elements of the law enforcement apparatus, particularly, police officers, public prosecutors and judges. These have affected the objectivity of those involved during different steps of the law enforcement procedure, like arrest, investigation, legal prosecution and even examination in court. During arrests police forces still carry out arbitrary acts of arrogance and violence against any person whose involvement in an incident is somehow suspected, or reside in

the area subjected to sweeping operations. This clearly violates the presumption of innocence and has repeatedly led to torture and maltreatment of people, who were not at all involved in a criminal offense. Often police officers also violate criminal code procedures during arrest.

There were several cases where detainees did not receive legal support by a lawyer during the early stage of a criminal investigation, due to local circumstances, such as, that there are no lawyers available in the concerned region, or because access was deliberately denied by police officers. This often indicates that police officers tortured a suspect or violated the criminal procedure code.

Moreover, violations of criminal procedures have been reported during the process of investigation, where investigators interrogate a suspect without the support of a lawyer. Often investigators appoint a lawyer they know, after the interrogation has already been conducted, and ask him to sign the police investigation report (this is just done as a formality). Investigators frequently charge suspects with a number of articles, usually adding the article for the participation in a criminal offense, to link the suspect somehow to a crime, leading to the impression that the investigator himself is really not sure what criminal offense the suspect has committed. Over and above that, it frequently happens that investigators try to break down a criminal offense with the involvement of several persons into several case files with the attempt to use each of them as principal witnesses for the other accomplices. This goes against the doctrine of law, which states that the use of principal witnesses violates human rights principles, based on Jurisprudence No. 1174 K/Pid/1994 dan Nomor 1592 K/Pid/1994. There were also cases reported where the investigator used this strategy against suspects, who neither understood nor spoke Indonesian, e.g. during the investigation against 12 suspects (Philemon Yare and friends), who were arrested on August 10, 2014 near Berap Village. The investigator

used one of the villagers as translator, who had been arrested with the other suspects but had to be released because the police could not prove his involvement in the criminal offense.. During the interrogation the investigator repeatedly punched the translator in the mouth because he did not accept the suspects statement. During the early stage of the interrogation the investigator did not allow family members to visit the suspects with the excuse that access to the suspects was denied due to direct orders from his superior, which is contrary to law.

With regard to legal proceedings at public prosecutions and in court, it must be observed that the findings and evidence of police investigations is often not sufficient, but nevertheless the cases are accepted by public prosecutors and filed to courts. Often public prosecutors lack the courage to return the police investigation reports to the investigators if the evidence is insufficient, particularly when defendants have been charged with treason, are human rights defenders or political activists. Hence during the trial the public prosecutors' legal charges can often not be proven based on the collected facts and evidences, however public prosecutors tend to insist at court that the guilt of defendants has been proven, often demanding high verdicts, like in the treason trial against Pieter Hengels Manggaprouw, who organized a peaceful demonstration for the commemoration of the third Papuan Peoples Congress and the release of political prisoners. Police regarded the demonstration as a criminal offense and forwarded the file of the case to the public prosecutor, who demanded a 7 years imprisonment sentence in court. Even though the judges did not consider the demonstration objectively as an act, which is legally guaranteed through the freedom of expression, the judges sentenced Mr. Manggaprouw to two years imprisonment. The verdict must be regarded as low compared to the sentence demanded by the public prosecution. However, the case also shows that the panel of judges did not have the courage to acquit the defendant, which led to

the impression that the trial was influenced by strong political intervention. This intervention becomes clearly obvious after a case has been forwarded to the public prosecution and the public prosecutor lacks independence because his superiors from the Provincial State Prosecution becomes increasingly involved in formulating and preparing the demands, even though they do not directly engage in the handling of cases.

Trials at the district courts that are related to treason or the possession of illegal fire arms and ammunition are closely monitored by police forces from the intelligence unit, the crime department and the Sabhara unit. The presence of police forces in trials disturbs both witnesses and defendants in giving testimonies, and it also has an influence on public prosecutors' demands and judges' verdicts. Heavy military presence is also used as a means of intimidation towards lawyers providing legal support to defendants, in particular through the taking of pictures during the examination of witnesses and asking for the names of lawyers, as happened during the treason trial of Oktavianus Warnares and five other defendants. After the trial, lawyer Ivonia Tetjuari was intimidated by members of the Biak district military command. Two men approached her and asked her for the names of lawyers and the address of their accommodation in Biak.

Interventions by member of law enforcement apparatus against judges also occur during pre-trials that are filed by suspects' family members or lawyers, when the police violate the criminal procedure code during arrest, custody and house searches. Several cases have revealed that judges often lack the courage to insist on legal standards that go against the interests of parties or institutions. As a result, they often do not accept the demands of upright lawyers during pre-trials to review cases, even though the facts in court clearly indicate procedural violations. This happened for instance during the pre-trial of the head of Sarmi district police in March 2013. Lawyers found procedural violations during the arrest, the house search and the confiscation of personal belongings of Edison

Werimon and Soleman Fanataba, who were arrested on December 13, 2013 and December 17, 2013. Lawyers filed the pre-trial in March 2013 and then submitted the evidence to the Jayapura public prosecution and the Jayapura district court. At this stage the Police apparatus intervened in the process at the Jayapura public prosecution and the Jayapura district court by urging the public prosecution to speed up the process of forwarding the case to the district court in order to initiate the trial against Edison Werimon and Soleman Fanataba, so the pre-trial became void. The acceleration of this process had various impacts on the trial. The legal charges against defendants were inaccurate and did not clearly explain why Edison Werimon and Soleman Fonataba committed treason. Moreover, the public prosecutor failed to present any witnesses or evidence of treason in court. The trial agenda with the public prosecutor's demands, which was planned to be read on July 12, 2014, did not take place until February 2015 with the excuse that the provincial state prosecution did not yet prepare the prosecution demands for the trial. The panel of judges failed to take a firm stance towards the delays leaving

both defendants in a legal limbo. The behavior of public prosecutor and judges during the trial were not in accordance with the main judicial principles that trials should be simple, fast and at low costs, as it is stipulated in the elaboration of article 50 of the Indonesian Criminal Procedure Code KUHAP.

On the other hand one can observe a growing impunity in West Papua until now. Various violent acts committed by security forces were simply ignored without initiating any legal process against the perpetrators. The civil government keeps turning a blind eye to restrictions of the freedom of expression and the trade of fire arms with serious consequences for the security approach, resulting in sweeping operations accompanied by human rights violations in West Papua, while police and military keep protecting perpetrators of human rights abuses. The Indonesian National Human Rights Commission KOMNAS HAM RI, which is charged with carrying out investigations on these violations is a toothless tiger. This has particularly become apparent in the cases at Aimas and Paniai, where discrimination in law enforcement and strong political intervention became clearly visible.

6.3 Corruption in Papua

While the number of persons convicted for corruption is increasing, the problem is far from being under control. Both in the conduct of public services as well as in the judiciary, corruption is wide-spread in West Papua. Large amounts of development funds get lost in the system. Fighting corruption through investigations and court proceedings requires reform of the law and judicial conduct.

Fighting Corruption in Papua

A register book in the prison guards' quarters of Abepura penitentiary notes that the facility is inhabited by 350 persons. Twenty of these are convicted in criminal cases for corruption, while 26 more are in custody in connection with a case of corruption. In total, there are 51 prisoners in the jail because of corruption cases. The number, however, is larger than the number of those convicted of treason which is only 14 persons.

The number of persons in jail for corruption cases in the Abepura penitentiary does not include those who are suspects in corruption cases, but have still not been brought before a court and are free. Some of the free suspects are people whose judicial process was halted during the investigation stage. Some others are people who have already been convicted but are still in the process of appealing to the court. The number of corruption case suspects and those convicted will be greater still if all those convicted on corruption charges from other penitentiaries in Papua Province and West Papua Province, as well as, the number of corruption cases' suspects who are still undergoing an investigation process are added.

Jokingly, a staff member in a regional office of the department of Law and Human Rights of Papua Province stated that the corruption-case inmates in all penitentiaries in the two provinces of Papua could create a government by themselves. He was referring to the high number of officials of government's institutions and their private partners that are in prison.

An official of the Papua High Prosecutor Office, Assistant of Attorney of Special Crime, Nikolaus Kondomo, stated that the handling of corruption cases in Papua and West Papua provinces has been increasing during the years 2012-2014. In 2012, the number of corruption cases was around 14 cases. In 2013 it had increased to 59 cases, and continued to increase in 2014¹. Moreover, he stated that it would not be an exaggeration if he claims that Papua and West Papua are havens for people involved in corruption.

The tendency for the numbers of those involved in corruption to increase is likely to continue. There are many cases currently undergoing investigations by state prosecutor office, especially in the Papua High Prosecutor Office. Those cases include old cases that have been pacified in the past due to some political considerations, and new cases that involve some high officers in local government and their friends.

Characteristics of Corruption in Papua

Opportunities for corruption are also linked to local traditions. Papuans have a tradition of giving gifts and assistance as a token of good relationship from one individual to another. These gestures are expected, especially from the elites of a community to their subordinates. However, the practice is unparallel with the practice of modern governance system. Kinship system is unacceptable in modern bureaucratic system. Such traditions have opened up opportunities for the abuse of authority by political and bureaucratic leaders in the region.

1 Papua Pos, 13 Feb, 2014



Image 6.3-1: Nikolaus Kondomo, the Assistant of Attorney of Special Crime, stated that it would not be an exaggeration if Papua and West Papua are havens for people involved in corruption.

Moreover, some people are exploiting the traditional practices to enrich themselves.

The flood of money to Papua Province and West Papua Province and the enormous support to conduct good governance from many stakeholders are in fact, parallel with the increasing index of corruption in the two provinces. The total lost that the region has suffered has not been calculated. Reports, that claimed there was a significant change in people's behavior and in good governance were basedless. Those reports were made to please the funders.

The broadening of the legal definition of corruption and the definition of categories of corruption is likely to increase the capacity of authorities to control corruption and reduce their ability to ignore legal standards. As civil servants, the authority holders are expected to be honest, careful and professional. However,

even though the category of corruption has been broadening, the tendency for civil servants to be involved in corruption is increasing. Many corruption suspects claimed that they did not understand that their actions had been categorized as corruption.

Corruption crime always invites polemics. State apparatus workers suspected in corruption cases tend to exploit their power in combating the allegations. They use their personal relationship with other people, or money to get away from their crime. As a result, the justice system works in an indefinite time frame. In fact, there were some people who when elected for a government position, and then carried out their official duty despite the fact that they had been indicted as suspects in corruption cases. In other cases, corruption suspects were given a prison release for a variety of reasons, such as sickness.

The court trials sometimes were also tainted with some “secret lobbies known to everyone”. As a result, trials could go on amidst many uncertainties. Such uncertainty was, for example, the attorney can change his/her indictment during a trial proceeding. An indictment could change from a hard indictment, in a prior session of the trial, to a lesser indictment in a later session of the trial. In other cases, the defendant could get a suspension of imprisonment or a detention transfer in the middle of trial proceedings.

Legal Approach to Corruption

A circular of the Indonesian Supreme Court number 12, 2010 on the imposition of weight and worth penalties for corruption crime has corroborated a previous circular of the Indonesian Supreme Court, - circular number 1, 2010. The first circular commands that judges render earnest decisions in the cases that gain public attention, especially corruption cases. As corruption is practiced systematically in Indonesia on a large scale, unconventional methods and approaches have

to be used to address it. Moreover, the criminal justice process should have a deterrent effect on future perpetrators. Criminal punishment must be appropriate and commensurate, and not only minimum punishment, but also, we have to take into account the level of crime and potential state losses caused by the defendant.

In corruption crime cases, from the beginning of the investigation, the investigators should be able to distinguish the level of involvement of the suspects. They have to conduct a procedure namely qualifying of involvement (*deelneming/ complicity*) which consist of, the executants (*pleger*), the mastermind (*doenpleger*), the participants (*medelpleger*), and those who incited the act (*uitloker*). Apart from that, at the end of the trial, when imposing punishment, the judge should consider the losses endured by the state. In this respect, should the state endure a 5 million rupiah loss, then the punishment given to such a defendant should not be the same as to another defendant who caused a 5 billion rupiah loss to the state.

What is Corruption

Oxford Dictionary (1993) defines corruption as irregularities, or damage of integrity, in execution of public duties by bribery or logrolling. While the World Bank (2008) defines corruption as the abuse of public office for private gain.

Elements of corruption are as follows; first, action of taking, hiding, and obscuring of communities' or state's properties. Second, action against accepted norms. Third, abuse of power, authority or mandate. Fourth, action intends to benefit the actor, relatives of the actor, or some specific agencies. Fifth, action that harms other elements of the society or harms the country.

In juridical definition, corruption is explained in 13 articles in the Law number 31, 1999, in conjunction with Law number 20, 2001. Those articles explain in detail about the criminal acts that can be worn in prison for corruption. Corruption defines in thirty action of crimes which can be categorize as state losses, bribery, embezzlement in office, extortion, cheating, conflict of interest in procurement, gratuities (KPK, 2006: 19-20)

Law number 20, 2001, defines corruption as an unlawful act with the intention to enrich the actor, others, or corporations which results in financial harm to the state or national economy. There are nine categories of corruption which are; bribery, illegal profit, secret transaction, gift, grant, embezzlement, collusion, nepotism, and misuse of authority and state facility.

Recommendations

In general, the handling of corruption cases should be monitored from the beginning in order to avoid abuse of power by the criminal justice system apparatus; the police, the prosecutors, the judges and also the defendants' lawyers and advocates.

Consequently, in order to prevent corruption, the justice system should introduce a robust and firm law which in turn will have a deterrent effect on future perpetrators. In this respect, law as a means of social engineering (Roscoe Pound theory) should be performed. In the end, the purpose of sentencing to impose sanctions on offenders and prevent similar offenses in the future can be achieved.²



7. RECOMMENDATIONS

7. Recommendations

The recommendations collected here are drawn from the contributions from organisations to this report and to its previous release, "Human Rights in West Papua 2013", available on www.humanrightspapua.org.

7.1 Recommendations to the Government of Indonesia (GoI)

a) In order to End Impunity and Violence by the Security Forces we recommend the Government of Indonesia to:

- Ensure that the police conduct professional and effective criminal investigations into all cases of violence, irrespective of the institutional status of the alleged perpetrators, the ethnicity of victims or non-judicial complaint mechanisms such as PROPAM that may run in parallel;
- Ensure that prosecutions are carried out within the human rights court and the ad-hoc human rights court for all gross violations of human rights, including the Wasior case from 2001/2002 and the Wamena case from 2003;
- Reduce the number of military forces deployed in Papua and ensure the compliance by the security forces with Indonesia's obligations under international human rights laws and standards. New military commands must not be established;
- Take effective measures to eradicate corruption in the judicial system and ensure the independence of the judiciary from political control and interference by government officials.
- Ensure effective civilian oversight of the military by reforming the Military Court Law.
- Ensure that perpetrators of human rights violations from the military are held accountable through trials in civilian criminal courts.
- Ensure that the Criminal Code is reviewed to include the crime of torture as defined in the UN 'Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment', which was ratified by Indonesia in 1998 or enact a national law to criminalize torture.
- Revise the Social Conflict Management Law regarding the deployment of the military to ensure that the military is only involved in issues of external threats and not in internal social conflicts, in accordance with human rights principles;
- Develop independent and effective complaint mechanisms for victims concerning human rights violations by the security forces, which can ensure follow-up, independent investigations and prosecutions of perpetrators and provide adequate remedies to victims.

- Issue policies that will end the arbitrary stigmatisation of Papuans as separatists or terrorists.
- Put a halt to policies and practices within the security forces that enable violations of human rights of civilians, in particular those used for intimidation and retaliation. *Current policies and practices are only deepening conflict tensions and result in the escalation of violence. Members of the security forces who apply such practices should face serious sanctions, in line with international standards.*
- Ensure that the National Police applies effective oversight of the provincial police in Papua and ensure that residents of Papua can enjoy a high standard of law enforcement. *The negligence and corruption within the police needs to be addressed with serious sanctions and criminal procedures where applicable.*
- Implement regulations to prevent police, military and state executive personnel to work in security positions for plantation companies.
- Support the National Human Rights Commission (Komnas HAM) to increase monitoring of places of detention across Papua, particularly prioritising the central highlands and the bird's head region.

b) To Ensure the Protection of Freedom of Expression, we recommend the GoI to:

- Release all political prisoners and all other persons that have been arrested or sentenced for the peaceful expression of political opinions.
- Revoke Presidential Regulation 77/2007 that prohibits the use of the Morning Star flag and respect the flag as a symbol of indigenous and regional identity as stipulated under the Special Autonomy Law.
- Cease the application of Articles 106 and 110 of the Indonesian Criminal Code on treason, as well as Article 160 on incitement, until the Code has been reviewed and release all those currently detained under these articles.
- Abrogate Emergency Law 12/1951.
- Amend Government Regulation 99/2012 to remove the parole requirement for loyalty statements in the case of crimes against the state, and/or consider regulating prisoners detained under such charges separately from those convicted of terrorism, corruption and drug crimes.
- Strengthen the independence and the mandate of Komnas HAM, including unfettered access to conduct monitoring of places of detention, without advance notification.
- Provide adequate training for people working in governmental and administrative agencies to foster understanding, respect and protection of the rights to the freedom of expression and opinion, peaceful assembly and self-determination, while they perform their duties.
- Stop the Punishment for people expressing peaceful resistance against plantation companies which are violating their rights.

c) To Ensure the Protection of Human Rights Defenders, we recommend to the Gol to:

- Implement the recommendations made by the Special Rapporteur of the Secretary General on the Situation of Human Rights Defender, after her visit to West Papua in 2007.
- Design adequate human rights training for law enforcement officials, in collaboration with civil society actors, the effectiveness of which should be constantly evaluated through the creation of a specific monitoring body;
- Cease the intimidation, harassment and physical violence that is being perpetrated against human rights defenders and journalists in Papua, and ensure that all such cases are effectively and impartially investigated and that the perpetrators of such acts are brought to justice;
- Review the National Intelligence Law to ensure that the definition of state secrets is clear enough to avoid the application of the law against journalists and activists, and ensure oversight and accountability of the agency in order to prevent cases of human rights violations;

d) To Ensure the Protection of Indigenous People's Rights, we recommend that the Gol:

- Provide reliable statistical data regarding fundamental components of the society in the Papuan provinces, such as demography, education, governance and administration, education, health, employment, and income, together with disaggregated data on indigenous Papuans.
- Recognise the freedoms of expression and opinion, of assembly, and of self-determination of the peoples, as fundamental rights according to the UN Declaration on the Rights of Indigenous Peoples and the ICCPR;
- Ensure through legislation and programmes that companies operating in Papua respect the principle of *Free, Prior and Informed Consent* (FPIC) and to comply with the UN guiding principles on business and human rights.
- Ensure justice for past land dispossession in Papua and punishment for companies not respecting the principle of FPIC; *Past land confiscation should be punished and victims compensated. Where possible, the land should be given back to the former owners with additional financial compensation, depending on the victims' preference. The government should implement effective systems to control and monitor activities of companies holding concessions. Withdrawal of concessions should be used as a punishment for serious violations of human rights and government regulations.*
- Modify existing legislation and practices which discriminate against and violate the rights of indigenous peoples, especially Investment Law No 25/2007 and Presidential Regulation 65/2006.
- Uphold the principles enshrined in the UN Declaration on the rights of Indigenous Peoples and ensure the right of indigenous Papuans to the resources that are the source of their livelihood, including forests and land.
- Request the central government, including the Department of Forestry, the Ministry for Mining and the Department for Agriculture, as well as provincial and regency governments, to review licenses that have already been issued with regard to their impact on customary indigenous rights. (see also 7.1)

- Implement a long term constructive dialogue with the indigenous people so that the central government will understand the basic and actual needs of the people of Papua.
- Resolve human rights cases as a priority for a peaceful conflict resolution.

e) To Ensure the Effective Provision of Public Services for the Protection of Economic, Social and Cultural Rights, we recommend the GoI to:

- Monitor, evaluate, and intervene in the execution of failing health and education services in the highland districts; *The solution is not to direct more funds, migrant staff or new programs to the region. Instead, the national health authorities should hold the districts accountable regarding its responsibility to provide essential health services. The current laissez-faire attitude of the government legitimizes the poor functioning of health services.*
- We request the government to hold health district authorities accountable by law for the misappropriation of health funds provided under the rules of special autonomy.
- Disaggregate data for different ethnic groups in its demographic, health and education services statistics, e.g. non-Papuan and Papuan inhabitants; *This data would provide insight into existing health inequalities and could be the basis for a specific provincial Papuan health strategy where challenges such as HIV/AIDS, sexual and reproductive health, substance abuse and human resource issues can be addressed, programmed and funded.*

f) To Tackle Land-grabbing and the Protection of Natural Resources, we recommend the GoI to:

- Stop the expansion of plantations, *in order to protect water and air quality, biodiversity and the traditional communities which rely on them.*
- Stop the conversion into plantations of the remaining forests in Papua, Sulawesi and the Moluccas. *Kalimantan and Sumatra stand as examples of the impact of land rights issues developing as a result of awarding concessions in a populated area. In both islands the rates of land conflict are increasing from year to year.*
- Implement an effective moratorium on deforestation. *In Papua and the Moluccas, the last primary forests of Indonesia are threatened by plantation expansion. The government of Indonesia can protect them with a permanent moratorium, excluding all remaining primary forests from development and protecting disturbed forests so that they can recover from exploitation. The moratorium should be enforced with monitoring and trained personnel.*
- Implement transparent concession permits. *The system of concession permits is very complicated and leaves space for bribery and other forms of illegality. A transparent system should be introduced, one that is accessible online and easy for indigenous persons in remote areas to locate and understand. The principle of FPIC and land rights must be guaranteed in a form that meets the needs of the communities. In Papua especially, lack of education and information is an obstacle. Decisions should be made in accordance with customs and traditions and special measures should be taken to include vulnerable groups in negotiations and decision-making.¹*

¹ See also Guidelines for Free, Prior and Informed Consent, 2013 by UN REDD, http://www.unredd.net/index.php?option=com_docman&task=doc_download&gid=8717&Itemid=53

- Stop Megaprojects; *MIFEE and other megaprojects are heavily influencing the social structure of Papua. With the influx of employees, the population of Merauke Regency will change so that more than half of the population is made up of migrants, diminishing the presence and power of indigenous peoples. Furthermore, agricultural megaprojects in Papua cause environmental changes such as a higher risk of flooding and lower water and air quality.*
- Stop the Punishment for people expressing peaceful resistance against plantation companies which are violating their rights;
- Implement regulations to prevent police, military and state executive personnel to work in security positions for plantation companies;

g) To further its Cooperation with and Application of International Norms and Mechanisms we recommend the Gol to:

- Extend a standing invitation to all Special Procedures, and ensure that any requests for visits are enabled without obstruction or delay, including unlimited access to and within the Papuan provinces. Cooperation with the following mandates must be a priority, given the current situation in Papua:
 1. the UN Special Rapporteur on extra-judicial, summary or arbitrary executions
 2. the UN Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression
 3. the UN Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment
 4. the UN Special Rapporteur on the right to health should visit the remote Papuan provinces, including its highland districts
 5. the UN Special Rapporteur on the situation of human rights defenders
 6. the UN Special Rapporteur on the rights of indigenous peoples – this mandate should be allowed to visit and assess the situation in Papua and conduct a comprehensive study on the large-scale development projects in Papua, including palm oil estates and agro-industrial development, and their impact on the enjoyment of the human rights of indigenous Papuan;
 7. the UN Special Rapporteur on violence against women, its causes and consequences;
- Accept that international human rights definitions and standards on Indigenous Peoples are applicable within Indonesia, and ensure the protection of these rights, notably for Indigenous Papuans in this case;
- For the greater promotion and protection of all human rights and to make more international mechanisms available for victims of human rights in Indonesia ratify the:
 1. Rome Statue of the International Criminal Court
 2. Optional Protocol on the Convention against Torture, Cruel, Inhuman and Other Degrading Treatment
 3. Optional Protocols 1 and 2 of the International Covenant on Civil and Political Rights
 4. Optional Protocol to the International Covenant on Economic, Social and Cultural Rights

5. Optional Protocol to the Convention on the Rights of the Child on involvement of children in armed conflict
 6. Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography
 7. International Convention on the Protection of All Persons from Enforced Disappearance;
- End the practice of isolation of Papua from international scrutiny and provide unrestricted access to Papua to all human rights organisations, humanitarian organisations, foreign journalists, foreign parliamentarians and other relevant human rights and humanitarian observers;
 - Provide access to places of detention in Papua for human rights monitoring institutions including the International Committee of the Red Cross;

7.2 Recommendations to the Governors and Administrations of the Papuan Provinces and its Regencies

To end impunity and violence

- The Papua Regional Police (Polda Papua) should urgently and radically improve human rights standards in law enforcement in Papua; *Polda Papua should work together with local human rights organisations and bar associations to provide effective training for police on human rights obligations throughout the arrest, interrogation and trial process, including guaranteeing the right to a fair trial, the right to have access to a lawyer, family visits, healthcare, the right to freedom from torture, and training in the UN basic principles on the use of force and firearms. These efforts must be backed up by urgent efforts to eradicate impunity.*
- The provincial office of the Ministry for Law and Human Rights together with the Polda Papua should work to strengthen the function of the provincial Professional and Security Division (*Profesi dan Pengamanan, PROPAM*), including by building collaboration with the Witness and Victim Protection Agency (*Lembaga Perlindungan Saksi dan Korban, LPSK*) so that witnesses and victims of rights violations in detention can give evidence in safety without fear of retribution whilst still in detention, or once released;
- The central government, including the Department of Forestry, the Ministry for Mining and the Department for Agriculture, as well as provincial and regency governments, should review licenses that have already been issued with regard to their impact on customary indigenous rights;

To Ensure access to Health Care, we recommend the Provincial and Regency Authorities to:

- Create a health and education policy forum at provincial or highland district level, where participatory policy making can be made with direct input from the communities so that their grievances, expectations, and solutions can be sought for any future health strategies;
- Urgently address the mental health and substance abuse challenges in the Papuan highlands; *This can be done through culturally sensitive and appropriate psychosocial services.*

- Ensure that salaries for teachers and health workers are adequate and paid regularly, and that absences from work are sanctioned with serious disciplinary measures, including the termination of employment where appropriate.
- Provide specialized security and social support services for indigenous Papuan women who experience violence and abuse.

7.3 Recommendations to investing Companies

- **Obligatory human rights policies for companies:** Company leadership needs to develop detailed corporate policies on human rights and land rights that are consistent with international standards. Swift implementation of training for all staff in their companies, subsidiaries and contracted firms. Leaders must then hold staff, subsidiaries and contractors accountable for their performance in relation to these new policies on human rights.
- **Meaningful recognition of customary land rights:** Companies and the international environmental NGOs which engage with them must commit to and prioritize the implementation of programs to formally recognize the customary land rights of indigenous peoples and communities. They must either return confiscated lands or renegotiate contracts, if that is the desire of local communities. The Voluntary Guidelines for the Responsible Governance of Tenure of Land, Fisheries and Forests, of which Indonesia is a signatory, is a suitable framework to adopt.
- **Transparent audits of company performance:** Companies need to commit to conducting regular, independent and fully transparent audits of their performance on human and land rights issues by international human rights organizations. Leading forestry, food and agriculture companies have conducted such assessments across their multi-national holdings in recent years, thereby proving that it is not only possible, but in some cases advantageous for their companies to do so.

7.4 Recommendations to other States and Intergovernmental Organisations

The international community is urged to:

- Press for a visit by the UN Special Rapporteur on freedom of opinion and expression, the UN Special Rapporteur on extra-judicial, summary or arbitrary executions and a follow-up visit by the UN Special Rapporteur on torture.
- Strengthen the capacity of civil society actors in Papua including the capacities of young Papuans to participate in and engage with international indigenous peoples' mechanisms;
- Support calls for the unconditional release of political prisoners, as a step towards peaceful dialogue between the Government of Indonesia and the Papuan community;
- Raise issues of humanitarian concern regarding political prisoners with the Law and Human Rights Ministry;

- Support Indonesia's declared aim to conduct a dialogue between Papua and Jakarta as a peaceful conflict resolution mechanism.
- Reject palm oil and other products being produced by companies not respecting human rights and primary forests; *The use of biofuels is still subject to debate in Europe, despite awareness of associated human rights problems and the massive carbon and methane emissions caused by palm oil. Europe should abolish the import of tropical wood for instruments and art in order to protect primary forests. European governments should punish companies not respecting the principle of FPIC and human rights by placing sanctions on their products.*

The EU and its Members are urged to:

- Raise the problem of human rights violations in the Papuan provinces of Indonesia within the on-going Human Rights Dialogue between the European Union and the Government of Indonesia, with a particular focus on the issue of impunity and violence;
- Support the Government of Indonesia in fulfilling its international obligations and implementing the recommendations issued by the relevant UN bodies and procedures, notably those concerning access for independent monitors such as foreign journalists to Papua, the release of all political prisoners and the end of excessive use of force by the security forces against civilians;
- Halt all deliveries of arms and military equipment to the Indonesian army until independent mechanisms are developed that are evidently and effectively holding to account through fair trials in civilian courts, the members of the military who have perpetrated serious human rights violations such as torture and extra-judicial killings; *The lack of external scrutiny of the human rights and humanitarian law violations taking place in Papua make any arms sales to the Indonesian military irresponsible at this time, and risk fuelling further violations.*
- Provide technical assistance to strengthen the capacity of government officials to conduct prompt and effective investigations into human rights violations and to ensure their effective prosecution;

The United Nations Economic and Social Council is recommended to

Assess and follow-up on the government's progress in the provision of disaggregated data on health statistics and community based policy making for health reforms;

Abbreviations

ALDP	Alliance for Democracy in Papua
APS	School participation number
ART	Anti-Retroviral Treatment
ARV	Anti-Retro Viral
BIN	National Intelligence Agency
BRIMOB	Mobile Brigades – Police Special Forces
DAP	Papuan Traditional Council
DPD	Regional Representative Council
DPR	People’s Representative Council
DPRP	Papuan People’s Representative Council
FKPPA	Religious Leaders’ Consultative Forum
FKUB	Forum for Religious Cooperation
FPIC	Free Prior and Informed Consent
FRWP	Federal Republic of West Papua (also NFRPB)
ICP	International Coalition for Papua
ICRC	International Committee of the Red Cross
IDP	Internally displaced persons
ILWP	International Lawyers for West Papua
JDP	Papua Peace Network
KNPB	West Papua National Committee
KPP	Papua Peace Conference
KPU	Election Commission
KUHAP	Indonesian Criminal Procedure Code
KUHP	Indonesian Criminal Code / Penal Code
KWI	Bishops Conference of Indonesia
LIPi	Indonesian Institute of Social Sciences
LKIN	State Intelligence Coordinating Agency
MIFEE	Merauke Integrated Food and Energy Estate
MP3EI	Master Plan for Indonesia’s Acceleration of Economic Development
MRP	Papuan People’s Council
MRPPB	Papuan People’s Council of West Papua Province
MSG	Melanesian Spearhead Group
NFRPB	National Federal Republic of West Papua
NKRI	Unitary State of the Indonesian Republic
OPM	Papua Freedom Organisation
P4B	Acceleration of Development in Papua and West Papua
PGGP	Association of Churches in Papua

PGI	Communion of Churches in Indonesia
PIF	Pacific Islands Forum
PTD	Papua Land of Peace
STI	Sexually transmissible infectious diseases
TPN	National Liberation Army
UP4B	Special Unit for the Acceleration of Development in Papua and West Papua
WPNA	West Papua National Authority
WPNCL	West Papua National Coalition for Liberation





This human rights reports details violations of civil and political rights as well as economic, social and cultural rights. It explains the situation of indigenous peoples in West Papua and seeks to make a contribution to a change, that will end violations and impunity in Papua and enable a sustainable and peaceful development of Papua as a land of peace.

The International Coalition for Papua works to address the serious human rights condition in West Papua and supports a peaceful solution to the conflict there. West Papua (Papua) refers to the western half of the New Guinea Island in the Pacific and comprises the eastern-most provinces of Indonesia. Indigenous Papuans are suffering from a long and ongoing history of human rights violations, in which the security forces subject them to violence including killings, torture and arbitrary arrests. Impunity prevails. A lack of adequate access to health-care and education as well as demographic and economic marginalisation and discrimination undermine Papuans' living conditions. The heavy presence of the Indonesian security forces, a lack of access for international observers such as journalists, as well as corruption and transmigration from other parts of Indonesia, aggravate the situation. Political prisoners and the persecution of political activists show the extent of repression with which freedom of expression and indigenous peoples' rights are being violated. Papua's wealth in natural resources attracts businesses and (sometimes illegal) business units of the security forces, resulting in exploitation through mining, logging, harmful agricultural projects and environmental degradation. This dynamic threatens traditional Papuan indigenous culture, and underpins Papuans' struggle for their right to self-determination.

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