



Human Rights
and Peace
for Papua

ICP



Fransiscans International

A voice at the United Nations

HUMAN RIGHTS IN WEST PAPUA 2013

The third report of Human Rights and Peace for Papua -
the International Coalition for Papua (ICP) covering events
from October 2011 until March 2013

Human Rights in West Papua 2013

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Cover photo: When Papuan women in the highlands lose a close relative they cut off a finger to symbolise their loss. Health care access is still very limited for many especially in rural areas, child mortality still high and HIV/AIDS is affecting more and more indigenous people all over Papua. Furthermore, atrocities committed by security forces are still costing lives. In the highlands it is not uncommon to see older women who have only their thumbs left, bearing witness to their losses.

Photo © Carole Reckinger 2013, www.carolereckinger.co.uk

EXECUTIVE SUMMARY

50 years ago, on May 1, 1963, Indonesia took over control of Papua from the UN. Since then Papuans' lives have been marked by violence, the lack of access to effective remedies concerning right violations, as well as marginalisation and discrimination. As a result, Papuans are deeply disappointed by the Indonesian Government's administration of Papua and regularly voice their disapproval. The government often resorts to the excessive use of force to silence such protests, however. The call for a dialogue to take place between stakeholders in Papua and Jakarta, as a peaceful means to discuss the problems in Papua and find solutions to these, have not led to the required action by the government.

Cases of extra-judicial killings, torture and arbitrary arrests documented between October 2011 and March 2013 show an ongoing high level of violence, concerning which the perpetrators - notably members of the security forces, including police and military - are not being held accountable, in the majority of cases. In the remote highland areas such forms of violence are most frequently noted. There, the security forces have continued to conduct raids in villages in order to retaliate concerning conflict violence and to intimidate indigenous village communities, resulting in the displacement of people. The Third Papuan People's Congress in October 2011 was violently dispersed, persons were killed and peaceful political activists were imprisoned. In 2012, an escalation of violence was noted during which civilians were shot by unknown persons, political activist group leader Mako Tabuni was killed by the security forces and political activists were persecuted with arrests and killings. This, together with the prohibition of demonstrations in the second half of 2012, has resulted in a deterioration of the freedom of assembly and expression in Papua, from which civil society activism has until now not fully recovered despite small improvements in early 2013.

Poor management of human resources in the health-care and education sectors, despite the construction of new facilities and the availability of funds for salaries, have left most health-care centres and schools unattended by health workers and teachers respectively. Due to this, access to education and health-care is often not available, notably in remote areas. Child death rates and HIV/AIDS infection data are at alarming level and rank highest

compared to other Indonesian regions, demanding serious reforms of the health sector.

As part of the central government's plan to accelerate economic development in Papua, the issuance of licenses to companies for the extraction of natural resources continued despite serious concerns as to their impact on indigenous communities, who often lose their traditional livelihoods as a result of deforestation. Illegal businesses have accounted for a considerable share of investment activities. The security forces benefit from the provision of security services to such companies and are also themselves involved in the extraction of natural resources. Due to the omnipresence of the army in Papua and the lack of independent mechanisms to hold their members accountable, illegal activities by the military, including human rights violations and resource extraction, continue with impunity, while Papua's natural forests are shrinking at an alarming rate, causing considerable long-term impact on the environment and climate.

This report also documents cases in which children and women have become the victims of violence, including by the security forces. It has been noted that there exists a very low threshold concerning the willingness by the security forces to use arbitrary and excessive violence against women. Out of fear of reprisals and a lack of action by the police concerning the investigation of cases of violence against women, many cases are not reported to the law enforcement institutions and the perpetrators enjoy impunity.

Indigenous Papuans experience a much lower level of security and protection of their right to life as compared with other residents of Papua. Communal violence is often responded to with excessive and arbitrary actions by the security forces or are not addressed, resulting in an environment of lawlessness and injustice affecting the indigenous Papuan community as a whole. The stigmatisation of Papuans as separatists or terrorists is used to justify violent actions against them. Military tribunals and the police internal PROPAM mechanism lack independence or a policy to end human rights violations. As this victimisation continues, the absence of effective legal remedies that are available to Papuans deepens the social and political conflict.

Instead of a civilian approach to justice, the security approach remains the dominant one used by Indonesia in Papua. The intelligence agency makes use of surveillance measures, that are disproportionate and discriminatory against the indigenous populations and contributes significantly to the climate of fear. Reforms to the Penal Code, the Criminal Procedure Code, the Law on Military Tribunals and other laws governing the security forces are necessary. A new bill on National Security and a new law on the state intelligence body allow for arbitrary actions and abuses of power.

While some of the recommendations made by States during the United Nations (UN) Human Rights Council's Universal Periodic Review (UPR) were accepted, Indonesia refused those that concerned the problem of impunity and the use of a security-based approach in Papua. The problem of impunity was denied by Indonesia during the review. Delays in making specific arrangements to allow visits by UN Special Procedures as announced by Indonesia during the UPR indicate the government's ongoing reluctance to provide open access to such experts, notably to the mandate on freedom of expression.

Even though the Special Autonomy Law for Papua included important provisions concerning the implementation of the right to self-determination, the law has frequently been violated and after twelve years of failed Special Autonomy, Papuans have given up hope on the Law as a means to protect indigenous concerns.

The Special Unit for the Acceleration of Development in Papua and West Papua (UP4B) was mandated to work for the four year period between 2010 and 2014 and spearheads the government's approach to address the overall situation in Papua. This ad-hoc approach was designed without consultation with Papuans and as a result fails to address key aspects of the situation in Papua, effectively maintaining the core of the problem. Papuans have in general not benefited from the UP4B's programmes, as corruption in public institutions continues to be responsible for the disappearance of large parts of promised development funds. Due to mismanagement, important public services and an improvement to living standards for Papuans remain lacking. Whether Jakarta's new Special Autonomy Plus approach is able to succeed depends on whether this concept is designed in a participatory way with the Papuan people, such as through the dialogue process.

The Jakarta-Papua Dialogue is a means of building trust between Papuans and the national government and to bring about the vision of Papua as a Land of Peace. Indonesian President Yudhoyono in late 2011 had already declared that the dialogue process was the means to solve the problem in Papua. The central government has, however, not taken visible steps to enter this dialogue process goes forward as announced, as it continues to pander to hard-liners within the government that continue to reject this approach.

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SECTION 1 INTRODUCTION

1 INTRODUCTION

1.1 Working to Create a Peaceful Papua



Image 1.1-1: Development is not reaching Papuans, photo: Reckinger

“Papua Land of Peace” is a campaign to bring about a peaceful, rule of law-based situation in Papua, in which the rights of all residents are protected. Human Rights and Peace for Papua, formerly known as the Faith-based Network on West Papua, is the international coalition for Papua (ICP) comprising faith-based and civil society organisations working to promote human rights and a peaceful solution to the conflict in Papua. Since 2003, this coalition has supported the “Papua Land of Peace” campaign.

50 years ago, on May 1, 1963, the United Nations Temporary Authority in Papua handed over the territory of Western New Guinea to Indonesia, based on the 1962 New York Agreement. To date, Indonesia has failed to protect indigenous Papuans from violence by its security forces or bring literacy rates, health statistics and social equality to a level that is comparable to that in other parts of Indonesia. Instead, disappointment and tensions increase while transmigration of people from other parts of Indonesia to Papua continue, adding to the growing marginalisation of indigenous Papuans in their own land. While updated government statistics on the demographic composition of Papua are not available, it is estimated that indigenous Papuans make up less than 50% of the population there at present.

While Jakarta is trying to address grievances through the acceleration of economic development and investment in the region, indigenous Papuans feel that this process is harming their livelihoods without providing visible improvement to their living conditions or equal participation in economic life.

This report covers human rights abuses and violations of indigenous people’s rights in the Indonesian provinces of Papua and West Papua between October 2011 and March 2013. The region is comprised of these two provinces and is referred to in this report as Papua. Documentation and expertise provided by human rights NGOs and other civil society organisations in Papua, have allowed a comprehensive collection of cases and analysis describing the developments in the last 1½ years.

In particular, 2012 has been a year of escalated violence that started with the killing of civilians by unidentified persons, that the police later alleged were separatists without providing convincing evidence. Soon after these killings, Mako Musa Tabuni, a leader of the West Papua National Committee (KNPB), an NGO calling for a referendum on the independence of Papua, was killed by the security forces. Riots followed as did a wave of arrests of KNPB members. Several activists were killed, while others were alleged to have conducted terrorist activities and were then detained based on dubious allegations.

The security forces –including the military, police, intelligence and the special forces of the police and military– are omnipresent in public life in Papua. Fear of violence, surveillance and arbitrary retaliation by these forces creates a climate of fear for Papuans.

The Papua Peace Network (JDP) has been trying to bring stakeholders from Jakarta and Papua together to discuss the roots of the conflict and find solutions to enable a dignified, peaceful and prosperous life for Papuans. The JDP has made slow but visible progress.

This report seeks to make a contribution to the important process of bringing change to the serious situation in Papua, that will end violations and impunity there and enable the sustainable and peaceful development of Papua as a land of peace.

1.2 May 1st 1963

The Indonesian annexation of West Papua took place 50 years ago

Siegfried Zöllner

A small crowd of inquisitive Papuans had collected outside the seat of the Governor in the provincial capital of the former Dutch colony of West New Guinea. (The capital was formerly known as Hollandia.) It was the evening of April 30th, 1963. In a few minutes the United Nations flag would be lowered for the last time. The UN flag had been flying there for seven months, firstly beside the Dutch flag for three months and since January 1st, 1963, beside the red and white Indonesian flag. Guards of honour from the Indonesian army and representatives of the United Nations were ceremonially celebrating this symbolic act. It demonstrated that the administration of West Papua –to be called Irian Barat (West Irian) from now on– had been transferred from the *United Nations Temporary Authority (UNTEA)* to the government of the Republic of Indonesia. For the Papuans watching the scene from afar it meant that the last spark of hope for a future in freedom and dignity had been extinguished.

At that time my wife and I were living in Angguruk, 250 km south-west of Hollandia as the crow flies. Angguruk was a small mission station consisting of a few iron huts alongside a grassy landing strip near a number of Papuan villages. We were only able to follow the events of those days and weeks by means of our small battery-run radio. Occasionally we had visitors who told us what they had observed. We were in close contact with our Papuan staff, who had their own means of obtaining information. They also told us what was going on in the towns. A few weeks earlier I had been to Hollandia myself and gained an impression of the nervousness, frustrations, fear and disappointment of the Papuan population.

The Indonesian State, through its actions, portrayed itself in such a negative light that this image has been impressed on the hearts and minds of the Papuans until this day. From the very beginning, Indonesia treated the free and proud owners of the Land of Papua as enemies of the State, and as second or even third-class citizens. The Secret Service placed their spies everywhere. The political elite among the Papuans – who on the whole were well-disposed towards the Dutch – were sought out, imprisoned, tortured and murdered. Many of them fled abroad. Those who had been open to Indonesia at first were deeply disappointed.

This review of the First of May 1963 is the introduction to the 2012-2013 Human Rights Report. Human rights violations by the Indonesian armed forces had already begun during the time of the UNTEA administration. Time

and again we heard rumours about a military prison on Ifar Hill near Sentani. Later, school and university students living in the student hostels in Abepura told us that as early as November 1962 –under the UN authority– they were attacked by Indonesian soldiers, beaten up and taken to Ifar Prison. They had to spend 24 hours in a cell 50 cm deep in water. Some of them were even forced to drink their own urine. When they were released they were warned not to speak about the incidents.

One of our church workers returned to Angguruk after a visit to the coast. He said, “I’m glad to be back here. I’m safe here in Angguruk. On the way to the airport we were held up by the army. They wanted to take us to Ifar. Rev. Chaay from the GKI church board, who was accompanying us to the airport, talked and talked. Finally we were allowed to go; I was really lucky.”

One day an Indonesian political officer appeared in Wamena. Whenever he was out and about he had a pistol dangling from his belt. He made it known that he had come “to catch a few Biak mosquitoes.” He had his eye on Papuans from the island of Biak. In general, the Biak people were considered to be especially critical of Indonesia. By speaking of “Biak mosquitoes” he was showing his contempt for the Papuans. The Papuans were right when they later said many times, “We have the feeling that the Indonesians have never really regarded us as human beings.”

Something happened in those weeks that we didn’t hear about until much later; some prominent Papuans met in secret and discussed what they could do to stop this disastrous development. First they considered political resistance, distributing information to the public worldwide, especially the United Nations. A resistance movement was born that gradually added a military wing. Two years later it became known as the *Organisasi Papua Merdeka* (OPM – Organisation for a Free Papua).

These insights into what I experienced 50 years ago show that from the very beginning the annexation of Papua by Indonesia was clouded by violations of human rights and dignity. Fifty years ago the Indonesian Government and its army sowed the seeds of the problems that seem so insoluble today. The current Human Rights Report for 2011-2013 proves that on the whole little has changed in the last 50 years.

***Dr. Siegfried Zöllner** has lived for many years in Papua as a missionary. He is an expert on the indigenous Yali culture & language and continues working with partners and churches in Papua.

1.3 About the Coalition

Human Rights and Peace for Papua is the international coalition of faith-based and civil society organisations (the Coalition) that 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

Human Rights and Peace for Papua 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 extra-judicial 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 three 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.





SECTION 2
CIVIL AND POLITICAL RIGHTS

2 CIVIL AND POLITICAL RIGHTS

Violence and arbitrary practices by Indonesia's security forces, including the police, military, Special Forces and intelligence services continued between October 2011 and March 2013. This has resulted in serious violations of civil and political rights. The cases given as examples in this report are not exhaustive and documentation of violations in particular in remote areas remains difficult, although the majority of cases are thought to take place in these areas. This report covers 13 cases of extrajudicial killings in which 25 activists or civilians were extra-judicially killed, 17 cases of torture including ten by the police during arrest or detention, three by the military and four in prisons. Many persons have reportedly been arbitrarily arrested for being supporters of independence movements, being family members of or otherwise linked to them, notably in conflict-affected areas or simply for campaigning for rights.

Numerous further cases of excessive use of force and arbitrary arrests were reported but often remain undocumented due to problems of access to remote places and difficult and intimidating working conditions for human rights defenders. In three cases, human rights defenders were either intimidated or arrested in relation to their work in support of victims. Demonstrations concerning political issues, such as the call for a referendum for independence, have been violently dispersed resulting in arrests and killings. The Indonesian Government maintains its position that there are no political prisoners in West Papua, while the joint initiative between local, national, and international human rights groups has documented that there remained at least 40 persons in Papuan jails who were being detained in relation to political activity or the peaceful expression of their political opinions as of March 2013.

The denial of access to West Papua for international monitors such as UN Special Procedures mandate holders, foreign journalists and human rights groups by the Indonesian Government, together with the intimidating climate experienced by local activists seriously undermines the protection and promotion of human rights in West Papua. There is a lack of functioning and credible complaint mechanisms that are able to provide effective remedies to victims of human rights violations, such as violence by police or military, while corruption persists in Papuan courts.

2.1 Freedom of Expression and Assembly

2.1.a Political Prisoners

Freedom of expression continues to be severely curtailed in Papua. Fifty years of oppression, ongoing human rights violations, a lack of development and destruction of the environment in order to extract natural resources, are among the grievances which fuel political unrest in the region. Political and human rights activists as well as demonstrators are regularly subjected to arbitrary arrest and stigmatized as 'traitors' and 'separatists.' Those seeking to defend the rights of political prisoners are also stigmatised and face threats and intimidation. Other violations of human rights and international standards frequently follow arrest and detention, including the use of torture and ill-treatment, the denial of the right to a fair trial, and the lack of access to proper healthcare and medical treatment. Campaigns at the local and national level have been stonewalled; throughout 2012, the Indonesian government maintained its position that there are no political prisoners in West Papua.¹ The severity of the situation was underlined by the cancellation of the scheduled visit of the UN Special Rapporteur on the Right to Freedom of Opinion and Expression in January 2013 – reportedly because the Indonesian government would not allow access to Papua and Maluku.²

¹ Investor Daily Indonesia, "Menko Polhukam: Tak ada lagi tapol," 8 December 2011, <http://petapolitik.com/news/mahfud-md-demo-dan-makar-itu-berbeda/>

² ETAN, "West Papua Advocacy Team urges unrestricted Visit by Special Rapporteur," 13 January 2013, <http://www.etan.org/news/2013/01/wpat.htm>



Image 2.1.a-1: Forkorus Yaboisebut at the Jayapura Five trial, photo: KontraS Papua/Tapol

Political arrests and convictions in West Papua have continued unabated since the last Human Rights in Papua report was published in October 2011. According to information collected by a new civil society initiative, Papuans Behind Bars, and published by the UK-based NGO TAPOL, there were at least 210 political arrests³ in West Papua during 2012, in 28 separate incidents.⁴ A significant number of political arrests reportedly involved women; in cases where the sex of the detainee was reported, 9% were women. At least 20 people were charged with treason under Article 106 of the Indonesian Criminal Code, for an alarmingly wide range of alleged activities. As of March 31, 2013, Papuans Behind Bars reported that at least 40 political prisoners remained in Papuan jails.⁵

Arrests for raising the Morning Star flag continued. The Morning Star flag is a symbol of Papuan identity, and while such symbols are generally allowed under Indonesia's 2001 Special Autonomy laws relating to the governance of Papua, they were subsequently banned

under Presidential Regulation 77/2007. Two people were prosecuted and sentenced to several years' imprisonment for raising the Morning Star flag at a demonstration in Jayapura in May 2012.⁶ Three women were arrested for wearing clothes displaying the symbol during a demonstration demanding the release of political prisoners in Yapen,⁷ and some women were even reportedly arrested for making a cake in the form of the Morning Star flag, with the offending dessert presented as evidence by the Prosecutor.⁸

Papuan political prisoners are frequently beaten, tortured, abused and neglected. According to TAPOL, of the 210 political arrests during 2012, 28 cases reportedly involved torture and ill-treatment.⁹ Political prisoners were subjected to a range of abuses including being blindfolded, gagged, threatened with death, and being subjected to electric shocks. While torture is sometimes reported in non-political cases, it is most frequently used in political cases, often in order to force the victim to make a confession. According to TAPOL, seven of the

3 Political arrests were defined by TAPOL as arrests which appear to be politically motivated, including: arrests which happen in political contexts such as demonstrations or places used by politically active organisations and people; arrests of politically active people or their relatives; arrests of people based on their alleged political affiliations; arrests for political activities such as raising a flag or engaging in civil resistance activities, and mass arrests occurring in political contexts. See 'No political prisoners? The suppression of political protest in West Papua,' TAPOL, April 2013, <http://tapol.org/sites/default/files/sites/default/files/pdfs/Suppression%20of%20political%20protest%20in%20West%20Papua.pdf>

4 See 'No political prisoners? The suppression of political protest in West Papua,' TAPOL, April 2013, <http://tapol.org/sites/default/files/sites/default/files/pdfs/Suppression%20of%20political%20protest%20in%20West%20Papua.pdf>

5 See Papuans Behind Bars Update, April 2013: <http://www.papuansbehindbars.org/?p=1419>

6 Darius Kogoya and Timur Wakerkwa were arrested on 1 May 2012 for raising the Morning Star flag at a demonstration in Waena which demanded protection for human rights. See KontraS Papua report, 'Peristiwa penangkapan 14 warga sipil,' [undated], <http://kontras.org/pers/teks/kronologi%20papua.pdf>

7 Tabloid Jubi, 'Beritakan Demo Kapolres Yapen Ancam Wartawan,' 1 June 2012, <http://z.tabloidjubi.com/index.php/2012-10-15-06-23-41/seputar-tanah-papua/18648-beritakan-demo-kapolres-yapen-ancam-wartawan>

8 TAPOL interview with lawyers based in Jayapura, March 2013

9 Reportedly tortured: Frengki Uamang; Paulus Alua; Barnabas Mansoben; Yantho Awerkion; Jack Wansior; Alfret Marsyom; Lodik Ayomi. Ericson Suhuniap; Enos Yoal; Efesus Payage; Yobet Pahabol; and Jursen Suhuniap. Reportedly ill-treated: Athys Wenda; Paulus Marsyom; Markus Murri; Octovina Iba; Tina Baru; Rosiana Hindom; Amaria; Agustina Hegemur; Dani Kogoya; Edison Kendi; Yusak Pakage; Niel Walom; Ishak Elopere; Buchtar Tabuni; Amos Wagab; Vasko Hindom, and 'YW' arrested in Pirime on 29 November 2012.

political arrests recorded during 2012 reportedly involved forced confessions.¹⁰

Several political prisoners have experienced health issues during 2012 and early 2013. Jefrai Murib suffered a stroke and received no initial care, leaving him with permanent semi-paralysis to one side of his body. He had been heavily tortured on arrest. Kimanus Wenda, who suffered a painful hernia (and had also been tortured at the time of arrest) waited many months for treatment. When Filep Karma was diagnosed with suspected colon cancer, he was also forced to wait many months to get permission to receive treatment. Political prisoner Kanius Murib suffered physical and mental illness for some time before he died under house arrest in December 2012. He too had been tortured on arrest in 2003. Intensive lobbying, campaigning and fundraising was required at the local, national and international levels to secure funds and access for treatment, as the government was unwilling or unable to provide for treatment, despite its obligation to do so.

There was some positive news in that local NGO Democracy Alliance for Papua, ALDP, pointed in its 2012 annual report to some improvements in obtaining access to healthcare, with officials in the prison and Department for Law and Human Rights reportedly becoming more cooperative than in previous years.



Image 2.1.a-2: Jefrai Murib while undergoing physiotherapy, photo: BUK

The terror discourse

The use of Indonesia's anti-terror unit, Special Detachment 88 (*Detasmen Khusus 88*, or 'Densus 88'), to respond to political activity in West Papua, represented a further deeply worrying trend throughout 2012. The unit was reportedly involved in a wave of violent arrests of activists during late 2012,¹¹ including two cases resulting in an activist being shot dead, allegedly for resisting arrest.¹²

While Indonesia's anti-terrorism laws have not yet been used in West Papua,¹³ after the first series of Wamena arrest

in September 2012,¹⁴ some commentators complained that had the detainees been Muslim, they would have been dealt with using terror laws.¹⁵ The police stated that they were considering terrorism charges at the time,¹⁶ however, in the end many of the activists arrested in 2012, including those from the initial Wamena case, were charged under Indonesia's Emergency Law 12/1951. This law covers the possession of weapons, explosives and ammunition, and allows for heavy sentencing.¹⁷ These developments are seen by local activists as a sign that

10 Reportedly forced to confess: Yantho Awerkion; Yakonius Wornsiwor; Alfret Marsyom; Paulus Marsyom; Steven Itlay; Romario Yatipai, and Paulus Aloa.

11 For more information about these arrests, see 'No political prisoners? The suppression of political protest in West Papua,' TAPOL, April 2013, p.16 <http://tapol.org/sites/default/files/sites/default/files/pdfs/Suppression%20of%20political%20protest%20in%20West%20Papua.pdf>

12 Mako Tabuni was shot dead in June 2012, see: Hubertus Mabel was shot dead in November 2012, see: BBC News, 'Indonesian police kill Papua separatist Mako Tabuni,' 14 June 2012, <http://www.bbc.co.uk/news/world-asia-pacific-18442620> Radio Australia, 'Papua activist Hubertus Mabel shot by Indonesian military: reports,' 17 December 2012, <http://www.radioaustralia.net.au/international/radio/program/connect-asia/papua-activist-hubertus-mabel-shot-by-indonesian-military-reports/1062038>.

13 Sidney Jones, 'Papuan 'separatists' vs Jihadi 'terrorists': Indonesian policy dilemmas,' lecture given at *International Policy Studies program of Stanford University*, 5 December 2012, published by *International Crisis Group*, <http://www.crisisgroup.org/en/publication-type/speeches/2013/jones-papuan-separatists.aspx>

14 For a detailed account of available information regarding the Wamena arrests and a number of events which local human rights defenders believe are related, see *Papuans Behind Bars*, March Update, <http://www.papuansbehindbars.org/?p=1419>

15 Berita Satu, 'Soal pengungkapan teror di Wamena, Basyir kritik Polri,' 2 October 2012, <http://www.beritasatu.com/hukum/75224-soal-pengungkapan-teror-di-wamena-basyir-kritik-polri.html>

16 Ibid.

17 Undang Undang Nomor 12/DRT/1951, available at website of the Universitas Sam Ratulangi, Manado, http://hukum.unsrat.ac.id/uu/uu_12_drt_1951.htm

the security approach in West Papua, far from moving towards a humanitarian or development approach, is instead shifting towards the 'war on terror' discourse.¹⁸

The government's policy for dealing with political dissent in West Papua is not only repressive; it is not working.

Flag-raising and demonstrations continue, and there have been at least 27 political arrests between January and March 2013, according to Updates published by Papuans Behind Bars.¹⁹

Table 2.1.a-1: List of Papuan political prisoners as of March 31, 2013²⁰

PRISONER	ARRESTED	CHARGES	SENTENCE	CASE	ACCUSED OF VIOLENCE?	CONCERNS REPORTED RE LEGAL PROCESS?	PRISON
Markus Yenu	6 March 2013	106	Trial ongoing	Manokwari demonstration and KNPP meeting	No	Pending	Manokwari
Isak Demetouw (alias Alex Makabori)	3 March 2013	110; Article 2, Emergency Law 12/1951	Trial ongoing	Accused of being TPN/OPM	No	Pending	Sarmi
Daniel Norotouw	3 March 2013	110; Article 2, Emergency Law 12/1951	Trial ongoing	Accused of being TPN/OPM	No	Pending	Sarmi
Niko Sasomar	3 March 2013	110; Article 2, Emergency Law 12/1951	Trial ongoing	Accused of being TPN/OPM	No	Pending	Sarmi
Sileman Teno	3 March 2013	110; Article 2, Emergency Law 12/1951	Trial ongoing	Accused of being TPN/OPM	No	Pending	Sarmi
Matan Klembiap	15 Feb 2013	110; Article 2, Emergency Law 12/1951	Trial ongoing	Terianus Satto and Sebby Sambom affiliation	No	Yes	Police detention, Jayapura
Daniel Gobay	15 Feb 2013	110; Article 2, Emergency Law 12/1951	Trial ongoing	Terianus Satto and Sebby Sambom affiliation	No	Yes	Police detention, Jayapura
Alfret Marsyom	19 Octo 2012	106, Emergency Law 12/1951	Trial ongoing	Timika explosives case	Possession of weapons	Yes	Timika
Jack Wansior	19 Octo 2012	106, Emergency Law 12/1951	Trial ongoing	Timika explosives case	Possession of weapons	Yes	Timika
Yantho Awerkion	19 Octo 2012	106, Emergency Law 12/1951	Trial ongoing	Timika explosives case	Possession of weapons	Yes	Timika
Paulus Marsyom	19 Octo 2012	106, Emergency Law 12/1951	Trial ongoing	Timika explosives case	Possession of weapons	Yes	Timika
Romario Yatipai	19 Octo 2012	106, Emergency Law 12/1951	Trial ongoing	Timika explosives case	Possession of weapons	Yes	Timika
Stephen Itlay	19 Octo 2012	106, Emergency Law 12/1951	Trial ongoing	Timika explosives case	Possession of weapons	Yes	Timika
Jamal Omrik Manitori	3 July 2012	106	Not yet tried	Serui 'TPN camp' case	Unknown	Yes	Serui
Yan Piet Maniamboy	9 August 2012	106	Trial ongoing	Indigenous people's day celebrations, Yapen	No	Yes	Serui

18 Meeting of Civil Society Coalition for the Upholding of Law and Human Rights in Papua, 26 February 2013, via TAPOL

19 See www.papuansbehindbars.org

20 See <http://www.papuansbehindbars.org/?p=1419>

Edison Kendi	9 August 2012	106	Trial ongoing	Indigenous people's day celebrations, Yapen	No	Yes	Serui
Timur Wakerkwa	1 May 2012	106	3 years	1 May demo and flag-raising	No	No	Abepura
Darius Kogoya	1 May 2012	106	3 years	1 May demo and flag-raising	No	No	Abepura
Paulus Alua	21 Octo 2012	Emergency Law 12/1951	Trial ongoing	Biak explosives case	Possession of explosives	Yes	Biak
Bastian Mansoben	21 Octo 2012	Emergency Law 12/1951	Trial ongoing	Biak explosives case	Possession of explosives	No	Biak
Forkorus Yaboisembut	19 Octo 2011	106	3 years	Third Papua Congress	No	Yes	Abepura
Edison Waromi	19 Octo 2011	106	3 years	Third Papua Congress	No	Yes	Abepura
Dominikus Surabut	19 Octo 2011	106	3 years	Third Papua Congress	No	Yes	Abepura
August Kraar	19 Octo 2011	06	3 years	Third Papua Congress	No	Yes	Abepura
Selphius Bobii	20 Octo 2011	06	3 years	Third Papua Congress	No	Yes	Abepura
Wiki Meaga	20 Nov 2010	106	8 years	Yalengga flag-raising	No	Yes	Wamena
Oskar Hilago	20 Nov 2010	106	8 years	Yalengga flag-raising	No	Yes	Wamena
Meki Elosak	20 Nov 2010	106	8 years	Yalengga flag-raising	No	Yes	Wamena
Obed Kosay	20 Nov 2010	106	8 years	Yalengga flag-raising	No	Yes	Wamena
Yusanur Wenda	30 April 2004	106	17 years	Wunin arrests	Yes	No	Wamena
Dipenus Wenda	28 March 2004	106	14 years	Bokondini election boycott	Unclear	No	Wamena
George Ariks	13 March 2009	106	5 years	Unknown	Unknown	No	Manokwari
Filep Karma	1 December 2004	106	15 years	Abepura flag-raising 2004	No	Yes	Abepura
Ferdinand Pakage	16 March 2006	214	15 years	Abepura case 2006	Yes	Yes	Abepura
Luis Gede	16 March 2006	214	15 years	Abepura case 2006	Yes	Yes	Abepura
Jefrai Murib	12 April 2003	106	Life	Wamena ammunition store raid	Yes	Yes	Abepura
Linus Hiel Hiluka	27 May 2003	106	20 years	Wamena ammunition store raid	Yes	Yes	Nabire
Kimanus Wenda	12 April 2003	106	20 years	Wamena ammunition store raid	Yes	Yes	Nabire
Numbunga Telenggen	11 April 2003	106	Life	Wamena ammunition store raid	Yes	Yes	Biak
Apotnalogolik Lokobal	10 April 2003	106	20 years	Wamena ammunition store raid	Yes	Yes	Biak

Case Examples

Third Papuan Congress

In March 2012, five people were sentenced to three years' imprisonment for treason resulting from their peaceful participation in the Third Papuan Congress in October 2011. A member of the defendants' legal team, Gustav Kawer, was threatened with prosecution during the trial (see section 2.2 on, Human Rights Defenders). The five men – Forkorus Yaboisembut, Edison Waromi, August Sananay Kraar, Dominikus Surabut and Selpius Bobii – were prominent activists before their arrest, and have not allowed their imprisonment to silence them; they continue to make statements from their cells. Dominikus Surabut, a documentary film-maker, NGO worker and activist was awarded the Hellman/Hammett Appreciation award in December 2012. Hellman/Hammett grants are awarded to writers who have faced persecution for their work, generally by repressive government authorities who seek to prevent them from publishing information and opinions. In April 2013, a video message from Mr Surabut was released, in which he stated that the healthcare inside Abepura prison is inadequate, that political prisoners are being mixed with common criminals, and that the prisoners are not being treated in accordance with international standards.²¹ For more information concerning the violence that occurred during the dispersal of the Third Papuan Congress please refer to section 2.1.c on demonstrations.

Yalengga Morning Star flag case

Meki Elosak, Obeth Kosay, Wiki Meaga and Oskar Hilago are each serving eight-year prison sentences in Wamena prison, after being arrested along with five other men in November 2010 for carrying the Morning Star flag to a funeral in Yalengga in the Papuan Central Highlands. They are farmers and had been asked to bring the flag so that their deceased relative could be buried with it, in accordance with his political beliefs. They were stopped by the military, beaten and tortured before being handed over to the police. After the eight year sentence was passed, the nine men were unable to appeal due to a lack of funds. There are no lawyers in Wamena and the air fares from the provincial capital make providing a legal defence extremely expensive. The other five men convicted in connection with the same case have since escaped.



Image 2.1.a-3: Buchtar Tabuni

Buchtar Tabuni and Yusak Pakage

In 2012, two former political prisoners became the target of the police for a second time. Buchtar Tabuni was rearrested in June 2012 and was initially accused of being behind a string of recent violent acts in West Papua, including a stabbing. He was then instead accused of coordinating a prison riot in Abepura prison in 2010 which was triggered when prisoners learned of the death of a former inmate. Mr Tabuni was released in January 2013 after serving a seven-month sentence for destruction of property. After being pardoned concerning his 10-year sentence for raising the Morning Star flag, Yusuk Pakage was re-arrested after he kicked over a rubbish bin in frustration while attending Buchtar Tabuni's hearing. He was then jailed for seven months for possession of a penknife and later released on February 19, 2013.

²¹ Papuan Voices, "The Rights of Political Prisoners," published by Engage Media, 11 April 2013, http://www.engagemedia.org/Members/Frengky.M/videos/rights_political_prisoners.mp4/view

2.1.b Media Freedom: Violence and Intimidation of Journalists

Journalists face intimidation, threats and violence in West Papua, while foreign journalists are not permitted to travel to the region. As a result, media freedom is seriously affected and independent reporting on the situation locally is difficult, if not impossible. In 2012, the Alliance of Independent Journalists' (AJI) chapter in West Papua recorded twelve cases of violence and intimidation against journalists in Papua, which marks an increase as compared with 2011, during which seven cases were recorded. Eight of the 12 cases are detailed in this section. Journalists are obstructed from covering demonstrations, cases of corruption and court cases of political prisoners.

A document from the Special Forces (Kopassus) which leaked in 2010 showed that at that time there were at least 12 journalists who also worked as agents and informers for these forces. Since then, groups that are often targeted by the security forces have lost confidence in journalists. For example there have been cases of attacks on journalists suspected as being Kopassus agents by the West Papua National Committee, a political civil society organisation advocating for a referendum for independence.

Case examples:

Intimidations during Third Papuan Congress trials

Forkorus Yaboisebut and several of his colleagues were arrested at the Third Papuan Congress and charged with treason in October 2011. While they were trying to cover the trial at the district court in Jayapura on February 8, 2012 the journalists were physically intimidated and pushed around as they were entering the courtroom, by members of the police force in Jayapura. The victims were: Katerina Litha of Radio KBR 68 H, Jakarta; Robert Vanwi of Suara Pemnahanuan, Jakarta; Josrul Sattuan of TV One, Irfan of Bintang Papua; and Cunding Levi of Tempo.

Preventing journalists in Spring Manokwari

The police chief of Manokwari reportedly prevented two journalists from reporting expressions of support for dialogue and a referendum in Papua between February and May 2012. The journalists are Radang Sorong, a journalist with Cahaya Papua, and Paskalis of Media Papua. Furthermore, three local journalists said that they had been under pressure from a police officer while writing critical reports about political matters, law and human rights violations and political prisoners. One of these Manokwari was specifically instructed by the police to limit his reporting about political, legal matters and human rights violations.

Journalist chased away from Police Office

Outside Polimak, Jayapura, Tumbur Gultom from *Papua Pos* was asked by a group of members of the KNPB to identify himself. When he replied that he was from *Papua Pos*, the activists did not believe him and suspected that

he was an undercover agent for security forces trying to gather information. The group chased him away and forced him to hide.

Beating of a journalist at Abepura Circle

Josrul Sattuan, a journalist from *TV One*, was beaten by an unidentified person when he was trying to report on the situation in Jayapura, following a series of violent incidents and shootings that occurred in various places in Jayapura. It is suspected that the unidentified person worked as an agent for the security forces. The physical attack occurred at Abepura Circle on the evening of June 7, 2012.

Pogau beating while covering a demonstration

On October 22, 2012, Oktavianus Pogau of *Suara Papua* who is also a stringer for the *Jakarta Globe*, was beaten up in Manokwari by several members of the police force, some in uniforms and others in plain clothes, who were battling with members of the KNPB in Manokwari during a demonstration. Oktavianus Pogau was trying to report on the demonstration. The victim was attacked even though he had clearly identified himself as being a member of the press.

Attack after covering corruption

Sayied Syech Boften of *Papua Barat Pos* was attacked on November 1, 2012 by a person who identified himself as a member of the local legislative assembly, Hendrik G. Wairara. The victim was threatened and intimidated by phone, receiving warnings to stop reporting on corruption concerning a project involving the extension of the electricity system and the maintenance of machinery in the Raja Ampat District.

Accusation of terrorism when covering a meeting between public departments and military

On November 8, 2012 Esau Miram of *Cenderawasih Pos* was intimidated while reporting on a gathering at the office of the Commander of the XVII Military Command and all the heads of government departments in Papua. They were accused of being terrorists even though Esau had shown his identity card as a journalist.

Case: Jubi journalist intimidated when covering demo

On December 1, 2012, Benny Mawel of *JUBI* was interrogated by members of the police force near Abepura Circle, for reporting on a large crowd of demonstrators who

were carrying banners while marching from Abepura to Waena. Benny showed his journalist identity card, but a group of around ten people accused him of not being a journalist. As he was travelling on his motorbike towards a repair centre, he was followed by some people who started asking whether he knew where Benny was.

2.1.c Demonstrations and Peaceful Protests

Between the Third Papuan Congress, in October 2011, and March 2013, 17 demonstrations were recorded in Papua. Pro-independence and human rights activists were typically the target of arrests. The demonstrations concerned a range of issues, with the more politically sensitive issues, such as flag raisings, often resulting in violent dispersal and arrest of demonstrators by the police. While the Special Autonomy law recognises symbols of regional identity, the Morningstar flag was subsequently banned under Presidential Regulation 77/2007.

In 2012, members of KNPB organised demonstrations in most areas of Sentani, Jayapura and Manokwari. Other demonstrations were conducted by university students, elementary school students, pro-independence activists, members of the West Papua National Authority and human rights activists. In Timika, Freeport mining company workers demonstrated concerning labour rights. Of the 17 recorded demonstrations between October 2011 and Spring 2013, participants were shot and killed in three demonstrations: a labour demonstration at Freeport in October 2011; a KNPB demonstration in May 2011, and a KNPB demonstration in June. Furthermore, another five demonstrations ended with arrests, five demonstrations were also dispersed, while ten ended peacefully without obstruction by the police.

Excessive non-lethal use of force, including forced dispersals and arbitrary arrests, were recorded in the following cases: demonstrations demanding a referendum on independence; celebrating the formation of the Federal Republic of West Papua; rallies in support of the International Lawyers for West Papua; December 1 celebrations; the raising of the Bintang Kejora (Morning Star) flag; and rallies in support of political prisoners. December 1 is seen by many Papuans as Papuan National Day. These demonstrations were led by pro-independence activists and human rights activists.

Other protests ending with dispersals but without arrests included the 1 year celebration of the declaration of the Republic of West Papua Federation. While in February and May 2012, demonstrations by the KNPB in front of the Papuan People's Council (MRP) calling for a referendum ended peacefully, a KNPB demonstration on the same subject in June was dispersed, after a wave of killings by unknown persons and arrests in Spring 2012 had been taking place.

Demonstrations which ended peacefully in 2012 included: a demonstration by workers demanding higher wages; a demonstration in front of the MRP demanding a referendum; a demonstration to reject the establishment of the government's temporary department for the acceleration of development in Papua (UP4B); a demonstration to protest against the visit of the Secretary General of the UN, Ban Ki Moon, to Indonesia; a demonstration to oppose the rise of fuel prices; a demonstration related to insufficient compensation by the government for the use of private land; and a demonstration calling for past human rights abuses to be resolved.

Case examples:

Third Papuan Congress ends with arrests and dispersals

The Third Papuan Congress was held for three days from October 17 to 19, 2011. On October 19, 2011, the police violently cracked down on the gathering, which was being held at Abepura suburban district, Jayapura city, killing at least three persons, and physically abusing dozens of participants during the dispersal. Some 300 participants were arrested by the police, five of whom were later sentenced for treason. Please refer to the section on political prisoners for more details on the trial of these five persons. Daniel Kadepa (30), Maks Yeuw (37) and Yakop Samonsabra (37) were killed by the police and security forces during the use of excessive force to crack down on the Third Papuan Congress. The victims worked as security guards (PETAPA) at the event. Daniel Kadepa was hit by bullets on the back of his head and his chest; Maks Yeuw died as the result of two bullets hitting his chest and stomach; whereas Yacob Samonsabra's was hit in the head by a bullet. All three bodies were found behind a nearby military base in Abepura (Korem Abepura). Videos

published online show security forces arbitrarily kicking and beating peaceful congress participants with sticks, rifle butts and gun handles.²² The crackdown was carried out under the direction of Imam Setiawan, the former Head of Jayapura Police head quarters.²³

Demonstration calling for a referendum marred by violent dispersal and killings

On February 20 and again on March 15, 2012, the KNPB organized demonstrations in front of the Papuan Peoples Council calling for a referendum on independence for Papua, which ended peacefully. A wave of violence followed in the coming months and when the KNPB conducted another demonstration concerning the referendum on 4 June 2012 in Sentani, the demonstration was violently dispersed by the police, resulting in the killing of three persons. See section 2.3. on extrajudicial killings for more cases and details on KNPB demonstrations ending violently.

May 1st flag raising results in arrests and the killing of one participant

On May 1st, 2012, activists raised the Morning Star flag on the Theys Hiluay memorial field in Sentani. The event ended with arrests. Later on the same day after having left the location, one demonstration participant was shot in Abepura by police. Please refer to section 2.3 on extrajudicial killings for more information on the killing.

1st Anniversary of the FRWP

One year after the Third Papuan Congress, pro-independence activists in Manokwari organized a long march on October 19, 2012, to celebrate the 1st anniversary of the declaration of the Federal Republic of West Papua. The march was dispersed.

ILWP demonstrations in Manokwari

On October 23, 2012, KNPB members in Manokwari organized a demonstration supporting the conference of the International Lawyers for West Papua in the UK. The demonstration was dispersed and ended with arrests.

December 1st demonstrations

On 1 December 1st, 2012, a long march organized by the KNPB in Waena ended with arrests. The demonstration was dispersed.

Two other related cases can be found in other sections of this report:

Two protesters killed and excessive use of force during demonstration at Freeport

Please refer to section 2.3. on Extra-judicial Killings for more details on this case.

Arrest of 14 activists during public action to support medical care for political prisoners.

For further details see section 2.2 on Human Rights Defenders.

2.2 Human Rights Defenders

Papua remains a dangerous and difficult place to conduct human rights work. Local human rights activists and human rights lawyers face repeated acts of intimidation, either through threatening text messages and phone call²⁴ or through physical intimidation. In 2012, three cases of such intimidation have been documented against human rights defenders based in the Jayapura area. The majority of cases of intimidations that take place in remote areas are not documented, however. The Indonesian government's ongoing policy of denying international human rights organizations and journalists' access to Papua further aggravates this situation. Activists who advocate for the right to self determination during demonstrations are stigmatized as separatists and face arbitrary arrests and unfair trials.

The number of cases in 2012 in which activists became victims of extra-judicial killings, torture and other forms of ill-treatment reflects the serious situation in Papua. Since June 2012, the Indonesian government has in particular persecuted pro-independence activists, by using intimidation, arbitrary arrests, torture, fabricated

criminal cases (accusing them of treason or involvement in criminal offences, often based on fabricated charges such as the possession of weapons and bomb attacks on government institutions), as well as extra-judicial killings. See section 2.6 for more information concerning these violations. Violent repression of demonstrations, which are

22 West Papua Media Alerts: <http://www.youtube.com/watch?v=KupXhPh6cu4>, Gombro: <http://www.youtube.com/watch?v=9acn5ZzhFD0>

23 Report of JPIC GKI di Tanah Papua (22 November 2011): New video footage, taken during the violent crackdown of the Papua Congress III

24 Omana, Jerry; Angga Haksoro (12 October 2012): Pembela HAM Di Papua Diteror. E-Document: <http://www.vhrmedia.com/2010/detail.php?e=6311>

detailed in sections 2.1 and 2.3 of this report, and ongoing violence illustrate the very limited space that exists for the freedom of expression and democratic, civil society activism. This has a direct impact on the work of human rights defenders, who live in a constant climate of fear of being labelled as sympathizers of pro-independence movements and separatists. In her report concerning her mission to Indonesia in 2007, the then-UN Special Representative of the Secretary-General on the situation of human rights defenders, Ms. Hina Jilani, concluded “that a climate of fear undeniably prevails in West Papua, especially for defenders engaged with the rights of the Papuan communities to participation in governance, control over natural resources and demilitarization of the province. The situation of these defenders does not seem to have eased and, despite the adoption of the Special Autonomy Law in 2001, their legitimate activities for the protection of human rights continue to be targeted.”²⁵ Based on the cases available at present, it is clear that the situation has not visibly improved since 2007 and that Papuan human rights defenders continue to work in a climate of fear and intimidation.

Cases such as the intimidation of human rights lawyer Olga Hamadi in September 2012 show that the security forces often protect perpetrators and fail in fulfilling their legal duties to protect victims and investigate human rights violations. Instead, they target those defenders who are working in favour of victims’ human rights.

Credible sources have reported cases in which the police refused to process reports about human rights violations committed by members of the military, such as those that took place in Kurulu near Wamena in November 2011.²⁶ Human rights defenders working on indigenous land rights issues, where large amounts of money are involved, are especially at risk of being subjected to threats, intimidation and violence. Companies, such as transnational mining corporations, are also engaged in undermining the human rights of Papuans, including by paying members of the security forces to silence critics of the companies’ activities or to protect the company sites, which also lead to human rights violations.

Case examples

Threats against lawyer Gustaf Kawer

On February 21, 2012, human rights lawyer Gustaf Kawer was representing five defendants at the Jayapura State Court. During Mr Kawer’s examination of the witnesses for the prosecution, he was repeatedly interrupted by public prosecutor Mr Julius Teuf. Eventually, Mr Kawer said to the prosecutor, “Use your brain. I am still proceeding with my questioning, so would you kindly stop disturbing me?” During a subsequent session of the trial, on February 24, the public prosecutor formally requested the court records of the February 21 session, with the stated intention of reporting a suspected crime to the

International Norms: Human Rights Defenders

Human rights defenders are all people who, individually or with others, act to promote or protect human rights.

All human rights defenders and their work are protected by the UN *Declaration on human rights defenders* (Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms), which was adopted by consensus by the United Nations General Assembly in 1998. Although the declaration does not include mechanisms to monitor its implementation on the ground, its norms apply to all UN member states.

Moreover, Indonesia has ratified the International Covenant on Civil and Political Rights (ICCPR) and other international human rights instruments that enshrine the many fundamental rights that are the legal basis that guide human rights defenders’ work. These rights also apply to human rights defenders and their work, notably the rights to freedom of peaceful assembly, freedom of association, and freedom of opinion and expression, which are essential components of democracy and indispensable to the full enjoyment of civil, political, economic, social and cultural rights. These instruments include mechanisms for the monitoring and review of their implementation.

The protection of human rights defenders from threats, intimidation, violence, arbitrary arrests and killings and ensuring their freedom of expression, opinion and assembly is essential for the wider enjoyment of human rights given the key role they play in the promotion and protection of human rights. Silencing human rights defenders ensures that victims of rights abuses go unheard and that impunity prevails.

25 Jilani, Hina (28 January 2008): Report of the Special Representative of the Secretary-General on the situation of human rights defenders

26 See case example Threats and violence at Umpagalo village in section 2.4. on torture for more details on this case.

provincial police headquarters. At the end of that session, the defendants' legal team discovered that Mr Kawer was to be the subject of the report, as the public prosecutor had felt harassed by Mr Kawer's remarks on February 21. During a further session on 2 March, the prosecutor again expressed to Mr Kawer his intention to report him to the police in connection with the event described above. After the incident, Mr Kawer felt under pressure and restricted in carrying out his human rights work and legal duties to defend his clients. Following international pressure and repeated expressions of concern about this, the prosecution decided not to pursue their threats.²⁷

Arrest of 14 activists during public action to support medical care for political prisoners

On July 20, 2012, members of the Jayapura municipality police prevented 14 human rights activists from collecting donations for the medical care of political prisoners Filep Karma and Jepray Murib. The human rights defenders had informed the police authorities about their intended activity in advance. However, the police officer in charge had refused to grant permission for this. As the activists didn't see this refusal as being justified in light of their rights to assembly and to protect and promote the human rights of others, the group decided to proceed with the planned collection of donations without permission. The police halted the fund raising campaign and took 14 activists into custody. All 14 human rights defenders were released one hour later.²⁸ (See image 2.2-1 and table 2.2-1)

Threats against human rights lawyer in Wamena torture case

"I am safe at the moment, but I can't be sure that I am truly safe in my work as Human Rights Defender, especially when defending my fellow Papuans." –Ms Olga Hamadi, human rights lawyer

Human rights lawyer Olga Hamadi, working for non-governmental organization KontraS (Commission for the Disappeared and Victims of Violence) Papua, was repeatedly threatened as she investigated a case in which five men accused of a murder were allegedly tortured and ill-treated by the police in Wamena. On September 14, 2012, Olga Hamadi received a phone call from one of the police officers who took part in the interrogation and ill-treatment of the accused victims. The officer was angry about an application for a pre-trial hearing that Ms Hamadi had submitted and threatened that he could not guarantee her safety in Wamena. Furthermore,

Table 2.2-1: List of arrested human activists

NO.	VICTIM'S NAME	ORGANIZATION/PROFESSION
1	Peneas Lokbere	BUK
2	Yusak Pakage	Parjal
3	Yalmi Kogoya	Garda-Papua
4	Amandus Wabra	Garda-Papua
5	Hendrik W	KontraS Papua
6	Bovit Bofra	Garda-Papua
7	Karon Mambrasar	Garda-Papua
8	Agus Kadepa	Garda-Papua
9	Yona Pulalo	Garda-Papua
10	Sermi Weya	student (FIM)
11	Leo Sufi	student (FIM)
12	Malaus	Garda-Papua
13	Torpilus	student (FIM)
14	Jemi	student (FIM)



Image 2.2-1: One of the human rights defenders collecting donations for political prisoners

Olga Hamadi was informed by local activists that text messages were being disseminated to the murder victim's family and local community stating that she was interfering with the case and wanted to stop the legal process. On September 19, 2012, a crowd of people including the murder victim's family blocked Ms Hamadi's way at the Wamena district court and again in front of the Jayawijaya district police station. Even though people in the crowd threatened to beat her if she would not withdraw her pre-trial application, police officers did not protect or assist Olga Hamadi, who finally withdrew the application because she feared for her safety.²⁹

27 Trial Monitoring Report of JPIC GKI di Tanah Papua (02 March 2012): Pemeriksaan terdakwa and TAPOL Urgent Appeal (07 March 2012): Threat to Prosecute Human Rights Defender, Mr. Gustav Kawer
E-Document: http://tapol.org/sites/default/files/120307_SRonHRDs_0.pdf

28 BUK – United for Truth Investigation Report (July 2012): Aksi Solidaritas Korban Pelanggaran HAM di Papua

29 Amnesty International (24 September 2012): Fears for Human Rights Lawyer After Threats: Olga Hamadi
E-Document: <http://www.amnesty.org/en/library/asset/ASA21/039/2012/en/96e650b5-7c07-4470-b7b0-8aa6052a1bf6/asa210392012en.html>

2.3 Extra-judicial Killings

The problem of extra-judicial killings in Papua throughout 2012 and until the time of writing of this report in 2013 illustrates how Papuans do not benefit from the same protection of the right to life by Indonesian government as compared with persons elsewhere in Indonesia. This is notably the case concerning persons who are critical of the government.

In all cases where people have been killed by the security forces in Papua, the Indonesian government and judicial system have failed to effectively prosecute and provide appropriate sentences to the perpetrators of these acts. The increase of cases of threats of abduction and killings of pro-independence activists since Spring 2012,³⁰ indicates that such methods are still regularly being used by the intelligence, military and police forces to eliminate people who have adopted a critical position towards the government and state policies. Members of the KNPB pro-independence movement have in particular become the victims of extra-judicial killings in 2012.

The majority of extra-judicial killings between October 2011 and April 2013 were related to excessive or unnecessary use of violence, applied by police forces during arrests or the repression of mass events, such as the Third Papua Congress. One extra-judicial killing in 2012, which brought international attention to this issue, was the killing of KNPB Vice-Chairman Mako Musa Tabuni. Officers in charge justified the killing by claiming that Mr. Tabuni was pulling out a gun during their attempt to arrest him. However, the policemen's testimony was not supported by other eyewitness reports.

The following list of case examples is not complete, since a significant proportion of the extra-judicial killings that are carried out are thought to take place in remote areas and are not reported due to a lack of accessibility and communication. This is especially the case in conflict-affected areas such as Tinggimambut (Puncak Jaya Regency) and Enarotali (Paniai Regency), where Indonesia's military forces have repeatedly carried out sweeping operations in which extra-judicial killings take place. These areas are being deliberately kept in isolation in order to avoid scrutiny concerning these acts, with even churches or members of indigenous local communities being blocked from reaching them. Furthermore, there have been many reported cases of people having been killed by unknown perpetrators without any clear motive. The circumstances of most these incidents lead to the assumption that these killings were not related to criminal acts or personal conflicts, but indicate the involvement of State-agents. The police failed to provide results of criminal investigations but instead accuse the KNPB of being responsible for the series of incidents without providing any evidence. Within the general climate of fear and lost public support for the KNPB following these accusations by the police, KNPB leader Mako Tabuni was killed. Such cases have only been listed in the following section if firearms were involved and the victims were political activists.

From the beginning of 2012 to date, no case is known in which perpetrators from the police or military have been prosecuted for extra-judicial killings. This is evidence of a system of impunity for even the most egregious human rights violations. In 2011, several members of the military received minor imprisonment sentences for their involvement in the torture and killing of civilians during a military operation in Tinggimambut. Furthermore, perpetrators from the military do not undergo trials in civilian courts, as should be the case where human rights violations against civilians are concerned. Military tribunals lack transparency and contribute to providing inadequate outcomes in such cases, which assists in the provision of impunity. Perpetrators who are found guilty are transferred to military correctional facilities, where it is difficult to monitor whether they really serve their sentences.

The increase of extra-judicial killings of political pro-independence activists between June and December 2012 shows that these have in particular become targets of such abuses by the State. This illustrates how the Indonesian government is trying to decrease political activism and the democratic space available in Papua, by not permitting political demonstrations and persecuting pro-independence activists.

International Norms: Extrajudicial Killings

The killing of persons by security forces without a judicial process (death penalty) is a violation of the right to life under article 6 of the International Covenant on Civil & Political Rights (ICCPR). Indonesia ratified the ICCPR on February 23, 2006, which obliges state parties inter alia to recognize and protect the right to life.

30 See introduction to the violations of civil and political rights at the beginning of section 2 for more details on the wave of violence that occurred in Spring 2012

Case examples:

Extra-judicial killing during the Freeport demonstration

On October 10, 2011, the police forces cracked down a labour protest by PT Freeport mining workers in Timika. Two protesters, Petrus W. Ajamiseba and Leo Wandegau, who are members of All Indonesia Labour Federation, were shot by the police and died of their injuries.³¹ Mine worker Petrus Ayemseba (36) was shot in the left shoulder and died a few hours later. Leo Wandagau (38), was shot in the right side of his back and died five days later (October 15, 2011) at home as the result of his injuries. The workers were protesting against the illegal termination of employment of Freeport workers who had participated in a strike demanding wage adjustments.³²



Image 2.3-1: Petrus Ayamiseba was shot by the police during the demonstration in Timika

At least six others were seriously injured. Philiton Kogoya (34), Melkias Rumbiak (36) were hit in the head by bullets, Alius Komba (26) was hit in the stomach and Ahmad Mustofa (42) was hit in the back. Two other protesters, Chary Suripto (35) and Yunus Nguvulduan (42), suffered minor injuries to the hands and chest. The workers were protesting against the illegal termination of employment of workers, who had participated in a strike demanding wage adjustments.³³

Petapa members killed during the Third Papuan Congress

Please refer to section 2.1 regarding demonstrations for more information on this case.

Shooting of Yustinus Agapa

On January 8, 2012, Yustinus Agapa (29) was shot dead in Ugapuga village (Dogiyai regency) by unknown perpetrators as he walked home from an electoral campaigning event in Moanemani with six friends. The incident happened on the main road that connects the Dogiyai and Deiyai regencies. As Mr. Agapane approached a car to ask for a cigarette, unknown perpetrators fired three shots from the inside of the car, hitting the victim's chin, throat and chest, causing his immediate death.³⁴

Killing of activist after having attended KNPB Demo

On May 1st, 2012, Terjoli Weya (23) was shot and killed in the middle of Abepura, after he had joined a protest by pro-independence organization KNPB at Taman Imbi Jayapura. He was hit in the stomach. The identity of the shooters is unknown, but the shooting took place close to the military base in Abepura (Koramil), as Mr. Weya passed on the back of a truck that was bringing demonstrators from Jayapura to Waena. Terjoli Weya died several hours later in Dian Harapan Hospital, Waena, as consequence of heavy blood loss.³⁵

Degeuwo 2012 shootings

On May 15, 2012, young tribal leader Melianus Kegepe (23) was shot by police special forces (Brimob) in a billiard bar at the Degeuwo 45 (Paniai regency) illegal gold panning site, reportedly as the result of an argument between four of his tribes men and the bar's owner. After the argument, the owner of the bar called the police officers for help. Instead of peacefully resolving the conflict, the police officers opened fire, killing Melianus Kegepe (23) and heavily injuring his four friends. Mr. Kegepe himself was not directly involved in the argument. He died immediately after two bullets pierced his rib cage from left to right.³⁶ Selpius Kegepe (22), Amos Kegepe (22), Lukas Tobeta (20) and Yulianus Wagepa (24) were shot and seriously wounded by members of the mobile police brigade DANPOS at the illegal gold panning site Kilo 45, at Degeuwo, Paniai regency. Amos Kegepe was hit by two bullets in his left leg, fracturing it. Another bullet pierced his lower right leg and went through his calf. Yulianus Wagepa was hit by one bullet in the back. Selpius Kegepe was shot three times: the first bullet hit his right arm, a second bullet hit his chest and a third bullet penetrated his right hip and exited at the back. Lukas Tobeta was shot in the stomach. The men had to be evacuated to the

31 Report, Front Line Defenders, (October 28, 2011) <http://www.frontlinedefenders.org/node/16411>

32 Asian Human Rights Commission AHRC (15 December 2011): Urgent Appeal Update AHRC-UAU-049-2011

33 KNPB wilayah Timika (10 October 2011): Laporan penembakan oleh polisi terhadap karyawan PT. Freeport Indonesia di Timika

34 Human rights report of the Kingmi church, 9 January 2012

35 Interview with witnesses on 4 May 2012 at the ELSHAM office, Abepura

36 Report of Human Rights Defenders of Justice and Peace Desk of Kingmi Church Nabire (30 May 2012)

public hospital at Nabire.³⁷ After the evacuation to Nabire, Amos Kegepe's left leg had to be amputated.³⁸

Military raids after traffic accident mob killing

On June 6, 2012, Elinus Yoman (27) was killed by members of military Battalion Yonif 756 Wimane Sili in Honelama village, West of Wamena, during a violent act of revenge. The retaliation happened after two members of Battalion 756 had crashed into a child with a motor cycle at Honelama village. People who witnessed the incident became angry and started to beat the two soldiers involved in the accident. One of the soldiers died, while the other soldier was seriously injured. When members of their Battalion heard of the incident they attacked the residential area at Honelama using two trucks with armed personnel. During the retaliatory raid, the military killed Mr. Yoman by stabbing a bayonet into his neck, and injured many other villagers.³⁹ They also burned 64 buildings, one car, 8 motor cycles and killed two pigs. The military forces injured twelve civilians who had to be admitted to the public hospital in Wamena for medical treatment.



Image 2.3-2: Elinus Yoman (27) in the ICU of Wamena Public Hospital

Table 2.3-1: List of names and ages of victims, consequences of ill-treatment, weapons used, and medical status of victims at admission to the public hospital

No	NAME & AGE	INJURY	WEAPON USED	MEDICAL STATUS AFTER ADMISSION
1	Name : EPINUS KENELAK Age : 20 years	Stab wound on the back of the left shoulder	Bayonet	Critical Condition
2	Name : YEREMIA KOGOYA Age : 18 years	Stab wound on the back of the left shoulder	Bayonet	Critical Condition
3	Name : PIKENUS WENDA Age : 26 years	Cut and stab wounds at the right ear, right side of his back and both shoulders	Bayonet	Critical Condition
4	Name : LENIUS WENDA Age : 24 years	Cut and stab wounds at left side of his back and the right arm	Bayonet	Critical Condition
5	Name : OTNIEL KREBEA Age : 16 years	Wounded at the left shoulder	Bayonet	Critical Condition
6	Name : YURI BUGI Age : 42 years	Cut and stab wound at the back of his head and left knee	Bayonet	Critical Condition

³⁷ Investigation Report of Human Rights Defenders of Justice and Peace Desk of Kingmi Church at Nabire (30 May 2012)

³⁸ Investigation Report ELSHAM (24 May 2012): Polisi kawal ketat evakuasi korban penembakan di Degeuwo

³⁹ Joint Investigation Report of Jaringan Advokasi Hukum dan HAM, Yayasan Humi Inane, YP3R Papua, Yayasan Yukemdi, Jaringan Advokasi & Penegakan Hukum dan HAM (June 2012)

7	Name Age	: DAPUS NIRIGI : 23 years	Stab wound on the right side of his neck	Bayonet	Critical Condition
8	Name Age	: PIANUS NIRIGI : 25 years	Wounded on the head	Bayonet	Minor Injury
9	Name Age	: ENOS LOKBERE : 36 years	Stab wound on the head and bruises in the face	Bayonet, wooden bar	Severe Injury
10	Name Age	: ELIANUS KALOLIK : 35 years	Wound on the back of the head, cut and stab wounds at the hand, fingers and right leg	Bayonet, wooden bar	Critical Condition
11	Name Age	: TIUS HILAPOK : 27 years	Stab wound on the right side of the neck and on the right shoulder, Kicked to the left shoulder	Bayonet	Critical Condition
12	Name Age	: PERIUS SELEKEN : 27 years	Wound at the ear Stab wound at the back	Bayonet	Minor injuries



Image 2.3-3: Burned houses at Honelama / pictures of Pikenus Wenda, Pianus Nirigi, and Otniel Krebea (from left to right) taken after the military raid at Honelama village

KNPB June demonstration killings

On June 4, 2012, Yesa Mirin (22), Fanuel Tablo (29) and Tanius Kalakmabin (20) were killed by the police forces when the police forcefully dispersed a KNPB protest at Harapan village, near Sentani city. Yesa Mirin was hit in killed by a bullet to the lower back as he tried to escape from the approaching security forces. His family also

reported that he had wounds all over his body which appeared to have been caused by beatings after the arrest. Fanuel Tablo died on June 6, 2012, of blood loss due to a bullet wound to the back of his head. Tanius Kalakmabin reportedly died of his injuries at the Yowari Public Hospital in Sentani after having been shot.⁴⁰



Image 2.3-4: Yesa Mirin (left), Fanuel Tablo (middle) and Tanius Kalakmabin (right) after the admission to Yowari Public Hospital at Sentani, Doyo Baru

40 Investigation Report of JPIC GKI di Tanah Papua (07 June 2012) and Tabloid Jubi (04 June 2012)

Bus stop killing by drunken police

On June 7, 2012, Teju Tabuni (17) was killed by four police officers at Dok 5, Jayapura, as he was waiting at a bus station. There is no known motive for the incident, in which police officers fired four shots at the victim. However, according to the human rights office –*Suara Baptis Papua*– witnesses reported that the police officers were very drunk at the time of the incident.⁴¹



Image 2.3-5: Teju Tabuni, 17 years

Mako Tabuni Killing

On June 14, 2012, Musa Mako Tabuni (30), the vice chairman of the pro-independence organization KNPB, was killed by police special forces in Waena, a suburban area of Jayapura, as he tried to run from the Special Forces, who were trying to arrest him. It was reported that Mako Tabuni repeatedly asked the officers to show him a warrant during the arrest. Witnesses reported that the Special Forces shot Mr. Tabuni in his right thigh as he tried to escape. After Mr. Tabuni fell down, one of the Special Forces approached him and shot him twice at close range in the back, even though he had already been immobilized. Later, the police authorities stated publicly that Mako Tabuni had tried to pull a gun on the police as they approached him. After the arrest Mako Tabuni was brought to a police hospital in Kota Raja instead of being admitted to Dian Harapan Hospital, which is only 500 meters away from the location of the hooting and arrest. One witness, who saw that Mako Tabuni was still alive at the time of admission, stated that the police forces refused to provide Mako Tabuni with medical treatment, and he died several hours later in the Bayangkara Police hospital.⁴² (See image Image 2.3-6)



Image 2.3-6: Mako Tabuni's body at the Bayangkara Police Hospital

Fak-Fak River killing of KNPB activists

On November 4, 2012, the dead body of Paul Horis and heavily injured Klismon Woi were found on the Fak-Fak river bank in Fak-Fak regency. Klismon Woi succumbed to his injuries two days later (November 6, 2012) in Fak-Fak public hospital. The autopsy revealed that Paul Horis had died as the result of a big hole on the top of his head and a broken neck. Klismon Woi was admitted with a ruptured spleen and severe bruises on the head, legs and ribs. Both activists were active members in leading positions in the KNPB pro-independence organization. They had been riding a motorbike before the incident happened, which was found undamaged at the site of crime.⁴³



Image 2.3-7: Corpse of Paul Horis at the funeral

41 Report of Suara Baptis Papua (07 June 2012)

42 Investigation Report of Koalisi Masyarakat Sipil untuk Penegakan Hukum dan HAM di Papua (11 July 2012): Pembunuhan Kilat Musa mako Tabuni tanggal 14 Juni 2012 di Waena, Jayapura, Papua

43 KNPB News (5 November 2012): Pimpinan KNPB di Pak-Pak dibunuh Indonesia secara misterius and Tabloid Jubi (06 November 2012): Aktivis KNPB Fakfak, Klismon Woi meninggal



Image 2.3-8: Klismon Woi in the ICU after admission to the public hospital



Image 2.3-9: Corpse of Timotius Ap taken at the funeral ceremony

Killing of Timotius Ap in Manokwari

On December 4, 2012, the police forces killed Timotius Ap in Manokwari during attempts to arrest the victim. Several shots were fired at Mr. Ap, one of which hit him in the abdomen, killing him. Police officers admitted Mr. Ap to Dr. Azhari Marines' hospital, where he died one hour later. After his death, police officers brought Timotius Ap's body to his family's house without any providing any explanation or offering condolences. The incident caused widespread anger amongst the local population and led to riots in Manokwari on the following day.⁴⁴



Image 2.3-10: Siliwang Street in front of the Governor's office during the riots after Mr. Ap's death

Killing of KNPB leader in Wamena

On December 16, 2012, Hubertus Mabel (30), the leader of the KNPB's militant wing, was killed by the anti-terrorist Special Forces *Detachment 88* close to Habusa Village, near Wamena. Before the incident security officials had forced three other KNPB members to lure Hubertus Mabel and Natalis Alua (26) to a meeting at which Detachment 88 personnel shot at both men. After the incident, police spokesman I Gede Sumerta Jaya explained that officers in charge had had to fire their weapons because the two KNPB members tried to resist arrest. KNPB spokesman Wim R. Medlama refuted this in a public statement, which confirms the testimony of an eyewitness, in which he stated that the two activists were not armed and didn't resist arrest. The eyewitness said that security members ordered the activists to lie on the ground and then shot them in both knees.⁴⁵ During being transported to the hospital, Hubertus Mabel was reportedly killed by being stabbed with a knife in the chest. Investigation reports and newspaper articles differ concerning Natalis Alua's cause of death. According to different sources, Natalis Alua was in coma after the arrest⁴⁶ and is reported to have died the following day (December 17, 2012) in hospital.⁴⁷ (See images 2.3-11 & 2.3-12)

44 Investigation Report of LP3BH Manokwari (06 December 2012)

45 Investigation Report Baptis Voice Papua (19 December 2012): Kronologi Peristiwa; Penembakan, Penangkapan dan Pembakaran oleh sikap Brutalisme Polisi di Kabupaten Jayawijaya, pada tanggal 16 Desember 2012

46 Komisi Kepolisian Indonesia (18 December 2012): 1 ditembak, 1000 anggota KNPB bangkit melawan; <http://www.komisikepolisianindonesia.com/aneke/read/11794/1-ditembak-1.000-anggota-knpb-bangkit-melawan.html>

47 Tabloid Jubi (17 December 2012): Insiden Wamena – Dua tewas, enam ditahan polisi dan warga kampung mengungsi ke hutan



Image 2.3-11: Corpse of Hubertus Mabel at the cremation ceremony

Military wounds and kills fishermen, including a 13 year old child

During the end of December 2012, members of the Indonesian military reportedly shot at seven Papuan fishermen near Papan Island, in the Raja Ampat archipelago, killing La Tula (13), La Nuni (55), La Jake (30) and La Edi (20). Three other fishermen, La Amu (20), La Udin (30) and La Self (20), were seriously wounded by gunshots. The perpetrators then reportedly tried to get rid of the bodies of the four victims, which had been under water for almost a week when they were found. It is unclear why the men were shot.⁴⁸



Image: 2.3-12: Incident location near Wamena

⁴⁸ West Papua Report January 2013 and West papua Media Alerts (24 December 2012): <http://westpapuamedia.info/2012/12/24/four-killed-in-otk-shooting-in-raja-ampat/>

2.4 Arbitrary Arrests and Torture

Torture and ill-treatment remain an endemic problem in Papua. Such practices are often used in conjunction with and following arbitrary arrests. Throughout the past year, human rights organizations and human rights defenders have frequently reported new cases of such violations. A majority of arrests were not in accordance with national criminal procedure and in many cases victims are arrested arbitrarily. Many arrests are made based on persons being accused of having family or other ties to activists and supporters of the independence movement or on suspicion of providing them with support. In particular, indigenous Papuans living in conflict areas in the central highlands such as Tingginambut or Enarotali, where the security forces often conduct sweeping operations, have to live in fear of becoming a victim of arbitrary arrest and torture. While the Indonesian authorities have been seen to resort to excessive use of force as part of police and military operations, including the repression of demonstrations, ill-treatment and torture are also used, both during arrest and interrogation to force suspects to make confessions and during detention as a means of punishment. In 2012 several cases of the use of ill-treatment and torture concerned the persecution of KNPB activists.

Arbitrary Arrests

Basic rights of suspects during the law enforcement process, as enshrined in the Covenant on Civil and Political Rights (ICCPR), such as the dignified treatment of suspects, the right to know one's charges, the obligation of law enforcement bodies to explain their rights to suspects (Part III/article 9/paragraph 1-4 and article Part III/article 10/paragraph 1-3), are routinely being abused. The same applies to several elements of Article 14 of the ICCPR, such as is the right to be considered as being innocent until proven guilty as the result of a fair trial (2) or that suspects cannot testify against themselves or be forced to do something which can harm themselves (3/g). Case evidence points to a pattern of action by the police officers that violates international human rights standards and law as well as the national criminal procedure code, and which flouts the rights of Papuans during arrest and detention. In none of the reported cases in which persons have been wrongly arrested and/or accused have they been provided with compensation in any form, as should be the case under article 9, paragraph 5 of the ICCPR.

A majority of arbitrary arrests during the reporting period have occurred in relation to demonstrations or other forms of activism. If police officers did not find any proof, suspects were released, but if in cases in which confessions were extracted through the use of torture, or proof was found, warrants were approved subsequently, which evidently runs contrary to standards of due process, including the admissibility of evidence acquired as the result of ill-treatment or torture.

While as an inherent part of Papuan material culture, garden tools as well as weapons for hunting, fishing and warfare are kept in almost all households and are often

brought to gardens and forest, the police continue to use this as a reason to arrest. Cases such as the arbitrary arrest of Matan Klembiab, Alfred Marsyom and Yakonias Womsiwor show how indigenous persons become victims of arbitrary arrests and face charges relating to the possession of sharp items, even though they did not have these items on them with the intention to harm anybody or act beyond their regular traditional practices.

Case example: Arbitrary arrests in Anggaisera village

On May 12, 2012, the police arbitrarily arrested and intimidated Yehuda Kandipi, Simon Kandipi, Meliaki Abba, Piet Aninam, Silas Karubaba and Sibi Boworu in Anggaisera village, having arbitrarily accused them of being members of the independence movement OPM. The police officers ill-treated and intimidated the suspects during interrogation before their release.⁴⁹

International norms on torture in Indonesia

Indonesia ratified the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment on October 28, 1998, however, the government has yet to ratify the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, which is an important mechanism for the prevention of torture through visits to police stations, prisons (military and civilian), detention centers and mental health institutions. Furthermore, many human rights organizations criticize the Indonesian government for its failure to include the crime of torture in the criminal code (KUHP).

49 KPKC Sinode GKI

Ill-treatment and Torture

The number and pattern of ill-treatment and torture cases between October 2011 and March 2013 show that such violations are widespread and a common practice in West Papua. A large number of torture cases, especially those that take place during arrests and interrogations are not reported, because victims have been intimidated not to report the incidents after their release or even consider such practices by police officers during interrogation and arrest as being normal. Ill-treatment and torture is not only present in the law enforcement process in Papua, but also occurs during sweeping operations by the military, which usually involve high levels of violence against civilians in affected areas.

Research conducted into the use of torture and ill-treatment in Tanah Papua, published by the legal aid NGO LBH Jakarta in 2012, shows that ill-treatment and torture occur during all stages of the law enforcement process: arrest, interrogation, detention. The researchers also investigated the level to which tolerance concerning the use of torture has risen as part of the wider problem of increased violence in Papua. According to the research, a significant proportion of both civilians and members of law enforcement accept that torture is a normal aspect of police work.⁵⁰ This is an indicator of the impact of the protracted and high level of violence being used by the authorities on civilians in Papua.

In the cases reported, the police figure most frequently as the perpetrators of torture, notably during arrests, interrogation and detention. Threats, intimidation, ill-treatment and torture are used by the police to extract information and confessions. Prison personnel also make use of torture during the detention phase, although the police are also found to be using torture on prisoners. In the afore-mentioned research, the police were found to be responsible for some 15% of cases of the use of ill-treatment and torture, despite the fact they should not formally be involved with prisoners following the completion of trials.⁵¹ Examples of torture in correctional facilities presented below show that punishment becomes the most dominant motive for the use of torture in prisons.

Examples of torture and ill-treatment during arrest and interrogation

Torture of murder suspects in Enarotali

On August 21, 2012, the police tried to track down persons who had killed a police officer that morning. During the search, the police and military forces arbitrarily arrested and tortured several civilians, whom they suspected of being members of the armed wing of the independence movement TPN-OPM. Alwisius Degei, Derek Kobepa and Itikimi Kobepa were arrested on their boat in Kogenepa district and brought to Enarotali. On the way to Enarotali they were hit several times in the face until they had severe swelling of the eyes and their noses and mouths were bleeding. On the same day, Yosua Obaipa was arbitrarily arrested at Iyaitaka village and taken into custody at Enarotali police station, where police officers kicked and beat him with fists and rifle butts to the head, the face and the chest until Mr. Obaipa vomited blood and had to receive treatment at the public hospital for three days.⁵²

Torture of Liborang dormitory residents

On August 26, 2012, the police stormed the Pdt. S. Liborang Dormitory at Abepura using teargas. Yanes Saram (20), Yusafat Wandj and Wene Helembo were tortured after being arrested together with 34 other residents of Pdt. S. Liborang Dormitory. During their 30 minutes-long interrogation, police officers repeatedly hit Yanes Saram on the back of the head using a shoe, which the officer held in his hand. The beating was aimed at forcing him to confess his involvement in a riot at Organda housing estate. After that Mr. Saram was locked in a room with Yusafat Wandj, Wene Helembo and other suspects. After approximately two hours two officers entered the room. One police officer used a motorbike saddle to beat each suspect once on the back. Another officer hit each suspect twice with a wooden stick on the back if they were unwilling to confess their involvement in the riot. Before 18 of the arrested residents were released the following morning, Mr. Aldo Purba, the head of criminal division of the Jayapura police station, beat each of the suspects once with a wooden stick and threatened them to force them not to participate in political demonstrations.⁵³ During the same incident Alexander Sambom (15) and his friend Heri Hisage (22) were beaten and kicked, as police questioned them in front of a small shop near the dormitory.

50 Qisa'i, Ahmad; Dadang Trisasongko, Laode M. Syarif (ed.): *Penyiksaan di Bumi Cenderawasi*, 2012, p. 44f, p. 43 f

51 Qisa'i, Ahmad; Dadang Trisasongko, Laode M. Syarif (ed.): *Penyiksaan di Bumi Cenderawasi*, 2012, p. 46 f

52 Investigation Report of Human Rights Defenders of Justice and Peace Desk of Kingmi Church at Nabire (18 September 2012)

53 Testimony of Yanes Saram (07.09.2012) taken by JPIC GKI di Tanah Papua

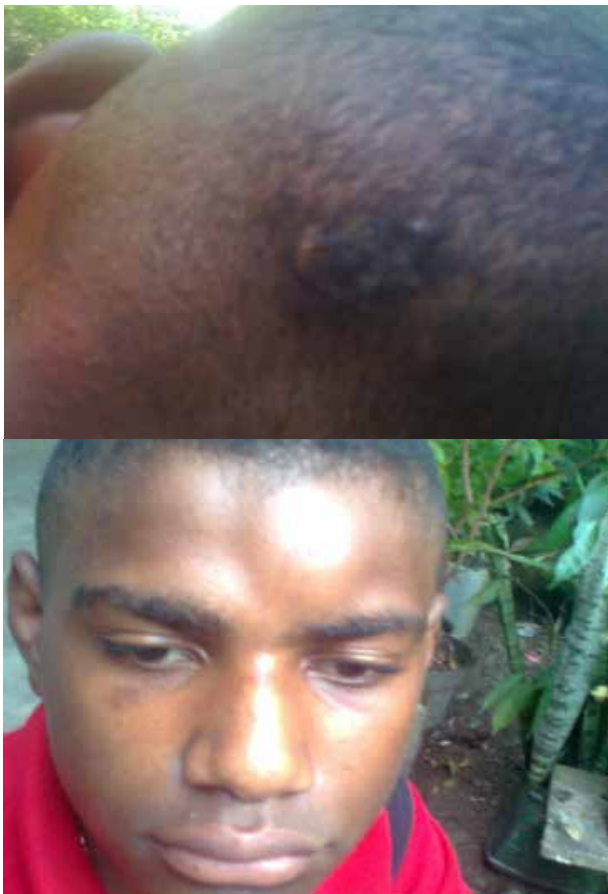


Image 2.4-1: Alexander Sambom two days after being beaten, showing bruises on the back of his head and swelling to his forehead and left eye.

After the police had forced the teenagers to enter their truck, they repeatedly kicked and punched Alexander Sambom in the face and legs, beat him with a gun handle on the back of the head and strangled him with his necklace.⁵⁴

Torture resulting in the amputation of part of a leg

On September 2, 2012, members of the Jayapura municipality police arrested Dani Kogoya, an alleged member of the independence movement OPM, and five friends –Sonny Kosay, Pendimin Kogoya, Lambert Siep, Tondius Kogoya, Kerema Jikwa– at Daun Pisang Hotel, Entrop. Even though the six men did not resist the arrest, police officers shot Mr. Kogoya in the right leg, hit Pendimin Kogoya on the back of his head with a blunt object, and Kerema Jikwa on his lower back. After the arrest, part of Mr. Kogoya's right leg was amputated without his or his family's consent at the Bhayangkara police hospital.⁵⁵

54 Report of Justice, Peace and Integrity of Creation Desk of GKI di Tanah Papua (30.08.2012): Police Forces maltreat residents of Pdt. S. Liborang Dormitory Abepura during house search

55 Report ELSHAM (4 September 2012): Polisi tangkap Dani kogoya di Hotel Daun Pisang, 16 Warga asli Papua ditangkap di rumah saat tidur



Image 2.4-2: Dani Kogoya in his cell at Abepura Prison

Perumnas beatings

On September 12, 2012, Arming Wetipo (18), Andre Wetipo (21), Robert Hubi (22) and Jekson Iginea (22), were beaten by police officers in a relative's house at Perumnas III, Waena. Officers in charge justified the operation claiming that the four students were drinking alcohol, which is not a criminal offence. The police officers hit them with a hard rubber baton, wooden sticks and their rifle butts, while other officers pointed their rifles at the students. Then all four victims were brought to a police post at the Perumnas III intersection, where the officers continued to subject them to ill-treatment.⁵⁶

Torture used to obtain information about KNPB activists

On October 9, 2012, Simson Yohame (22) was arbitrarily arrested by four police officers wearing plain clothes in Perumnas III Waena, Jayapura, in a street restaurant. Mr. Yohame was forced to enter a black car (Toyota Avanza). Police officers beat him with a rifle butt on his back and with bare fists to his chest when he asked why he was being arrested. During a five and a half hour drive in the area around Jayapura, Simson Yohame was repeatedly

56 Investigation Report ELSHAM (13 September 2012): Polisi aniaya empat pemuda karena minum Mansion House

threatened and beaten inside the car. The police turned up the volume of music in the car until Mr. Yohame's ears ached. Then the policemen threatened him by holding a knife to his face and throat while asking him "do you want to die?" as well as firing several shots out of the window with a pistol. During the ride, the police officers repeatedly questioned Simson Yohame whether he knew about the whereabouts of several KNPB activists, such as Fany Kogoya, Dany Wenda, Victor Yeimo and Tinus Yohame, and threatened to kill him if he would not tell them. One police officer beat Mr. Yohame several times on the shoulder as he replied that he is not a KNPB member and does not know where the KNPB activists live. Then police officers forced Simson Yohame to become a spy on KNPB activists for them.⁵⁷

Torture of 6 Papuans in Timika

On October 19, 2012, members of the police from the Timika police resort arbitrarily arrested political activists Yakonias Womsiwor, Paulus Marsyom, Alfred Marsyom, Stefanus Itlay, Romario Yatipai and Yanto Awerkion, and brought them to the Mimika Baru police station at Mile 32 for further interrogation because police found a bow and arrows, a machete as well as a military knife in a search.⁵⁸ At the police station, Yakonias Womsiwor was beaten and kicked. Police officers blindfolded him and then forced him to enter a coffin, where officers punched him five times, kicked his chest, and threatened to drown him in the Kopi River. One officer repeatedly hit Mr. Womsiwor with the handle of his gun. Alfred Marsyom was interrogated separately in a car, where police officers punched him five times to the head and put a plastic bag over his head. Yanto Awerkion was hit ten times on the head and hit in the cheek using a broom stick. The officers in charge tortured the suspects in order to force them to sign confessions. No lawyer was provided to the suspects, as is required in the Indonesian criminal procedure code (KUHAP) for suspects who might be accused of crimes that are punishable by 5 years or more, as is the case here.⁵⁹

Biak interrogation torture

On October 21, 2012, Barnabas Mansoben (27) was ill-treated after six police officers wearing plain clothes arrested him at Bosnik main road, Biak. In the police car, one of the officers hit Mr. Mansoben four times in the mouth with a gun handle. At the police station, Barnabas Mansoben was forced to lie face down on the ground, and officers kicked him once on the left and five times on the right thigh with heavy boots. During the interrogation, one of the officers who arrested Mr. Mansoben also kicked him in his right ribs.

On the same day plain-clothed police officers also arrested Paulus Alua (25) at the Nayak Dormitory, Biak. During the arrest, one officer kicked the university student in the face (right eye) and handcuffed him. After that, two police officers ordered him to lie face up on the ground and repeatedly walked on his stomach. Furthermore, one officer hit Paulus Alua with his gun handle in the face during his interrogation. As Mr. Alua denied involvement in the criminal offence he was being accused of, the officers kicked him with heavy boots on his right temple, right ribs and his nose until it started to bleed.⁶⁰



Image 2.4-3: Barnabas Mansoben



Image 2.4-4: Paulus Alua

57 Report of Human Rights Defenders at Jayapura (October 2012): Kronologis Penangkapan Simson Yohame (22)

58 KontraS

59 Objection of Legal Advisors towards the Criminal Indictment Number Reg. Case: 02/Pid.B/2013/PN-T (14 February 2013)

60 Investigation Report of KontraS (October 2012): Kronologis Penangkapan Aktivis KNPB Biak



Image 2.4-5: Frengky Uamang during an interview with local human rights defenders.



Image 2.4-6: Scars from the beatings to Mr. Uamang's left thigh.

Torture for allegedly supporting the OPM in Timika

On November 27, 2012, Frengky Uamang (36) was arbitrarily arrested by two plain-clothed police officers in Irigasi Street (Kwamki Baru District), Timika, as he was walking to church. During the interrogation at Kwamki Baru District police station, the police officers accused Mr. Uamang of having provided food to members of the OPM independence movement. During the four hour interrogation Frengky Uamang was repeatedly kicked with heavy boots and beaten on the ears, face, the back of the head, the chest and legs. Mr Uamang was unable to walk for four days as a consequence of these beatings. After the interrogation, Mr. Uamang's hands were tied and he was brought to a house at Irigasi, which Mr. Uamang had never seen before. Police officers claimed that the house was an OPM hideout. On the way to the house, the police officers tortured Mr. Uamang with a screwdriver to his index and middle fingers. At Irigasi, 3 police officers forced Frengky Uamang to pray at gunpoint and crawl face down with handcuffed hands, while pushing a hot lighter into his back. After that the officers fired several shots at surrounding trees and brought Mr Uamang to the Mimika police station for further interrogation. Mr. Uamang was released on the following day.⁶¹

Torture in Depapre and Jayapura to obtain information about activists

On February 15, 2013, five police officers in plain clothes, one of whom was identified as Iptu Beduh Rahman, arbitrarily arrested and tortured seven Papuans - Daniel

Gobai, Arsel Kobak, Eneko Pahabol, Yosafat Satto, Salim Yaru, Matan Klembiap and Obed Pahabol - at Depapre, Jayapura regency. The victims were travelling in two cars from Depapre in the direction of Dormena (Jayapura regency) when the police officers stopped them because they were looking for Sebby Sambom and Terianus Satto, two Papuan political and human rights activists. Officers in charge then ordered the men to crawl on their stomachs to the nearby Depapre Sub-District Police Station. Later the victims were brought to the police station in Doyo Baru where they were further questioned about the activists' whereabouts. All seven victims were severely beaten, kicked and electrocuted during custody, before five of them were released the next day without charges. Local activists interviewed two of the victims about the torture procedures and uploaded the video on You Tube. In the short video,⁶² Eneko Pahabol and Obed Pahabol explain how they were repeatedly kicked by officers with heavy boots to the face. The officers kicked Eneko Pahabol's right knees. Eneko Pahabol and his friends were also beaten with a rattan stick as well as being electrocuted in the legs. Obed Pahabol said that police officers pressed the barrels of their guns to his head, and then forced them into his mouth and ears. As a result, some of his front teeth broke, his mouth and nose were bleeding, his forehead was wounded and he is now experiencing hearing difficulties.⁶³ During an interview with one of Matan Klembiab's family members, they said that Mr. Klembiab reported that police officers had placed the legs of a chair on his toes and sat on that chair during questioning, in order to force him to provide information.⁶⁴

61 Report of Tim Solidaritas untuk Kemanusiaan di Timika (30 November 2012): Testimoni Frengky Uamang

62 <http://www.youtube.com/watch?v=VBbB4ObEMNc>

63 AHRC (19 February 2013): Urgent Appeal Case: AHRC-UAC-024-2013

64 JPIC GKI di Tanah Papua: Interview with Yosafat Satto and a relative of Matan Klembiab on 11 March 2013

Torture of a pastor in Enarotali

On March 2, 2013, Rev. Yunus Gobai (55), a congregational pastor of the KINGMI church, went into the front yard of Enarotali Sub-District police station, Paniai regency and shouted while running around the yard. According to local activists this behaviour is related to a mental deficiency. Responding to Rev. Gobai's shouts, five police officers approached him and started beating him in the front yard of the police station. The officers repeatedly beat Rev. Gobai with their fists until his nose as well as lips were bleeding and his head and arm were wounded. The police later detained Rev. Gobai in the police station and the victim was finally released after his family had paid one million rupiahs to the police officers in charge. According to a report from the AHRC, the police officers failed to provide any medical treatment to the victim.⁶⁵

Cases of Torture and ill-treatment by the military:

Threats and violence at Umpagalo village

On November 3, 2011, three activists and nine villagers were ill-treated by seven members of Kurulu military sub-district command (Batallyon Kostrad 755 Kurulu) at Umpagalo village, near Wamena. The military had received vague information that members of the independence movement were to meet in the village. The seven soldiers entered the village and shot four warning shots, before gathering and abusing the twelve victims, named as follows: Melianus Wantik, Edo Doga, Markus Walilo, Pilipus Wantik, Wilem Kosy, Elius Dabi, Lamber Dabi, Othi Logo, Nilik Hiluka, Hukum Logo, Martinus Mabel and Saulus Logo. For two hours the military personnel abused the victims by stabbing them with bayonets, forcing them to crawl and dousing them with water. The officers humiliated them, beat them with wooden sticks, kicked and stepped on them with their boots, pointed their guns at the victims and threatened to cut off their heads. Even though the abuses were reported to the Kurulu sector police, the police refused to process the complaint.⁶⁶

Pregnant women molested and 18-month-old child abused

On February 7, 2013, a joint force comprising members of the Papua Regional Police's Mobile Brigade, Community Control Unit of Paniai District Police and the 753 Battalion of the Indonesian Military, raided Ipakiye Village in East Paniai District, Papua. They forced their way into the



Image 2.4-7: Umpagalo villagers re-enact the abuses

house of Ms. Dorpina Gobai, who was pregnant, a part of a search for her husband. They questioned Dorpina Gobai, who could not reply because she can't speak Indonesian. Four officers held Mrs. Gobai down and took turns to grope her indecently, while other officers turned her 18-month-old son upside down and shook him violently until he cried.⁶⁷

Teenagers abused in Enarotali

On February 25, 2012, a group of 45 members of the security forces, consisting of police and military personnel, arbitrarily arrested the two teenagers named Alpons Gobay (15) and Menny Gobay (18), in Bobaigo village near Enarotali (Paniai regency), because they suspected that members of the armed wing of the independence movement TPN-OPM were hiding in their house. They dragged both teenagers out of the house, and started to kick and beat Alpons and Menny Gobay using their fists and gun handles. The beatings continued as the police forces brought the boys to Paniai district police station. As a consequence of the treatment they were subjected to, both victims had wounds and bruises on their foreheads, lips and arms, and had painful ribs.⁶⁸

65 KPKC KINGMI, AHRC (11 March 2013): INDONESIA: Police officers tortured a priest in Paniai, Papua, and required a bribe for his release

66 AHRC, Urgent Appeal Case: AHRC-UAC-005-2012 (26 January 2012)

67 AHRC (20 March 2013): Urgent Appeal Case: AHRC-UAC-045-2013



Image 2.4-8: Mr. Bieths' back, showing burns from the torture



Image 2.4-9: Mr. Bieths and Mr. Selang

Torture and ill-treatment in prisons:

Torture of Mr. Bieths and Mr. Selang in Nabire

On September 5, 2012, several prison guards tortured Mikhael Yance Bieths (32) and Ilham Haje Selang (34) in the inner courtyard of Nabire Class II Correctional Facility. The torture was reportedly ordered by the head of the correctional facility, Mr. Aminudin. The prison guards kicked both prisoners with heavy boots, beat them with stones in their hands, hard rubber batons, wooden blocks, and used stun guns upon them until Mr. Ilham lost consciousness. A prison guard repeatedly pushed a hot iron into Mr. Bieths back while he was trying to protect Mr. Selang. After that both prisoners were dragged into their cells, where the abuses continued. As the consequence of torture, Mikhael Yance Bieths was bleeding from his mouth and nose, had bruises around both eyes, a cut on the left eyebrow, severe burn wounds on his back, a wound on his left big toe and bruises on the back and chest, whereas Ilham Haje Selang was bleeding from his mouth and nose, had bruises around both eyes, a wound on the left temple, head, left abdomen, back and chest, an injury on the left leg and a cut on the left eye.⁶⁹

Torture resulting in death of Mr. Ayomi in Nabire

Between September 26 and October 2, 2011, Rony Ayomi (23) was tortured by several prison guards in an isolated cell at Nabire Class II Correctional Facility. Prison guard Frans Betai hit Rony Ayomi on the head several times using a hard rubber baton. Prison guard Frido Yosar tortured the victim with a stun gun, which he pushed into Mr. Ayomi's head, neck, elbows, abdominal area, ribs and knees. Prison guard Isaak Jimmy Rumbiak hit Mr. Ayomi several times with his fist in the face. Prison Guard Hengki Yoweni kicked Mr Ayomi two times with heavy boots to the chest. Although Rony Ayomi was in a critical condition as a result of the torture, the prison officials did not grant him access to medical treatment facilities outside the prison until January 1, 2012. Mr Ayomi died on March 1, 2012, in Siriwini Public Hospital Nabire.⁷⁰

68 AHRC (22 March 2013): Urgent Appeal Case: AHRC-UAC-048-2013

69 Report of Human Rights Defenders of Justice and Peace Desk of Kingmi Church at Nabire (24 September 2012)

70 *Ibid.*



Image 2.4-10: Torture scars on Mr. Ayomi's neck and collar-bone two months after the torture

List of names of victims, age sand the forms of torture used:

Types of abuse:

- A) was hit with a wooden block/iron bar/thick rope, kicked and punched all over body
- B) was forced to leave the cell, where prison guards stepped with boots on his fingers and toes
- C) was forced to stand in half-squad position for one hour
- D) was kicked as he was forced to leave his cell

1. Selfius Bobii (30 yrs, Punched with the fist and kicked to all parts of the body, then he was dragged to the prison office);
2. Luis Kossay (20 yrs, A, B, C);
3. Terianus Tabuni (25 yrs, A, B, C);
4. Wayus Hubi (22 yrs, A, B, C);
5. Markus Dabi (22 yrs, A, B, C);
6. Stenly Palondong (33 yrs, A, D, C);
7. Alfian Palendeng (31 yrs, A, D, C);
8. Erens Apromis (29 yrs, A, D, C);
9. Otto Ikinia (22 yrs, A, B, C);
10. Fredy Marsyom (36 yrs, A, D, C);
11. Agus Hisage (23 yrs, A, D, C);
12. Habel Itlay (22 yrs, A, D, C);
13. Titus Kogoya (20 yrs, A, D, C);
14. Randy (29 yrs, A, D, C);
15. Kostan (28 yrs, A, D, C);
16. Donny Sineri (25 yrs, A, D, C);

42 prisoners tortured in Abepura

On April 30, 2012, 42 criminal and political prisoners were tortured in the Abepura Class II Correctional Facility. The prison guards reportedly received orders from Liberti Sitinjak, the head of Abepura correctional facility, after he had an argument with political prisoner Selbius Bobii, about him not receiving permission to leave his cell in order to meet with other inmates for a music band practice. Other prisoners witnessed Mr. Sitinjak ordering Selbius Bobii to be locked in the isolation cell and protested against this disciplinary measure. After the incident, prison guards beat up 42 prisoners, using their hands, feet, wooden blocks, iron bars and thick ropes. Then all 42 prisoners were forced to stand in a half squat position for one hour.⁷¹

17. Epenus Itlay (24 yrs, A, D, C);
18. Adrian Walangitan (21 yrs, A, D, C);
19. Muhammad Ramly (38 yrs, A, D, C);
20. Orgenes Epa (32 yrs, A, D, C);
21. Elia Komba (20 yrs, A, D, C);
22. Rafles Yoku (24 yrs, A, D, C);
23. Agus Monmut (29 yrs, A, D, C);
24. Jubair (34 yrs, A, D, C);
25. Edi Baransano (29 yrs, A, B, C);
26. Sulario (37 yrs, A, B, C);
27. Ortis Sineri (21 yrs, A, B, C);
28. Kalvin Kapisa (24 yrs, A, B, C);
29. Parmen Wenda (20 yrs, A, B, C, was locked in an isolation cell until 09.00 (East Indonesia Time), 3 May 2012);
30. Dominikus Marian (20 yrs, A, B, C);
31. Nius Heba (32 yrs, A, B, C);
32. Narto (56 yrs, A, D, C);
33. Acok (29 yrs, A, D, C);
34. Pas Wenda (21 yrs, A, D, C);
35. Lukas Sawen (25 yrs, A, D, C);
36. Yoram Sawen (50 yrs, A, D, C);
37. Chore Daundi (24 yrs, A, D, C);
38. Luther Ohee (26 yrs, A, D, C);
39. Dedi Dore (30 yrs, A, D, C);
40. Hanan Mambay (28 yrs, A, D, C);
41. Yufri Mameta (30 yrs, A, D, C);
42. Hendrik Kenelak (22 yrs, A, B, C, was locked into an isolation cell until 09.00 (East Indonesia Time), 3 May 2012).

⁷¹ Investigation Report No. 66.a/FM/12/3.4. 13.a of Office for Justice, Peace and Integrity of Creation (SKPKC), Franciscans of Papua (4 May 2012)

Table 2.4-1: Table with names and position of director, head of departments and employees who witnessed the beatings or were actively involved in the ill-treatments

NO	NAME	POSITION
1.	Drs. Liberti Sijinjak, Msi, MM	Head of Correctional Facility
2.	Herman Mulawarman, SH	Head of Development Section
3.	M. Hutabarat	Head of Disciplinary Section
4.	Juawaini, SH	Head of Prison Security
5.	Olof Itaar, SH	Head of Registration Sub Section
6.	Sarlota Hai	Head of pastoral Guidance Sub Section
7.	Hardiman,SH	Head of Security Sub Section
8.	Peneas. Kuba	Security guard
9	Magrid Kawai, SH	Staff of Development Section
10.	Elly Wamuar	Staff of Prison Security Section
11.	Viktor Paembang	Staff of Development Section
12.	T. Kambu	Watchman
13.	Bony Manuputy	Staff of Disciplinary Section
14.	Wembi Hamadi	Watchman
15.	Viktor Rio Sitania	Staff of Disciplinary Sectionb
17.	Wilson Sibarani	Adjutant of the Head of Correctional Facility
18.	Rahmad	Staff of Development Section
19.	Capung Bc. Ip	Staff of Development Section
20.	Felix Kusali	Staff of Development Section

22 prisoners tortured in Abepura in January 2013

On January 21, 2013, 22 prisoners were tortured by three prison guards, namely Eli Asip Wamuar, Bonifasius Manuputy, and Yuli Wanane, with the acquiescence of the head of the Abepura Class II Correctional Facility. The beatings were punishment for the prisoners having made sarcastic comments to welcome new prisoners. The prisoners were beaten with bare hands and whipped with a two-metre-long electric wire until they bled. After the beatings the prison guards did not provide any medical treatment to the injured prisoners even though the prison has its own clinic.⁷² The head of the prison was later removed from his position following interventions made by human rights groups.

List of the names and ages of the victims:

1. Pelius Tabuni (32 yrs); 2. Gidion (Bob) Hanuebi (37 yrs); 3. Serko Itlai (19 yrs); 4. Yoris Fernando W. Rengil (17 yrs); 5. Ami Wenda Alias Soy (25 yrs); 6. Roy Olvin Wally (31 yrs); 7. Ormi Wandik (17 yrs); 8. Roy Kabarek (37 yrs); 9.

Irsan Mananggal Alias Irs (19 yrs); 10. Yosua Merahabia (41 yrs); 11. Samuel Waren (26 yrs); 12. Yakobus Bue (20 yrs); 13. Hendro Wambrau (21 yrs); 14. Ibe Huby (22 yrs); 15. Kahrudin (28 yrs); 16. Kaleb Mantanaway (21 yrs); 15. Imanuel Mauri (21 yrs); 16. Zikenele Hisage (20 yrs); 17. Widodo Santoso (26 yrs); 18. D. C. Crisdodtomo; 19. Aryadi; 20. Ahmad Alia

Examples of other cases of excessive use of force

Excessive use of firearms at Wadio Atas village

On September 24, 2012, police forces from the district police office in Nabire shot Kristian Belau (21) in his right thigh during a police operation at Wadio Atas village. The police entered the village, firing three warning shots, which caused most villagers to run to the surrounding forest. Mr. Belau did not run away, allegedly because he was under the influence of alcohol. As he approached the police forces, one police officer shot Kristian Belau in the right thigh. After the operation, the police men brought

⁷² Joint Report of KontraS Papua, SKPKC Fransiskan Papua and BUK (21 February 2013)

Mr. Belau to Siriwini public hospital at Nabire, where the bullet had to be removed from his leg through surgery, and then took him into custody. After the incident the spokesman of the regional police in Papua, Mr. I Gede Sumerta, made a false public statement in which he said that Kristian Belau was arrested 45 kilometres away from the actual location of his arrest, in Urumusu village, where police forces had exchanged fire with an armed group.⁷³



Image 2.4-11: Bullet wound on Mr. Belau's right thigh

Excessive use of force and destruction of property at traditional council

On December 16, 2012, joint police forces from the Jayawijaya district police, under command of the vice chief of the district police, burned the office of the Papuan indigenous peoples council (DAP) at Wouma district and physically attacked Emaus Yelemaken who worked as a security guard at the office. A police officer dragged him out of the building and hit him once with his rifle butt in the mouth. As a consequence, Mr. Yelemaken lost consciousness, three of his teeth broke and his lip bled.⁷⁴



Image 2.4-12: Picture of Emaus Yelemaken, taken after the beating (left)

Image 2.4-13: Office location after the fire (right)

2.5. Access to Justice and Fair Trial

The hopes of the Papuan people for a justice system with fair trials and independent judges, where judgments mirror proportionality and justice, are still far from becoming a reality. This applies in particular to cases where defendants are indigenous Papuans, who often have to face discrimination by police officers, prosecutors and judges. Prejudice and discriminatory negative images of indigenous Papuans are still present at all levels of law enforcement and judicial processes and have led to disproportionate sentences and violations of criminal procedures, especially for political pro-independence activists.

Interrogations at police stations remain highly intimidating and suspects are often forced to sign confessions under threats and torture. This happens because most suspects are not accompanied by a lawyer during interrogations. In many cases the police do not inform suspects that they have the right to be accompanied by a lawyer. Lawyers are usually only informed after the interrogations or if suspects' families decide to hire a lawyer. This often becomes obvious when defendants reject the police interrogation reports in court, because they had been forced or intimidated to sign a confession.

Weaknesses in law enforcement also become obvious when defendants are interrogated by prosecutors, who do not hesitate to intimidate the defendants if they are not accompanied by a lawyer. This occurs most commonly if the suspect has not been handed over to the prosecutor's custody. After defendants have been transferred to the custody of the prosecution, it becomes easier for relatives and lawyers to meet defendants and prepare for trial.

Intimidation is still prevalent in court and make it hard for defendants to reveal the truth if they are not guilty. The security forces often deploy a heavy presence in courts, especially at trials which have attracted public attention. Prosecutors and even judges intimidate defendants through rough questioning or the usage of harassing language, notably where they believe that the lawyers are not brave enough to intervene. It is therefore very important for defendants to hire a competent lawyer. Appointed lawyers often lack professionalism and competence.

⁷³ Report of Human Rights Defenders of Justice and Peace Desk of Kingmi Church at Nabire (25 September 2012)

⁷⁴ Investigation Report of Jaringan Advokasi Penegakan Hukum dan HAM Pegunungan Tengah Papua (22 December 2012): Kantor Dewan Adat Wilayah Lapago dibakar hangus

Case Examples

Denial of access to a lawyer after Indigenous Peoples' Day demonstration

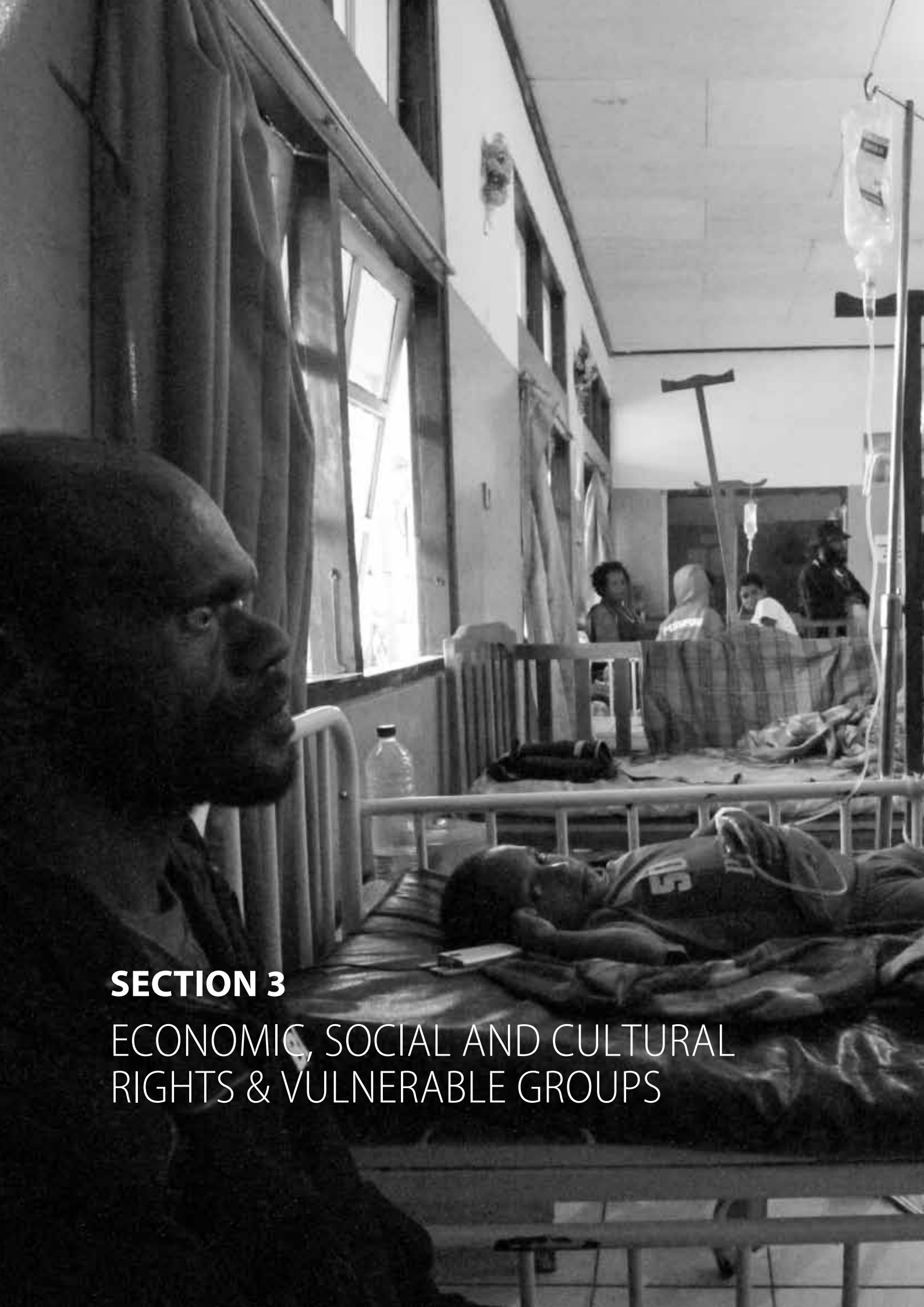
On August 9, 2012, Edison Kendi and Yan Piet Manimboi together with several other activists organized a peaceful protest commemorating the International Indigenous Peoples' Day. Both activists were arrested during the protest and were intimidated, ill-treated and reportedly tortured. They were even intimidated after they had been transferred to the attorney's custody. Moreover, both defendants were seriously dissatisfied with their appointed lawyer, so the family had to hire a different lawyer. The attorney did not respond to the defendants request to have the trial postponed until they had hired a new lawyer to defend them in court.⁷⁵

Illegal arrest and denial of access to a lawyer for Wamsiwor and Awerkion

On October 19, 2012, police officers from Timika district police arrested Yakonias Womsiwor and Yanto Awerkion. The arrest was not in accordance with Article 18 paragraph 1 of the Criminal Procedure Code (KUHP), which states that police officers have to show their police ID-card, a warrant, as well as a brief description of the alleged crime. Furthermore, both men were allegedly tortured during the interrogation. During his examination in court, Yanto Awerkion was not appointed a lawyer, in violation of article 56 paragraph 1 of the Indonesian Criminal Procedure Code. The examination of the defendant was legally flawed and a repetition was requested for this reason but was not taken into consideration by the attorney.⁷⁶

⁷⁵ KPKC Sinode GKI

⁷⁶ Koalisi Litigasi



SECTION 3

ECONOMIC, SOCIAL AND CULTURAL RIGHTS & VULNERABLE GROUPS

3 ECONOMIC, SOCIAL AND CULTURAL RIGHTS & VULNERABLE GROUPS

3.1 The Right to Health

The Indonesian Government is obliged under international law to provide *the highest available standard of health*¹ given its resources. While considerable funds are made available for the improvement of health services, including access to medication and improvement of infrastructure, a lack of proper management results in negligence and the absence of healthcare workers from their 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 mortality rates and HIV/AIDS rates in the Papuan provinces are the highest within Indonesia.

Health information

The Indonesian Government is failing to provide appropriate and quality healthcare to the indigenous people of Papua, as well as enabling the Papuan population to live healthy lives. Reports of medical neglect appear on frequent basis in online media. However, the Ministry of Health provides reports on healthcare services in Papua that do not represent the actual health situation there. A lack of access to reliable and systemic information on health, mortality and disease patterns in the two Papuan provinces is one of the core issues that should be improved by the government.

With 7527 reported cases of AIDS in the third quarter of 2012, according to the Indonesian Ministry of Health, Papua ranks as the province with the highest AIDS rate in Indonesia.² According to the Papua AIDS Management Commission, HIV/AIDS cases are common in coastal areas of the province and the rural hinterland. In 2012, the highest numbers of cases in Papua province were reported in Jayapura (2,666 cases) and in Mimika district (2,823 cases).³

The Indonesian demographic health survey 2012⁴ is a point in case. Most countries conduct a demographic health survey every five years for domestic planning and adaptation of health services, and this data is also shared with international health agencies, such as the World Health Organisation and UNICEF. The 2012 Indonesian survey provides *national average* data related to fertility, family planning, infant, child and maternal mortality, and information related to sexually transmitted diseases such as HIV/AIDS. The majority of the respondents to the survey (58.4% of the female group) live on the densely populated island of Java, while female respondents from the two Papua provinces only represent 1.5% of the respondents.⁵ Infant mortality in the two Papuan provinces is about twice as high (64 vs 34/1000 infants), child mortality is five times higher (51 vs 10/1000 under 5 year olds) and maternal mortality is three times higher (112 vs 43/100.000 births) than in the rest of the country,⁶ while skilled attendance during pregnancy and birth is about 30% lower than in the rest of the country.⁷

These rates are probably an underestimation of the real health indicators concerning most indigenous Papuans living in remote rural and peri-urban areas, who lack access to proper facilities. The national health survey doesn't *disaggregate* data between indigenous and migrant populations, or between rural and urban areas.

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.unhcr.ch/tbs/doc.nsf/%28symbol%29/E.C.12.2000.4.En>

2 See <http://www.depkes.go.id/en/index.php/news/press-release/797-hiv-aids-progress-in-indonesia-on-the-3rd-quarterly-in-2012.html>

3 <http://www.antaraneews.com/en/news/85901/hiv-aids-cases-in-papua-exceed-13000>

4 Badan Pusat Statistik, Badan Kependudukan dan Keluarga Berencana Nasional, Kementerian Kesehatan. Survei Demografi dan Kesehatan Indonesia 2012. Laporan pendahuluan. Dec. 2012. Available at: <http://www.bkkbn.go.id/litbang/pusdu/Hasil%20Penelitian/SDKI%202012/Laporan%20Pendahuluan%20SDKI%202012.pdf>

5 Ibid, Annex table A-1, p. 31

6 Ibid, Annex table A-6, p. 36

7 Ibid, Annex table A-7, p. 37



Image 3.1-1: Health centre in Papua, photo: Reckinger

The majority of the populations in the main cities and the surrounding villages are migrants. This is in contrast to the populations in remote areas and the highlands, which are predominantly comprised of indigenous Papuans. As most of the survey data for the Papuan provinces is retrieved from people living in the big cities in Jayapura and Manokwari, a considerable selection bias can be expected in the sample since the majority of the people interviewed were non-Papuans.

Health Services

Another noteworthy report is the Papuan provincial health profile from 2011⁸. It shows that the number of doctors (except for dentists), nurses and midwives per 100.000 inhabitants is higher than the average in Indonesia. This

is not surprising, because the special autonomy funds provide a budget that allows for relatively good salaries for health workers in Papua.⁹ According to this Papuan health profile, the province does have considerable resources, including infrastructure, financial resources and health personnel, to provide health services to the Papuan population.

The report also shows that the uptake of active family planning (49%) and skilled birth attendance (53%) falls far behind the rest of the country. The first is consistent with stories that indigenous Papuans see family planning as a form of population control by the State. For example, in the 1980s and 90s, the “two children are enough” family planning policy resulted in injections being given to Papuan women in some areas as a form of family planning.¹⁰ However these injections were given under

8 Pusat data dan informasi Kementerian Kesehatan Republik Indonesia. Data/ Informasi Kesehatan Provinsi Papua. http://www.depkes.go.id/downloads/kunker/33_papua.pdf

9 Van de Pas, R. Human resources for health, opportunities and challenges in the Indonesian province of Papua. Royal Tropical Institute, 2010. Available at http://www.papuaweb.org/dlib/s123/vandepas/_mih.pdf

10 In the 80s and 90s Papuans in the highlands have been convinced by the authorities to get vaccinated against infectious diseases such as Polio or Measles. Later it became clear this was not a vaccine but a coercive way in which women got an injection with Family Planning hormones (Keluarga Berencana, KB). Since then women of reproductive age do not trust vaccinations as part of family planning as a result. The Hubula women in the highlands were forced to participate in the «two-child, dua anak cukup» KB strategy to form small healthy families during the Suharto regime. Because of living conditions as well as socio-cultural practices many Hubula women normally only have one or two children.

the false pretence of being vaccinations.¹¹ What is also important to note is the high rate of leprosy in West Papua province, with 83 new cases per 100.000 inhabitants by far the highest in Indonesia.

Despite all of the resources, big gaps exist in the provision and accessibility of health services. There are stories of trillions of Rupiahs going missing, which should have been available for the delivery of health services.¹² Many health personnel do not attend their health posts, due to limited leadership, a lack of disciplinary action and management within the health services. A report by the Indigenous Peoples' Alliance of the Archipelago (AMAN) mentions 535 people falling ill and 95 persons dying between November 2012 and Feb 2013 in Kwoor district, Kabupaten Tambrau because of malnutrition and related diseases.¹³ A master thesis research in the same area of the birdhead's region (Kabupaten Tambrau and Manokwari) indicates large gaps in the provision of health services to the indigenous population. The research calculates child mortality to be 189/1000 concerning children under 5 years old in rural areas, 139/1000 for Papuan under-fives residing in urban areas and a mortality rate of 36/1000 for non-Papuan under-fives. This inequality in health status is regarded as *structural violence* and a violation of the Convention of the Child.¹⁴ According to another report, 61 have reportedly died during three months in the Samenage district of Yahukimo, Papua province, due to the lack of health-care facilities.¹⁵ Similar stories from other sub-districts in Yahukimo in the central highlands are available, which explain the unavailability of health services simply through the absence of personnel from their posts.¹⁶



Image 3.1-2: Tests for HIV/AIDS are not yet available in all areas, photo: Reckinger

HIV-AIDS

The HIV-AIDS epidemic in Papua is a chronic problem. Again, one of the main issues is the lack of information. The latest survey on HIV prevalence in different Papuan regencies already dates back to 2006.¹⁷ All over Papua, at the end of 2012, a total of 13'500 persons had been identified as having HIV/AIDS.¹⁸ However, it is not clear how high the prevalence of HIV is exactly, but from the author's personal experience in the highlands (Puncak Jaya) it is estimated to be about 5% of the general population, implying that it represents a generalised epidemic, even though this is a figure which seems to be conservative as compared with that in another highland

Due to the KB strategy, and later via the spreading of sexual transmittable infectious diseases (STIs, Chlamydia and Gonorrhea) and HIV/AIDS, population fertility reduced and many women became infertile. During clinical work in 2007-2008, the author has seen many young women in the Papuan highland villages been infertile, without a clear reason why. It is likely connected to a Chlamydia infection, which can be present in women without clear clinical symptoms, except infertility. These (forced KB and STIs) are among two of the many reasons why Papuan women in the highlands reject family planning.

- 11 Leslie Butt. KB Kills. Political violence, birth control, and the Baliem Valley Dani. The Asia Pacific Journal of Anthropology. Volume 2, Issue 1, 2001
- 12 Ryan Dagur, Jakarta. Papua's missing millions in grant aid. Despite massive cash injections, healthcare and public services remain dire. April 23, 2013. Available at: <http://www.ucanews.com/news/papuas-missing-millions-in-grant-aid/68085>
- 13 Indigenous Peoples' Alliance/Indonesia: Deaths and Hunger in Kwoor District, Papua. 5 april 2013 available at: <http://www.aman.or.id/2013/04/01/deaths-and-hunger-in-kwoor-district-papua/#.UYa9K7Sw3FI>
- 14 Stella Roos Peters. Invisible victims. The effects of structural violence on Infant and Child mortality in Papua Barat, Indonesia in the context of Human Rights. Utrecht University. August 2012. Available at: http://www.invisiblevictims.nl/uploads/7/6/9/7/7697426/invisible_victims.pdf
- 15 Jakarta Globe. Lack of Care in Papua proves deadly. April 11 2013. available at: <http://www.thejakartaglobe.com/news/lack-of-care-in-papua-proves-deadly/#more-%27>
- 16 Bobby Anderson. The middle of nowhere. Inside Indonesia. Jan. 2013 Available at: <http://www.insideindonesia.org/current-edition/the-middle-of-nowhere>

17 BPS Statistics, Ministry of Health, Indonesian Government. Risk Behaviour and HIV Prevalence in Tanah Papua 2006 (Results of the IBBS 2006 in Tanah Papua). 2007

18 SKP. Memoria passionis tahun 2012.

area, Apaphasili, in Yahukimo regency, where 92 people were found to be infected in a village with less than 1000 inhabitants.¹⁹ Although in the urban areas more counselling and treatment centres are available, in the highland areas, a recent article has identified that “fear of gossip and stigmatisation, regional political conditions and gaps in care interweave to create local biological conditions of evasion of care and rapid onset of AIDS.”²⁰

Some 60% of HIV patients in Papua are co-infected with Tuberculosis, which complicates the treatment as they have to take both TB and HIV (Anti-Retroviral Treatment - ART) medication. Unfortunately, only 2,091 out of 13,726 HIV-infected patients in Papua are taking the anti-retroviral (ARV) medication.²¹

Lastly, escalations of armed conflicts and military operations in the highlands, such as in December 2011 in Paniai regency, and February 2013 in Sinak, Puncak Regency, have devastating effects on the healthcare services in these areas.²² Healthcare workers and citizens had to flee these areas as a result. Due to the presence of the security forces and armed groups in the highlands, mobility of people between, in and to cities and villages is restricted. There is segregation between indigenous and non-indigenous Papuans, with the first group being systematically marginalized in settlements controlled by the security forces. In those areas, stigmatisation and discrimination against such people is rampant in healthcare facilities. This is illustrated by the lack of physical examinations conducted when Papuans visit a health worker. Areas in the highlands that are not controlled by the security forces lack access to essential medication and services. People living in these “red-zones” have very limited access to proper care.

The right to health obliges States to provide *core-obligations* in regard to health services, such as non-discrimination and the provision of essential medicines. Besides that, States must indicate how they make progress according to *the available resources* in advancing health and care, including indigenous people's health. The resources for healthcare provision are considerable, but despite the considerable availability of funds, an improvement of the health care system over the past two years is not noticeable. The same conclusion was already visible in the *Human Rights in West Papua* report in 2011.



Image 3.1-3: Contraception being introduced to Papuan communities, photo: Reckinger

The Indonesian Government fails to advance the health of the Papuan people, and systematically neglects their rights to live a healthy and dignified life.²³

19 Friedrich Tometten. AIDS entwickelt sich zur Katastrophe. Recht Auf Gesundheit. Westpapua Netzwerk Rundbrief 4/2012

20 Leslie Butt. Local Biologies and HIV/AIDS in Highlands Papua, Indonesia. Culture, Medicine, and Psychiatry, Volume 37, issue 1 (March 2013), p. 179-194.

21 Jakarta Post. 24th April 2013. Most HIV patients in Papua co-infected with TB. Available at: <http://www.thejakartapost.com/news/2013/04/24/most-hiv-patients-papua-co-infected-with-tb.html>

22 WestPapua media Info. 28th February 2013. Thousands flee in fear of heavy civilian casualties as TNI begin Highlands reprisal offensive. Available at: <http://westpapuamedia.info/2013/02/28/thousands-flee-in-fear-of-heavy-civilian-casualties-as-tni-begin-highlands-reprisal-offensive/>

23 This article is written by Dr. Remco van de Pas, who is an international public health expert. He worked in 2007 and 2008 in Papua on primary health care and HIV/AIDS and is as adviser still involved with health programmes in Papua.

3.2 Education

Indonesia's Constitution provides for equal access to education for all Indonesians, however, this is far from being implemented in reality. Indigenous Papuans, in particular those living in remote rural areas, have little or no access to education due to a lack of teachers. Failures in effective administration and a lack of adaptation to the Papuan context combine to render the education system ineffective in Papua.

Education is a crucial factor in enabling successful development for all. In order to adapt to the changing world, a more diverse range of capacities and knowledge has to be delivered to citizens by an education system.

While the development programme of the central government provides funds for scholarships and the development of infrastructure in various sectors, the quality of education in Papua and access to education remains at a very low level. Getting access to the promised funds is often not easy and as a result many schools continue operating under poor conditions.

Until 2013, the findings of past education sector evaluations have not been taken into account. Already in 2009, the then- Governor of the Papua Province, Mr. Barnabas Suebu, together with the representatives of religious partnership groups, during a visit to Berlin raised the following challenges regarding education in Papua. While these problems were understood by the provincial government, they have to date failed to address them.

There are concerns about the state of education in Papua, particularly in the mountain or remote areas such as Jayawijaya Regency, Star Mountains, Tolikara, Yahukimo, Mamberamo Raya, Yalimo, Lanny Jaya, Nduga, Central Mamberamo, Puncak Jaya, Puncak, Paniai, Intan Jaya, Dogiyai and Deiyai. The prevailing problems affect almost all elementary and junior high schools in indigenous villages. There, school hours are not applied according to the standard of school hours as mandated in educational regulations. Teachers are not living as expected in their assigned locations because of poor facilities in those rural areas. As a result of the resulting absence of teachers, students are not able to read, write or and count. These problems also exist in senior high schools. Even in the few Papuan local universities a considerable amount of teachers are not present at work.

When measured under national and international standards, primary and secondary schools in Papua are at very low level. Experts talk about affected students as being a "lost generation." There are various reasons behind this: (a) there is no supervision by the Education and Teaching Office, especially at the district level; (b) the currently used curriculum is the national curriculum which is not at all in accordance with the students' daily lives in the rural or mountain areas, or coastal villages; (c) teachers are not encouraged to adjust their subject material to

fit better with the local environment and there is lack of innovation on the part of teachers because of a lack of regular teacher training to improve their capacity. With the proliferation of administrative regions, many teachers have left their jobs and entered local government administration, as heads of district or sub-districts, resulting in the significant shortage of teachers in these areas; (d) Insufficient infrastructure in rural areas, such as poor schools or housing facilities for teachers, expensive transportation, and wages not being paid regularly, disappoint and discourage teachers from fulfilling their duties responsibly. They then often leave their supposed place of work and move to the cities.



Image 3.2-1: School in Papua, photo: Reckinger

Local curricula that could present teaching subjects that are adjusted to indigenous culture and include local wisdom, are not considered as an innovative teaching style. In the past, boarding school dormitories in the Papuan capital had caretakers that would bring students from different regions together to create a feeling of unity and ensure that young students - from the age of 13 - are getting age-appropriate care and supervision. Within the recent development activities on boarding schools, regencies have only constructed buildings in the provincial capital without providing care and maintenance for minors. The regency-managed dormitory system leads to tribal separation and, in the absence of proper care, young students face serious problems coping with urban life. Seeing them as education development projects, cities and districts are allocating funds for the construction of more boarding schools and dormitories, rather than allocating funds to improve school standards locally.

Education expertise and experience developed by religious institutions run by churches have always made an important contribution to the education sector. However, this expertise and background, in particular with regard to running effective curricula with teachers being available at their place of work, is not taken into account in the current development plans for education in Papua.

Case Examples:

Snapshot of an Elementary School on Yapen Island.

In Koromboi village, Rainbawi district, Yapen Islands Regency, 63 students are enrolled in one of the 6th grade classes of the elementary school. The students come from two villages around the Sewenui district and the Kororompui village. The school facilities both for students and teachers are not comparable with more

advanced schools in the district or province capital cities. School supplies, such as notebooks, school uniforms, and shoes, are not available because the village community cannot afford to buy them. Most of the teachers live in Serui city, which is a six-hour ferry trip away from their school. Only occasionally do they make the effort to travel to the remote school, leading to them being absent from their work most of the time. As a result, teaching and classes are not running. There is no supervision from the district Education Office.

UP4B Scholarship for Mr. Tebay

28-year-old dentist Yohanes Tebay, who has a Master of Medical Science degree is a young doctor who attempted to join a graduate program at the Nomensen University in Medan, based on a scholarship under the Special Unit for the Acceleration of Development in Papua and West Papua (UP4B). Yohanes Tebay finished his specialty medical education in Padjadjaran University in the Bandung province as a dentist. He then continued his studies with a master's degree at the Law Faculty, majoring in Health Law. Mr. Tebay wanted to pursue further education in a PhD in the same field and applied to the UP4B scholarship programme to get a place for this degree at the Nomensen University in Medan. When he tried to join the programme there, Mr. Tebay was asked instead to enrol in the Bachelor Program at the Faculty of Economy, which he was not interested in. Mr. Tebay cancelled his plan to pursue a PhD degree in Medan and returned disappointed to Papua.

Other students studying on a UP4B scholarship have reported that the transfer of scholarship money was performed with considerable delays and the amount was less than provided for in their scholarship agreement. Several students had to return to Papua and abandon their studies since they were not able to finance themselves under these conditions.

3.3 Children

Children belong to the most vulnerable groups in Papua and become the victims of conflict and violence and suffer from a lack of access to education. In particular in remote regions, such as the Paniai regency, violence is typically accompanied with impunity. While the problem of access to education is detailed in section 3.2 of this report, this section provides case examples where children have become the victims of violence without proper action being taken by police to investigate their cases and hold perpetrators accountable.

Case examples:

Killing of a 12 year old during joint security forces operation

On October 12, 2012, at around 4.20 pm, Dabebi Gobai (twelve years old), a 5th grade student at the primary

school in Geida Village, Kebo district, Paniai regency, was killed by two bullets that hit his hips and back, piercing his armpit. The Indonesian security forces had set up a road block in Tanjung Toyaimoti in Pasir Putih district and Komopa Paniai district, as a measure against a TPN/OPM group led by Jhon Yogi. The security forces allegedly

included Kelapa Dua Special Forces, the police and Indonesian army members. A clash occurred, in which the boy was caught in the crossfire and ended up being shot. He did not receive medical treatment and died a day later, on October 13, 2012. No legal action was taken by authorities.



Image 3.3-1: Dabedi Gobei

Intimidation and Rape of 7 girls in Paniai

On September 15, 2012, seven primary and secondary school girls were raped by a group of around seven masked men in Kebo District, Paniai Regency. The seven girls were on their way back home from school when they saw a group of masked men carrying firearms. They were scared and hid in a house nearby. One of the men saw them, and the group then broke into the house and raped the girls. The seven victims were taken to Madi Local Hospital, Paniai, for medical treatment for injuries received. The victims believe that the perpetrators are members of the military based on past experience of abuses and the preparedness of the group in this incident. The victims have not reported the case to the police out of fear of reprisals and the understanding that the police will not be able to act in cases of violence committed by members of the army.

Military wounds and kills fishermen, including a 13 year old child

This case is detailed in section 2.3 of this report.

3.4 Women

Women suffer from domestic violence as well as violence by the security forces. As both cases are rarely followed up by police, impunity for violence against women encourages further abuses. For example, in cases where family members are accused of supporting separatism, women become the targets of intimidation and abuse by the security forces. Most cases are not reported out of fear of reprisals and remain undocumented.

As the result of violence by the security forces, including from police and military, women have a general fear of the police and avoid contact with them as far as possible. Women in remote areas who become the victims of rape typically do not report these cases as crimes. In cases where women do report cases of violence or rape, such as in cities like Jayapura, the police usually send them away, telling the victim that this is their personal or a family matter, and they are usually unwilling to start criminal proceedings based on the victim's report.

When the security forces consider using violence, such as in cases of protests or demonstrations, they are reportedly more likely to use violence against women. Women activists in Papua also claim that the security forces are

willing to raise the level of intimidation against female activists higher than they do with males. Therefore, women who stand up for their rights or work as activists are more likely to face violence and reprisals than men.

Case example:

Unresolved rape case in Paniai

In February 2013, Dorci Yatipai (57) was raped in Paniai by an unknown man when she was cleaning her yard. The victim did not report the case to the police out of fear of reprisals and the assumption that the police would not act. The case remains unresolved.



Image 3.4-1: Women carrying goods to the market, photo: Reckinger

Raids and intimidation against women activists

On October 16, 2012, at 8:10 am, a group of five to seven men with military haircuts and civilian outfits suspected of being members of the Indonesian Intelligence came to political activist Fanny Kagoya's house to find her. Ms. Kogoya is a member of the leadership of the West Papua National Committee (KNPB). Ms. Kogoya is also member of the TIKI women's rights network that documents human rights violations. The group raided the house, abusing the victim's brother and sister. Later on, the group visited Fanny Kagoya's house another two times and questioned Ms Kogoya's siblings about her activities and intimidated them. After this incident, Ms Kogoya went into hiding where she remains to date, out of fear of being subjected to serious violence or even killed by the security forces.

Threats against human rights lawyer in Wamena torture case

The case of serious threats against female human rights lawyer Olga Hamadi after trying to support victims in a case of police torture is detailed in section 2.2 on human rights defenders.

Excessive use of force against Mama Selvina Muyapa in Nabire

On May 10, 2012, at 8 am, civil society activists from the Nabire Regency had gathered at the Nabire Airfield to protest against the the central government's unilaterally designed development plans for Papuaby. See section 6.5. for more details on this development plan. The protest was held on the occasion of the arrival of General Bambang Darmono, the head of the Special Unit for the



Image 3.4-2: Mama Selvina Muyapa, woman activist in Nabire.

Acceleration of Development in Papua and West Papua (UP4B) and a UP4B team to Nabire. Ms Selvina Muyapa (34 yrs.) led the protest and made the statement: "Do not Let Jakarta Force Us, but Let Us Have a Dialogue, Mediated by an International Party!"

Following this, Mr. Denny Rumbarar, a member of the Nabire Police started beating her in the face, a result of which she fell and started bleeding. Other police officers at the scene did not stop the violence or intervene to restrain Mr. Rumbarar. Civilians and human rights activists helped stop the beating and took the victim to the Nabire Hospital. At the time of writing this report, no legal action had been taken against the perpetrator, who remains an active member of the Indonesian Police. Local activists believe that the use of such violence in response to what was not a particularly contentious statement is due to the activist's gender.

Ms Limbong abused by the police on Yapen Island

On June 27, 2012, at 7.00 pm, Ms. Limbong, a housewife and shopkeeper at a fish market in Serui, Yapen Island,

was abused by police officer Abdi from the Yapen Island Police. He was armed and strangled Ms Limbong's neck. She was holding a glass and it fell, cutting her. The abuse by the police officer was conducted in public, intimidating other civilians at the market. Meanwhile, her twelve year-old child wanted to help, but Mr. Abdi pushed him away, resulting in his being injured too. Ms. Limbong believes that the abuse happened because of a family issue that had already been settled in the precinct.²⁴ Other people at the market witnessing the violence did not intervene out of fear of becoming a victim themselves since the perpetrator was a police man. The victim was afraid to report the case to police out of fear of reprisals. This case illustrates how the police easily make use of physical violence against women, even in low profile cases.

Pregnant women molested and 18-month-old child abused

The case in which a pregnant mother was threatened and molested by the Mobile Brigades of Police (BRIMOB) and her child turned up-side down and shaken violently is detailed in section 2.4. of this report.

24 Source: AU, TIKI Serui Network



SECTION 4

INDIGENOUS PEOPLES RIGHTS AND NATURAL RESOURCES

4 INDIGENOUS PEOPLES RIGHTS AND NATURAL RESOURCES

4.1 Security of Indigenous Peoples

Indigenous Papuans experience a much lower level of security and protection of their right to life as compared with other residents of Papua. Violence by Papuans against non-Papuan residents often lead to retaliation by the security forces instead of resulting in criminal procedures, while violence by non-Papuans or the security forces against Papuans typically does not lead to actions by the police in support of the victims. With this communal experience of insecurity, indigenous Papuans do not report to the police, but try to seek protection from within their community, resulting in a prolongation of conflict violence. The generalized stigmatization of indigenous Papuans as separatists or terrorists is used to justify violence against them.

In 2012 alone, KontraS, the Commission for the Disappeared and Victims of Violence, documented 81 acts of violence, with at least 31 deaths and 107 injured. KontraS also expected a further escalation of violence with the involvement of other special security forces. "Democracy in Papua has been paralysed and it is becoming a great challenge for the civilians to criticize the nation's policy, which is National Army and Police Force, until now," said Harris Azhar, Coordinator of KontraS in a joint statement with the National Papua Solidarity, United for Truth and Yapham, in October 2012. He said that one reason for the violence in the Papuan provinces is the plan to make the provinces an operational area for Densus 88, a special anti-terrorist force. Another reason, said KontraS, is the use of the separatism term for some Papuan activists.

In many places where violence has led to the greatest number of casualties among the indigenous population, public life frequently comes to a halt as a consequence of such incidents. This includes the closure of the public activities such as public markets, public transportation and schools. In Paniai District, health-care provided by Paniai Hospital was forcefully halted by the security forces, who sent the medical personnel and patients home. No prosecutions in court of any of the perpetrators of such acts of violence have been noted by local NGOs.

The following cases are examples of violence that illustrate the sense of insecurity that indigenous Papuans have to live with.

Forced displacement of 38 indigenous Papuans from Keerom after raids by the security forces.

Investigation and monitoring operations conducted by Elsham Papua in Keerom in October 2012 have revealed that at least 38 indigenous Papuans have been forced to leave their villages out of fear of so-called sweeping raids by the security forces. The community hid in the forest for more than five months. During this period, they have had to move from one place to another and to settle in huts around the Bagia hills, west of the city of Arso, Keerom regency, Papua province.

Indigenous communities, peoples and nations are those which having a historical continuity with pre-invasion and pre-colonial societies that developed on their territories, consider themselves distinct from other sectors of societies now prevailing in those territories, or parts of them. They form at present non-dominant sectors of society and are determined to preserve, develop, and transmit to future generations their ancestral territories, and their ethnic identity, as the basis of their continued existence as peoples, in accordance with their own cultural patterns, social institutions and legal systems.



Image 4.1-1: Affected children living in temporary shelters in the forest, photo: ELSHAM

The locals evacuated their villages because they were afraid of becoming victims of the sweeping operations conducted by the joint army and police forces in the area, who were trying to find alleged members of armed separatist groups (TPN-OPM). The villagers also explained that the second alleged motive behind these operations was the search for the murderer of the village head of Sawyatami, Mr. Johanes Yanupron, who was shot on July 1, 2012. Past violence by the security forces together with fear of retaliation by the security forces have thus resulted in 38 villagers from Sawyatami and neighbouring villages being internally displaced since early July 2012.

Table 4.1-1: List of displaced persons

NO.	VICTIM'S NAME	AGE	VILLAGE
1.	Hironimus Yaboy	45	Sawyatami
2.	Alea Kwambre	28	Sawyatami
3.	Afra Kwambre	27	Sawyatami
4.	Carles Yaboy	10	Sawyatami
5.	Ardila Yaboy	8	Sawyatami
6.	Desi Yaboy	4	Sawyatami
7.	Lefira Yaboy	1	Sawyatami
8.	Markus Kuyi	17	Sawyatami

9.	Yustus Kuyi	16	Sawyatami
10.	Timotius Kuyi	15	Sawyatami
11.	Samuel Kuyi	13	Sawyatami
12.	Lukas Minigir	68	Workwana
13.	Rosalina Minigir	36	Workwana
14.	Hanas Pikikir	21	Workwana
15.	Naomi Giryapon	19	Workwana
16.	Krisantus Pikikir	12	Workwana
17.	Penina Pekikir	3	Workwana
18.	Habel Minigir	33	Workwana
19.	Agustina Minigir	21	Workwana
20.	Adrianus Minigir	2	Workwana
21.	Agustina Bagiasi	35	PIR III Bagia
22.	Mikael Kimber	18	PIR III Bagia
23.	Jhon Kimber	14	PIR III Bagia
24.	Kristiani Kimber	11	PIR III Bagia
25.	Serfina Kimber	8	PIR III Bagia
26.	David Kimber	2	PIR III Bagia
27.	Fabianus Kuyi	50	PIR III Bagia
28.	Martha Tekam	38	PIR III Bagia

29.	Marselina Kuyi	23	PIR III Bagia
30.	Fitalius Kuyi	20	PIR III Bagia
31.	Margaretha Ibe	19	PIR III Bagia
32.	Jubelina Kuyi	19	PIR III Bagia
33.	Kristianus Kuyi	17	PIR III Bagia
34.	Frins Alfons Kuyi	15	PIR III Bagia
35.	Emilianus Kuyi	11	PIR III Bagia
36.	Maria Yuliana Kuyi	8	PIR III Bagia
37.	Moses Hubertus Kuyi	5	PIR III Bagia
38.	Rati Kimber	1	PIR III Bagia

Among the displaced people were eight children who were not been able to attend elementary school, junior high school or high school between July 2 and November 19, 2012. "I am scared that the soldiers will shoot me. My father is also fighting for an independent Papua so I am afraid to go to school," said one of the children.

From 1970 to 1980, Keerom has been a Military Operations Area, as a result of which many local residents have undergone cruel and arbitrary treatment at the hand of the Indonesian security forces, as they were accused of alleged involvement in the separatist movement. Today,

residents are still suffering from the trauma of living in a designated military operations area.

Local human rights NGO ELSHAM mediated between the displaced indigenous community and the authorities. The authorities were then willing to guarantee the security of the IDPs and allowed them to return to their homes, after the villagers made written declarations that they do not support the Papua Freedom Organisation (OPM).

Unresolved cases of violence in the highland region

On August 9, 2012, a group of masked persons of unknown identity broke into the house of Mr. Irenius Adii, the Head of Paniai Finance Agency in Udaugida Village, East Tigi – Deiyai. They threatened Mr. Adii's family at gunpoint, searched and burnt parts of their property. The family felt seriously intimidated and fled into the forest.

On August 16, 2012, at 7 pm, a shooting by unidentified persons took place in Obano, West Paniai, killing a trader Mr. Mustafa (22), and injuring Mr. Ahyar (25) and Mr. Basri (22), all of whom are non-Papuan residents. Consequently, the indigenous Papuan community was afraid of retaliations while non-Papuan traders in the district were also afraid of further attacks. A lack of professional and rights-based law enforcement results in a strong sense of insecurity.



Image 4.1-2: Highland village, photo: Reckinger

On August 19, 2012, in the evening, four Dewa Company workers in Gedeitaka Watiyai, East Tigi - Deiyai District were attacked by unknown men, resulting in the killing of Mr. Selsius Mamahi (30) and Mr. Henokh (33) and injuring of Mr. Simson Atto (37) and Ms. Youke Patee (38). The Papuan indigenous community felt insecure as a result, due to the absence of protection and action by the police.

On August 21, 2012, Yohan Kisiwaitoi, an indigenous Papuan and member of Paniai Police Station, was shot by armed resistance groups at Enarotali airport. Responding to the incident, the security forces started indiscriminately

beating and shooting at indigenous civilians at and near the scene of the crime. As a result, some indigenous Papuans hid in nearby houses while others fled into the nearby forest.

On December 16, 2012, at 11 p.m., the joint security forces of the army and police illegally burnt down the Pilamo Office of the Papuan Customary Council near Wamena, Papua province. The reason for this action remains unclear but it is interpreted as a form of intimidation against the Papuan Customary Council (DAP), a traditional organization supporting indigenous interests and rights.

4.2 Land Grabbing and Deforestation

Systematic Land Expropriation

As of 2012, the land area that has been reserved for companies operating in Papua, whether Indonesian or foreign companies, had reached 15'661'796 hectares, amounting to 23% of Papuan land. The use of land by companies is typically for mineral concessions, coal, logging, large-scale plantations, petroleum, and liquefied natural gas. This includes 152' oil and gas companies operating in the provinces of Papua and West Papua.²

Land grabbing in Papua is committed by companies supported by the national and local government through policies and licensing as well as with the aid of the security forces. The two Papuan provinces have become a preferred option for the development of palm oil plantations in Indonesia. 2'064'698 hectares of land have already been used for palm oil plantations or are planned to be used in this way.³

The national government's intervention to turn Papuan land into development projects is visible in various sectors notably concerning food and energy. President Yudoyono's administration has prepared a Master Plan for Indonesia's Acceleration of Economic Development (MP3EI) for the period 2011-2025. In the MP3EI, different economic corridors are designed to generate a specific global commodity. Papua and Maluku have become strategic corridors for commodities from mining, plantations, agriculture, fisheries and forestry. The development of Indonesian economic power focuses on the wealth of the country's natural resources, in which the provinces of Papua and West Papua become the most

important target for both national- and international-scale project development.

Free prior and informed consent (FPIC), is the principle under which a community has the right to give or withhold its consent with regard to proposed projects that may affect the lands that are customarily owned, occupied or otherwise used by the community.⁴ In general, the aforementioned companies that have been operating or are in the exploration stage did not apply the FPIC principle. The companies only approached the community, promised wealth and beautiful dreams of development the community will enjoy through the operation of the company. Such promises do not materialise.

As examples show, natural resource conflicts result from the appropriation of customary land by companies. This illegal appropriation usually involves the regency, the provincial and the national government. To what extent political and economic policies are developed on these levels to provide companies with advantages over customary holders of land depends on the different levels of corruption in them.

Between 2010 and 2012, each year 299'100 hectares of forest were directly affected by deforestation and forest degradation in both Papuan provinces. Over the last 10 years this process has resulted in more than 4'715'975 hectares of forest (more than 10% of the total Papuan land) having been cleared, according to government statistics. These numbers do not fully account for the additional deforestation caused by illegal logging,

1 PAPUA LAND IS RESERVED: Papuan People Forced Out From Their Own Land, Leaving a Deep Despair, Septer Manufandu (Executive Secretary of FOKER Papua NGO, 2006-2009 and 2009-2012 period), in 2010.

2 Papua Forestry Statistics, in 2012 there were the following areas: Papua Province was 31'773'063 acres spread over 29 districts/cities and West Papua, 2008, the area is 9'769'686.81 hectares covering 9 districts and city.

3 *Financing of oil palm plantations in Papua*, a research paper prepared for Sawit Watch, 2009

4 Forest Peoples Programme (FPP) www.forestpeoples.org



Image 4.2-1: Papuan forest, photo: Reckinger

which is caused by handlers of forest resources through the system of forest concessions (HPH), forest products concessions (HPHH), conversion of forest resources for industrial timber plantations (HTI), plantations and transmigration and forest fires. The deforestation is often carried out by actors who do not recognise or respect indigenous people's land tenure rights. Unreliable data and inconsistent ways of measuring forest and land size make precise calculations of the alarming deforestation rate difficult.⁵ According to research by Greenpeace the total annual deforestation rate between 2000 and 2009 was with 910'000 hectares per year three times higher than the data provided by government statistics. Different government sources such as statistical data from the provincial forestry department, the provincial plantation department as well as data from departments of different administration levels (regency, provincial, national) are inconsistent. Land rights activists estimate that both the total deforestation and the share of it caused by illegal logging have both increased over the last few years.

During the Second Congress of Rescuing the Human and Livelihood Resources in the Land of Papua in September 2012, indigenous Papuan and civil society organizations have urged the Indonesia government to immediately stop company activities and the issuing of new investment licenses for natural resources exploitation that damage

and harm the livelihood and rights of the indigenous people of Papua, Indonesia, and the world.⁶ Until now the rights of indigenous communities concerning forest/land resources have still not been legally guaranteed. Various development sectors tend to marginalize the rights of indigenous people concerning forest and land resources. It is therefore important to halt the issuance of new licenses until a legal framework can ensure that they do not harm the interests and livelihoods of the customary holders of land. Existing licenses have to be reviewed in that regard.

Illegally low compensation for timber logging in Animha district, Merauke

Since August 2012 the indigenous people of Zenegi Village, Animha district, Merauke regency, Papua, have been in conflict with company PT. Selaras Inti Semesta, as part of which the villagers blocked access to the industrial plantation area of the company near Zenegi Village. The villagers demanded compensation for logging from their ancestral forest land to be increased from IDR 2'000⁷ per m³ to IDR 10'000 per m³. According to the testimony of the Zenegi Village Chief, Ernest Gebze in Merauke, a "... compensation payment of IDR 2'000 per m³ is too low. That price is not comparable to the value of the natural forest timbers harvested by PT Selaras Inti Semesta."

5 In 2002, provincial government data estimated the total land in Papua with 42'198'100 hectares while in 2003, right after the split of the earlier single Papuan province into two Papuan provinces, new government data gave province wise estimations of total land area that added up showed 655'351 hectares of land less compared to the year before.

6 Congressional Declaration from The Second Congress of Rescuing the Human and Livelihood Resources in the Land of Papua, Unipa Campus, Manokwari, 29 September 2012 (point 2);

7 IDR 2'000 = 0.20 US\$

have considerable impact on the environment and the communities living directly near the mining site and also communities living further away from such sites. The area at Bintang Mountains (Star Mountains), Nabire, Paniai, and Puncak Jaya are believed to hold untapped and unexplored mining prospects. Over the last two years there has been an ongoing trend of creation of new regencies and increasingly open investment

opportunities for infrastructure development projects in areas that appeared to hold natural resources.

The REPSOL company has conducted oil and gas explorations in Yapen, Waropen, Biak Noemfoor and Supiori district. In the areas of Kaimana, Fak-Fak and Bintuni Bay district, operations by Genting Oil KASURI Ltd., Murphy OVS, Suma Sarana, Cevron and Hess SM have been noted.

4.3 MIFEE and the Marind

One of the mega projects is the Merauke Integrated Food and Energy Estate (MIFEE). MIFEE reserves 1.2 million hectares of indigenous people's land in the Merauke regency for 32 companies which have gained a permit from the national government as part of the national food sustainability program. In its first phase, MIFEE will involve 480,000 hectares of land.¹⁰ Among the 32 investing companies, eleven companies are already fully operating and are acquiring land from the local communities. For this they are engaging in contact with the holders of customary land rights in Merauke by disseminating information regarding their investment plans. These eleven companies are subsidiaries of the four major investment groups: Medco Group, Rajawali Corporation, Korindo and Hardaya Group. These four large companies therefore control 480,000 hectares of land in Merauke.

The local research conducted by the Secretariat for Justice and Peace (SKP) -KAME (Archdiocese of Merauke) together with the Sajogyo Institute between February and April 2012, shows that the land ownership transition from indigenous communities to investors have destroyed food sustainability, threatened livelihood sources of local communities, especially among the Malind community. Furthermore, these large-scale agricultural investment activities will slowly destroy the ecology and the environment in this community's area. The impact of MIFEE on the Malind community shows that the MIFEE program and policy package is not in favour to the Malind people's livelihood and is violating their human and indigenous people's rights.

The Marind-anim tribe's struggle for survival in Merauke

The Marind-anim people have been displaced by the process of development, economic growth and demographic changes that have seen non-Papuans take over their lands. These processes give no regard to the customs and way of life of the Marind-anim, who consider their lands to be their mother. Their lack of access to information about modern land tenure systems has placed them at a disadvantage in their struggle with large agricultural companies that participate in the Merauke Integrated Food and Energy Estate (MIFEE) project. Now they face fear and the loss of their forests, water and land.

When the Indonesian Government launched the MIFEE programme in 2010 of the in the Merauke regency, Papua province, indigenous people's rights activist Leo Deonggat Moyuwend saw the MIFEE programme as a "great plague" that will destroy his tribe. The scale of the MIFEE programme presents an unprecedented threat to the Marind-anim tribe's livelihood and traditional living environment. The use of land and energy resources by the government must take into consideration the environment and indigenous rights, and has to be done with careful planning.

Marind-anim clans are now trying to protect sago, the traditional food of many Papuan indigenous communities, which is harvested from their forest as part of their indigenous culture. The tribe do not know much about the MIFEE project that causes the deforestation of

10 MIFEE Planning documents by Merauke Local Government, 2010. Agricultural Production Center Region (KSPP) were divided into four Clusters, which are KSPP I located in Merauke area of with 90'900 hectares with the main commodities being rice, corn, fish; KSPP II, located in Kumbe, with an area of 214'300 hectares with the main commodities being sugarcane, corn, beans, livestock, and fisheries; KSPP III in Yeinan area consisting of 82'900 hectares of land with the main commodities being corn, beans, sugar cane, fruits, livestock and fisheries, and KSPP IV located in Bian, with an area of 91'700 hectares with the main commodities being nuts, sugarcane, fruit, livestock and fisheries.

large parts of the Marind-anim forest. Many village elders face the arrival of MIFEE without being provided with information or consultation and have to witness how sago, their traditional food, is being eliminated together with the forest they live in.

Mr. Moyuwend together with other activists tried to anticipate the problems local communities would face and created the Papua Solidarity Reject MIFEE (SOLPATOM) movement. Mr. Moyuwend, a graduate from the College of Administrative Sciences Dharma Karya Merauke, became the head of the Bibikem village. He is looking for solutions for the Marind-anim to protect their land, tribal customs and culture.

However, the SOLPATOM movement faces several challenges, as many of their members have gradually been co-opted by various development projects and government activities. Mr. Moyuwend chose to continue to fight in a different way. Since 2011 he started video advocacy with the Papuan Voices project in Merauke. He makes movies, songs and music for film production and helped distributing these movies through road-shows from village to village. Through these movies, he encourages the public to continue to protect their land and traditions.

Already in 1930, the Governor General of the territory of Papua, Sir Murray Hubbert, in his annual report wrote about the expected oncoming destruction of the traditional way of life through the arrival of foreign culture and industry to the Marind-anim area. He already feared for their survival. In 1975, Mrg. Hermanus Tillemans, msc, Archbishop of Merauke, again echoed this fear on his deathbed, stating that the, "Marind people will be strangers in the Marind land and are slowly going to become extinct."

Social psychology includes the "mass disenchantment" concept, which describes the mass disappointment etched on the social consciousness of the Marind-anim. For the Marind, "Matohale" is the loss of social awareness of self, identity and cosmic balance and is used to

describe the future of the Marind-Anim in their own land. Matohale is a form of social apathy born out of loss of life balance.

Visit the Papuan Voices project for video documentaries and more information on the impact of development projects on the Marind-anim: www.papuanvoices.net.

Case examples:

Onggari Village of Malind district, Merauke regency, Papua

At the Onggari Village community, Malind district, Merauke regency, the companies PT. Karya Bumi Papua and PT. Cendrawasih Jaya Mandiri, both sugarcane company subsidiaries of the Rajawali Group, have cut down customary forest and cleared indigenous sacred places. The land is a community-owned marsh area. The deforestation is estimated to have started in 2012. Although the village community is the traditional land owner, it was not consulted, and gave neither agreement nor permission, nor handed over the land to PT. Rajawali in any way. When PT. Rajawali disseminated information about the planned project at the Malind district office in Kaiburse Village in the beginning of 2010, the Onggari community leaders who attended the meeting expressed their refusal to let the company operate in the Onggari area.

According to the testimony of Stephanus Mahuze, an Onggari community leader, some of the community members have conducted surveys at the deforestation locations known as Tuptidek, Kopti and Kandiput, where forests and swamps had already been cut down and cleared. The interviewees responded "These are our places for hunting, fishing, collecting wood and (traditional) medicine. It is the living space for animals and the Malind tribe's ancestors' sacred ground. The company has ravaged the land and we are disappointed with the eviction and demolition of the forest by PT. Rajawali without permission."

4.4 Investments in Bintuni Bay

While multinational company BP and the regional government in Bintuni Bay, West Papua Province, had promised to increase living standards for the local communities, these promises remain largely unfulfilled. Problems in equal access to employment for local people at the planned plant extension, access problems to local fishing grounds and the stark contrast between BP's economic strength and the poverty experienced by local communities have caused serious disappointment.

Indonesia's Master Plan for the Acceleration and Expansion of Indonesia Economic Development, (MP3EI) includes the gas and petrochemical industry in West Papua province. UK-based multinational BP is operating

the Tangguh gas installation on the southern shore of Bintuni Bay in West Papua province. German industrial giant Ferrostal is to build a US\$ 2 billion petrochemical processing plant in Bintuni Bay, using Tangguh gas as

feedstock. An initial agreement for a petrochemical plant by Korean-based LG has already been signed.

Local communities, whose customary lands and resources are being used for such schemes, are struggling to comprehend what is happening to their region and to have their voices heard.

In November 2012, the Indonesian and UK governments signed a US\$12.1 billion deal to expand production at BP's gas extraction and liquefied natural gas (LNG). The expansion of BP Tangguh, which was formally agreed in London, involves building a third 'production train' which is planned to be fully operational by 2018. This will increase the production capacity at the Tangguh plant by 3.8 million tonnes of LNG per annum to a total of 11.4 million tonnes per annum. As part of the deal for this third train, a significant proportion of the gas will go to the domestic market in Indonesia via State electricity company PT. PLN as well as feeding the proposed petrochemical plant. BP is the operator of the Tangguh project and owns a 37.16% stake in it. BP's partners are Japan's MI Berau BV, which holds a 16.3% stake; China's CNOOC Ltd. (13.9%), Japan's Nippon Oil Exploration (Berau) Ltd., (12.23%), Japan's KG Berau/KG Wiriagar (10%), LNG Japan Corporation (7.35%) and Australia-based Talisman (3.06%).

Before the commencement of BP's Tangguh project, local communities had voiced their wishes for an improvement of their living conditions through the project. Promises for this and a development of infrastructure were made. Until now, this had not taken place as expected. The

ongoing prevalence of poor living conditions in the face of the enormous economic power of BP adds to a sense of unfairness.

The expected availability of electricity in the Bintuni Bay regency has not become reality, causing disappointment. While outsiders are getting good jobs under the project, local Papuans only get menial, casual work. Villagers have also seen their access to traditional fishing grounds limited by the Tangguh project.

During a workshop organised by the UK-based NGO Down to Earth in November 2012, community members from the Bintuni Bay were able to confront BP and the local government planning department (Bappeda) with their disappointment and expectations. The workshop ended with recommendations to the regional government for more transparency, openness and a pro-people approach; for the adoption of regional legislation on the distribution of oil and gas revenues; for a review of the recruitment system for local and non-local workers and for the formation of a Regional Information Commission.

The development undertaken so far by BP Tangguh covering education, health and home economics (family-based economic activities) has not fulfilled the promises made. BP Tangguh should therefore immediately step up its community development programme; conduct regular workshops to discuss the impact of the project to local communities; meet with their representatives and share its exploration policies in a transparent way.



SECTION 5

SECURITY FORCES AND INSTITUTIONS IN PAPUA

5 SECURITY FORCES AND INSTITUTIONS IN PAPUA

Now that Indonesia has undergone reforms, the government is expected to apply a civilian approach to Papua. However, the situation has deteriorated sharply in recent years. Almost daily, people are being victimised by security forces. Both the police and military are perpetrators of violence, while the intelligence services apply heavy surveillance measures. Under these circumstances, Papuans have no little to protection from arbitrary violence and live in a climate of fear.

The security approach which hinges on the heavy deployment of military forces in Papua has been shown to be ineffective and lessons learned from other conflict zones in Indonesia have not been applied. The increasing use of anti-terrorism measures will only compound and prolong the use of violence and violation of rights. Reforms to the Penal Code, the Criminal Procedure Code, the Law on Military Tribunals and other laws governing the security forces is necessary. A new bill on National Security and a new law on the state intelligence body allow for arbitrary actions and abuses of power. Papuans are more affected by these than others in Indonesia as a result of the security approach there.

The use of excessive force including torture by police and military in their operations illustrates the levels of brutality that prevail. Most of these operations take place after the exchange of fire between the armed wing of the independence movement TPN-OPM and the military forces, and are carried out in order to track down the small TPN-OPM guerrilla units. In 2012, some military operations also occurred spontaneously, as retaliatory raids, as has been reported twice from Wamena (on June 6 and December 16, 2012). Such military sweeping operations usually fail to track or arrest TPN-OPM members, but have led to the forced displacement of the

local indigenous population, for fear of becoming victims of police and military brutality. Victims are frequently being ill-treated because the security forces suspect them of being a member of the independence movement. The stigma of being a separatist is still commonly used by security forces to justify and legitimise torture and other inhuman degrading treatment. In several cases women, minors and infants have become victims of ill-treatment, underlining the high level of brutality and arbitrariness with which these operations are being carried out.

A number of policies, which are a legacy of the New Order regime before 1998 and which have proven unsuccessful in solving Papua conflict, remain in place. In addition to ignoring the roots of the conflict, the government continues to use the security approach which places the military (TNI) at the front line, with the pretext of fighting separatism in Papua. This fact can be seen by the large-scale deployment of military forces, as well as the range and number of military operations.¹ The issue of security is not the only problem in Papua. The roots of the conflict are complex and include historical, political, economic and culture elements which are intertwined and will not be successfully resolved through an approach that is solely focussed on a military solution.



Image 5-1: Derogatory TNI Banner displayed to the public at an Abepura military base: "May 1st 1963 is a milestone in history when Papua was liberated from stupidity, poverty and backwardness"

¹ More about security policies in Papua, see: Al-Araf, et al, "Sekuritisasi Papua. Implikasi Pendekatan Keamanan terhadap Kondisi HAM di Papua." (Securitization Papua. Implications of the security approach to the condition of human rights in Papua) Jakarta: Imparsial, June 2011.

5.1 Military Reform

The history of the military-security approach to Papua

Before the Act of Free Choice in 1969 and after Papua became part of Indonesia, the Government of Indonesia chose and adopted a security and military approach to ensure State sovereignty and eradicate separatism. The central government launched a number of security operations in Papua. This included Sadar Operation (1956-1967), Barathayudha Operation (1967-1969), Wibawa Operation (1969), Military Operation in Jayawijaya District (1977), Sapu Bersih Operation I and II (1981), Galang Operation I and II (1982), Tumpas Operation (1983-1984) and Sapu Bersih Operation (1985), Military Operation in Mapunduma (1996). In the reform era, a number of military operations were launched as well. This included an operation leading to the Wasior case (2001), the Military Operation in Wamena (2003) and in Puncak Jaya District (2007).²

This approach continues to be used and implemented by the central government in dealing with civil society movements that are critical of the government or with peaceful resistance from groups that have been opposing the integration of Papua into Indonesia from the very beginning.³ This approach remains the same even though the regime itself has undergone a number of changes. This can be seen in the lack of any significant changes to central government policies despite more than 50 years since Papua's integration⁴ into Indonesia, in which security and military approaches are used and justified based on the perception of threats to State security and sovereignty.

While politics changed at the national level, following the fall of the New Order authoritarian regime in 1998, marked by the snowballing process of democracy, the resolution of the Papua conflict remains blocked by a lack of progress to match that seen at the national level. In 2001, the central government led by President Megawati Soekarnoputri granted Special Autonomy (Otsus/Otonomi Khusus) to Papua through Law no 21 of 2001, yet this was not matched by a change of approach

in dealing with problems in Papua.⁵ The continuation of the old approach in dealing with Papua reflects the lack of any political will from the central government to resolve the conflict in Papua politically. Therefore, it is no surprise that there are ongoing humanitarian and human rights tragedies in this region, as is apparent in the number of cases of violence, extra-judicial killings, torture and other violations related elsewhere in this report. The government's commitment to make the special autonomy status a reality remains in question as it has been frequently violated by regional expansion policies in the province of Papua that have been carried out without any consultation with the people of Papua.

The government seems to be ignoring the lessons learned from past conflicts in other regions, which would be helpful in resolving the situation in Papua. These include the conflict in East Timor, which obtained its full independence in 1999 after a referendum. Lessons learned from the Aceh conflict, which was resolved through dialogue, have also not been heeded. The security approach that persists in Papua clearly does not comprise any prospect for conflict resolution. On the contrary, this approach maintains conflict and escalates substantial humanitarian costs, particularly in relation to the violations of human rights in Papua.

The character of the security approach

A security approach emphasises solutions to security issues while neglecting other conflict resolution options and sources of conflict, such economic or political injustice that trigger dissatisfaction at the local level against the central government. The security approach generally places security actors at the centre of the problem and the solution.

Indicators of the security approach in Papua

The presence of security personnel is highly apparent in the daily life of the people in Papua:

2 See Amirudin Al-Rahab, *Heboh Papua, Perang Rahasia, Trauma dan Separatisme*, (Depok: Komunitas Bambu, 2010)

3 Security approach in the beginning of the intergration of Papua for example is apparent in the context of the implementation of the 1969 Act of Free Choice, in which terrors, intimidations, murders and a number of political manipulations conducted by the people in Papua to maintain their independence or remained distant to Indonesia. The success of Indonesia in this Act of Free Choice could not be separated from the results of the operations, especially specail military operation lead by Ali Moertopo. There were a number of military operations launched such as Operasi Sadar, Bhratayudha, Wibawa, and Pemungkas Operations, leading to a number of human rights violations. Agus A. Alua, *Papua Barat dari Pangkuan ke Pangkuan. Suatu Ikhtisar Kronologis*. Cet Kedua. (Jayapura: Biro Penelitian STFT Fajar Timur, 2006), pp. 53-54.

4 On 1 May 1963, the UN Temporary Authority handed over administration of West Papua to Indonesia.

5 In his observation Tebay (2009) conclude that amongst Special Autonomy problems and policy implementation is the failure to improve the welfare of the people in Papua, putting the government as an inconsistent party in implementing such policy. See: Neles Tebay, *Dialog Jakarta-Papua. Sebuah Perspektif Papua*. (Jayapura: SKP Jayapura, 2009).

First, there is a continuous and increasing deployment of personnel both from the military and the police forces from outside Papua (known as non-organic troops), both in terms of numbers of personnel and the frequency of tours of duty of these security personnel. It is difficult to measure the actual number of non-organic troops deployed and currently assigned to Papua, because there is no transparency concerning this on the part of the government. The number of personnel, the objective of their assignments and how they perform their duties are not known to the public, who only witness new deployments taking place. Meanwhile, numerous military posts were set up, territorial commands were increased, vital objects secured – and all of these troop deployments were based on a perception of threat to security.

Second, there is an increase of military or security activities in the area of Papua, from military or security operations aimed at eradicating groups deemed as being separatist groups or aimed at conducting socially-oriented activities. Security operations, as the most common activity in the security approach, take forms ranging from intelligence operations to raids. Socially-oriented activities are also increasing, such as civic missions (TNI Manunggal Masuk Desa/TMMD) in a number of villages, in which military personnel build roads, bridges and other infrastructure projects.

As seen in the New Order Era, even though they were socially-oriented, civic mission programs or TMMD (or ABRI Masuk Desa/AMD as it was called in the past) have become an integral part of this security approach. This establishes dependence by the local people on the military, and enables the military to exert control on all aspects of life of people in Papuan villages. Civic missions in Papua can be seen as just another version of the security approach, wrapped into a socially-appealing package.⁶

Evaluating the security approach

Compared with the more organized Free Aceh Movement, the threat of Papuan separatism (Free Papua Movement) is not significant. The Free Papua Movement does not have substantial armed forces that threaten State sovereignty, and do not have an organizational structure or single command line, but are fractured into small groups. Therefore, the substantial deployment of non-organic personnel into the area is unjustified, if it is solely meant to deal with such insignificant forces, without any intention to secure borders, as those personnel are not assigned to the borders. Such moves are not only cost-ineffective, but they also lead to the potential for human rights violations.

Conflict resolution experiences from other areas in the country and in Papua itself lead to the conclusion that the security approach has been far from successful. This was apparent in the conflicts in Timor Leste and Aceh. Such an approach failed to resolve the problems and instead, it fuelled the conflicts there. As a result, fear instead of security, was rampant.

The case of Aceh, now in its path toward peace through the process of dialogue, should be used as an example of the effectiveness of the dialogue approach as compared with the security approach. Peace is not the result of violence. A similar conclusion should be applied in dealing with conflicts in Papua, which are similar to those seen in Aceh – a vertical conflict between the State and the society rooted in politics and in misguided policies and perpetual injustice. The use of the security approach is not only unable to resolve the type of conflict witnessed in Papua, but increases and extends such a conflict.

Facts show that the use of the security approach in Papua thus far has led to a series of human rights violations. In this context, the people become targets of intimidation and violence by security actors, especially those seen as critical against the policies from Jakarta. Among those cases is the killing of one of the most influential figures in Papua – Theys Hiyo Eluay, the Head of Papua Presidium Council (Presidium Dewan Papua/PDP) – committed by personnel of Special Command Forces (Kopassus) of the Tribuana Task Force.

In addition to the violence perpetrated by the State security forces, the security situation in Papua has been exacerbated by the recent rise of communal conflicts and conflicts associated with electoral politics. These include, for example, inter-ethnic conflicts, conflicts between supporters of different electoral candidates, between indigenous persons and immigrants, and conflicts between workers and corporations.

The National Security Bill

As a part of Indonesia, Papua will be affected by Jakarta's Security Sector Reform. In 2012, Indonesia's House of Representatives has been deliberating on a bill on National Security that could have serious negative repercussions on the country's people.

Over the last decade, the promulgation of a National Security bill has been at the centre of debates concerning democracy, fundamental freedoms and human rights. The recent version of the National Security bill threatens civil liberties. The Bill has many problems substantially and emphasizes securitization and endangers the democratic

⁶ For further examination on the problems of the roles of the military see Budi Susanto S.J and Made Tony Supriatna. *ABRI siasat kebudayaan 1945-1999* (Jogjakarta: Kanisius dan Lembaga Studi Realino, 1995).

consolidation process taking since 1998. 25 problems in this bill were identified, and some of the more important points are presented below.

The bill is not compatible with Article 28 of the Second Amendment of 1945 Constitution on Human Rights and Law No. 39.1999 on Human Rights.

The definition of threats mentions ideologies without providing examples and is open to the abuse of power. However, in other occasions the government has mentioned communism, socialism, liberalism and other examples as being a threat to constitutional principles and it can be expected that the full range of such ideologies may also be invoked with this bill in the future. This bill unnecessarily refers to states of emergency, which is already sufficiently covered in Law No. 53/1950 on State on Emergency under 62 of its articles. However, the bill introduces the term state of national security, which is a further cause for concern.

Besides this, the bill also introduces another state –named as “Civil Order”– as a situation in which the military can intervene. However, the “Civil Order” situation is a normal state of security affairs in which the military should not play an active role. The vague and wide definition of the term threats, such as non-armed threats which are “destroying moral values and the nation’s ethics” allows for too wide a spectrum of interpretations and may easily be misused for politically motivated actions against forms of legitimate civil society activism.

Furthermore the bill puts poverty as a national threat and the terms “et cetera” (dan lain-lain) can be used by government to criminalize practically any activities. The powers the bill gives to the military to address domestic national security go beyond its current mandate. According to the Indonesia Military Law, the task of the military is the defence of the country, while the Police Law stipulates that the task of the police is to handle domestic security issues. Providing the military with wider powers to be involved in a field that has been the area of work of police is of great concern. Furthermore, also at the provincial level the military is given authority by the bill to handle domestic security. According to the criminal justice system in Indonesia, only the police, prosecutors and judges are part of the criminal justice system. However if the bill is passed, then the military will be able to be involved in the criminal justice system based on its provisions. These provisions are therefore potentially harmful to the integrity of the legal system at the provincial level.

The National Security Council has increased authority in determining national security policies, which is reminis-

cent of the New Order’s Operational Command for the Restoration of Security and Order (Komando Operasi Pemulihan Keamanan dan Ketertiban-Kopkamtib), an authoritarian control body from the Suharto era. Regulations on governance at the regional level in articles 28-29 regulating the governing chief at regional levels (governor, regent/mayor) are not necessary because they are already regulated under Law No.32/2004 on Regional Government, especially in Article 32(1). The bill is biased towards securitization since it gives wider powers to the President for the deployment of the TNI in threat situations, such as terrorism. Also this article runs contrary to Article 7(3) the Law No. 34/2004 on the TNI, according to which the deployment of the military by the President should be based on state policies with the support of the Parliament. The article on the National Defense Reserve Component and Support Reserve Component legalizes a militia or an armed civilian group. This allows paramilitary groups and other armed non-state actors to act on behalf of the state in security matters, with the potential for human rights violations and impunity through a lack of direct state accountability that this entails. In terms of the budget, the bill provides the possibility for the TNI to use non-budgeted finances outside of the state budget, whereas the Law on the TNI clearly states that the army’s budget should come from the State’s budget.

The Law on Social Conflict Management

The bill on Social Conflict Management (RUU Penanggulangan Konflik Sosial) was passed by the Parliament on April 11, 2012, and now has been promulgated under Law No. 7/2012. This law was a response to social conflicts such as sectarian violence or clashes related to land grabbing, which have increased drastically in recent years. The Parliament took the initiative to deliberate the law on Social Conflict Management with the Government in 2011.

Since the beginning, civil society organizations disagreed with the Parliament’s initiative because the law gives authority to the head of the regency/provinces to declare an emergency in his/her respective regency/province. According to the Law on State Emergencies, only the President has the authority to declare an emergency in any area in Indonesia. With this law, the Governor and Bupati (Regent) in Papua can directly invite the military to handle social conflicts. It is expected that this will impact considerably on the human rights situation in Papua. Another criticism concerning the bill is that the involvement of the military in handling social conflict is no longer the last resort after the police fails in resolving an issue, as is provided for in other Indonesian regulations.

5.2 Policing in Papua

The military vs. the police approach

The government continues to use a military approach in Papua while that approach should be abandoned in line with the current democratization process in Indonesia. The government must open the way for dialogue to find a comprehensive solution to the problems besetting Papua. The police should be at the frontline of establishing the rule of law rather than having the military take the lead, with the disastrous consequences that can be seen in Papua under the security approach. This shift will lead to a fundamental change in which policing functions will rule instead of military operations. It is important to consider that Papua is not under martial law provisions, so the police should be at the frontline, not the military. With a prioritization of policing functions, the police should hold the primary control over security in Papua. Law No. 2 /2002 on the Indonesian National Police has established that the police should take charge of domestic security affairs, not the military, whose main task it is to take care of external military threats.

While the military continues to play the most important role, the conflict in Papua has involved almost all security actors, ranging from the military, the police, to the intelligence services. While the police did take over security functions in non-TNI areas, the functions of the police in Papua is limited for the most part.

The history of the police's role in Papua

The role of police in Papua during the reform era is not without problems. Various cases of misconduct and abuses of human rights by police officers, such as violence against the local community or the involvement in illegal businesses in Papua illustrate this. The police often still use repressive measures in dealing with socio-political and security issues in Papua. As has been seen elsewhere in this report, the police are the most frequent perpetrators of torture, for example.

There are some examples of gross violence cases in Papua involving police officers in the past, for instance in the case of violence in Abepura in 2000. Several police

officers were indicted in a human rights trial in Makassar, although the judges acquitted the perpetrators in 2005, such as the Police Grand Commissioner Drs. Daud Sihombing and Police Brigadier General Johny Wainal Usman. Another example is the violent dispersal of the Third Papuan People's Congress in October 2011. Beyond these two cases, there are many other individual cases involving police officers conducting torture or arbitrary arrests. While in general, the police should take over many of the internal security affairs currently addressed by the army, the lack of effective oversight and sanctions for police officers allegedly involved in these offenses remains a problem.

Hopes and Expectations towards the police

The Papuan people require and deserve a functioning, effective and fair policing system, which respects the rule of law and human rights, without corruption or discrimination. Replacing the military with such a policing system is imperative, as are efforts to build trust in the police once established in such a role. Two of the best examples of police officers who are still remembered by the people of Papua are the Papua Police Chief in 2000-2003, I Made Mangku Pastika, and Jayapura Police Chief in 2007-2009, Robert Djoenso. Pastika is remembered in Papua for his success in uncovering the murder of Papuan leader Theys Hiyo Eluay, and Djoenso is remembered for his success in embracing the community when he served as Chief of Police in Wamena and Jayapura.

While successes by the new police chief in charge of Papua since 2012 - Police Inspector General Tito Karnavian – in fighting widespread corruption in Papua have been welcomed by the public in Papua, concerns about the ongoing excessive use of force continue causing criticisms that demand further police reform. Government policies that interfere with reform of the police should therefore be abandoned, including the discussion concerning the National Security Bill. Furthermore, the Memorandum of Understanding (MOU) between the military and police relating to military assistance should be regulated in the form of a law.

5.3 The Need for Penal Code and Criminal Procedure Code Reform

Several articles in the Indonesian Penal Code which date back to the country's colonial past continue to be applied in violation of international human rights norms, while violations of human rights are often not sufficiently criminalised under this law. Problems in the Criminal Procedure Code allow for prolonged detention and a lack safeguards concerning the protection of victims' rights.

There have been calls from various civil society groups for the revision of the Penal and Criminal Procedure Codes, and there have also been discussions in Indonesia's Parliament concerning the codes' revision at least since 2005. However, the revisions to the codes have been delayed for years without any certainty about when they will be enacted by parliament. In early 2013, some parliament members stated that they aiming to carry this out before their term of office ends in 2014.⁷

Penal Code

Many arbitrary arrests, detentions and trials of Papuans by the Indonesian law enforcement and judicial systems are based on the allegation that they have violated several provisions under the Penal Code (KUHP), notably Articles 106 and 110 on treason as well as Article 160 on incitement. According to Article 106 of the Code, any individual attempting to 'bring the territory of the state wholly or partially under foreign domination or to separate part thereof' shall be sentenced to life or twenty years imprisonment. Several countries recommended that the Government of Indonesia end the prosecution of Papuan activists under Articles 106 and 110 during the United Nations' Universal Periodic Review session in May 2012.⁸ Those recommendations, however, did not enjoy the support of the Indonesian Government, which claimed that current national laws and regulations provide sufficient protection for human rights activists, despite evidence to the contrary.⁹

The Indonesian Penal Code was written by the Dutch in 1915. As the code was written during the colonial period, many provisions in it were deliberately drafted to preserve the power of the Dutch and to suppress Indonesians at that time. Therefore, unless the Indonesian Government has the intention of suppressing its own citizens, vague provisions that lead to arbitrary prosecution and

punishment of individuals such as Articles 106 and 110 of the Penal Code need to be repealed.

The issue with the current Penal Code is not only that it accommodates articles which are not in compliance with human rights and thus should no longer be used, but also because it does not properly criminalise human rights abuses in accordance with international standards. Despite the ratification of the UN Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment by the Indonesian government in 1998, for example, torture as defined under the Convention, is yet to be classified as a crime under Indonesian law.¹⁰ The rare prosecutions against state officials who have committed torture in Indonesia have been based on articles in the Penal Code - such as Article 351 on physical assault - which do not reflect the gravity of the crime of torture. This article carries only a maximum punishment of two years and eight months imprisonment and does not include several essential elements under the UN CAT's torture definition, including the fact that torture is typically committed by 'state officials' and has 'illicit purposes' components.

In addition to the absence of the criminalisation of torture, the current Penal Code also fails to include fabrication of charges by state officials as a crime. There have been reports on arbitrary arrest and detention of civilians in Papua based on false charges, commonly on the 'crime' of being involved with the pro-independence movement. For example, in a case that took place towards the end of 2012, Frengky Uamang was arrested and interrogated in Kwamki Baru Sub-District Police for providing food to members of the OPM's military wing.¹¹ Frengky was severely tortured by police officers resulting in his being unable to walk. The police released him the next day as they 'found out' that Frengky had no relationship whatsoever with the OPM as had previously

7 Antaranews.com, 'Komisi III akan rampungkan empat RUU', accessed on 27 March 2013, available on <http://www.antaranews.com/berita/364289/komisi-iii-akan-rampungkan-empat-ruu>.

8 Draft report of the Working Group on the Universal Periodic Review on Indonesia, para. 109.32 and 109.33, 25 May 2012, UN Doc. A/HRC/WG.6/13/L.5 (hereinafter 'UPR Report').

9 Report of the Working Group on the Universal Periodic Review on Indonesia, Addendum, para. 6.13, 5 September 2012, UN Doc. A/HRC/21/7/Add.1.

10 According to Article 1 (1) of the UN Convention against Torture, 'torture' should be defined as 'any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity.'

11 See, 'INDONESIA: A Papuan was tortured on the unreasonable allegation of engagement with separatist group', AHRC Urgent Appeal published on 11 December 2012, available on <http://www.humanrights.asia/news/urgent-appeals/AHRC-UAC-201-2012>.



Image 5.3-1: Security forces on May 1, 2012 in Manokwari.

been suspected. This and other relevant case examples are detailed in the section of this report covering torture and other civil and political rights violations.

Criminal Procedure Code

Despite the severe abuse that he experienced, there is no legal mechanism available for Frengky and other Papuans who have undergone false arrest and detention to hold the responsible police officers accountable. They might be able to submit a criminal complaint against them concerning the physical abuse that they were subjected to – although it is unlikely that the police will take up their complaints seriously – but there is no appropriate avenue available to seek justice concerning false arrests and detention, which under Indonesian laws are merely considered to be breaches of procedural codes instead of crimes. Therefore, according to the Criminal Procedure Code (KUHP), victims of false arrest and detention may only seek compensation and rehabilitation from the District Court,¹² but they cannot expect those responsible for such abuses to be punished.

The current text of the Criminal Procedure Code is lacking safeguards to prevent abuses such as the torture that commonly take place during law enforcement. Under the Code, for example, the police may detain a suspect without any supervision from other bodies for twenty days.¹³ The intervention of the prosecutor is only required if the police wish to extend the detention period for a further forty days.¹⁴ In addition to the excessively long period of detention, the Criminal Procedure Code imposes overly burdensome requirements to enable convictions in human rights cases, where the perpetrators hold most of the evidence or knowledge of the abuses, such as in the case of torture. At least two witnesses and another form of evidence are needed¹⁵ to punish state officials engaged in torture, making it extremely difficult to prove that the abuse has taken place as it is not committed openly most of the time. Additionally, the burden of proof in torture cases is also imposed on the victims represented by the prosecutors rather than on the perpetrators.¹⁶

¹² Indonesian Law No. 8 Year 1981 on Criminal Procedure Code, Articles 95-97.

¹³ *Id.*, Art. 24 (1).

¹⁴ *Id.*, Art. 24 (2).

¹⁵ *Id.*, Art. 184 (1) in conjunction with Art. 185 (2).

¹⁶ *Id.*, Art. 66 reads 'A suspect or an accused shall not bear the burden of proof.'

5.4 Reforms Required to the National Intelligence Agency

The Indonesian intelligence agency has a massive presence in Papua and has a controversial effect on the security situation there. Defining its authorities and procedures by law would be an important step to ensure accountability and avoid arbitrariness. However, a bill adopted in 2012 creating the new State Intelligence Law has several shortcomings and allows for abuse of power. A constitutional review of this law by civil society groups was rejected by the Constitutional Court.

Since the independence of Indonesia in 1945, Indonesia had previously never had a law governing the intelligence institution, other than a Presidential Decree. The absence of clear and firm rules concerning the role of the intelligence agency has enabled abuses of power. History has shown how such abuses have occurred, whether by the intelligence agency (BIN) or the misuse of intelligence by other State institutions. Human rights abuses that have been carried out against citizens and had a negative impact on society have not been revealed and to date, the actors from the BIN who carried them out have therefore not been held accountable for their actions.

While the role of the State's intelligence agency is to provide information on matters relating to national security, it is bound by the State's obligations under international human rights law and standards and there must be sufficient oversight and an effective legal framework to ensure that actions by the intelligence agency are in line with domestic and international law, and that those who commit abuses of power and violations of human rights will be held accountable. In such a framework, the intelligence should not perform any kind of abuse or misuse which is related to human rights violations, or provide immunity towards their accountability for any abuse which they have done.

The work of an intelligence agency has an influence on the protection of human rights. While it is important to regulate the mandate of an intelligence agency by law, security is a matter of public concern. Therefore, is the public's right to take part in the determination of how security should be ensured by the State, in order to avoid violations of rights. Concerns voiced by civil society should be acknowledged in the drafting of laws.

However, the House of Representatives and Government passed the controversial Intelligence Law on October 11, 2011, despite criticism from human rights NGOs. The law now places a number of rights at risk, without allowing the necessary level of public scrutiny and input. Several aspects of the law present risks for violations of human rights and the history and institutional culture of the work of intelligence bodies in a post-dictatorial country needs to be addressed through a comprehensive institutional reform process. The law must be revised to bring it in line with human rights laws and standards, notably the following issues:

- The law does not give a precise definition of what kinds of intelligence information and actions are considered to be State secrets while making provisions for the punishment of violations of State secrecy. This lack of clarity in the law creates a dangerous grey area, that can be used to abuse power, cover up human rights violations, and presents a threat to the freedoms of information and of the press.
- The law gives special authority to the intelligence services to carry out interrogations in order to get deeper information. While in cases of foreign threats there is reason for intelligence agencies to conduct interrogations and collect information, in cases where domestic issues are concerned, such as in cases of regular crimes, the police must carry out such investigations. Law enforcement should be police work and not part of the work of an intelligence agency. Therefore, if the government and parliament give authority to the intelligence services to be involved in internal affairs, this harms the criminal justice system and violates the Criminal Procedure Code. During and since the Suharto era the practice of *Ngebon* used, under which the intelligence agency take over dealing with suspects from police, removing them in effect from the criminal justice process and leaving the victims with less protection of rights, which has been seen to result in the use torture as a method to get information or confessions. The law continues to allow this very practice as part of intelligence work.
- The law also gives special authority to the intelligence agency to conduct wiretapping of citizens without the requirement to obtain judicial permission. This runs contrary to the UU KIP (Law on Freedom of the Public Information) and Law on Terrorism, which give the authority to conduct wiretapping to the police investigator, subject to a judge's approval.
- The law does not provide for oversight of the intelligence agency by other public institutions, notably those that deal with human rights, such as the national human rights institution Komnas HAM. Only Parliament can monitor the intelligence services. To strengthen the intelligence services and protect against abuses of power and human rights violations, a multi-layered system of oversight should be established.

- The law did not create a complaint mechanism to record abuses of power and violations of human rights.
- Given the above, there are serious concerns that this law will have a particularly negative impact in Papua, as this is considered as being a conflict area in Indonesia and as there is a massive deployment by the intelligence agency there.

A civil society coalition has brought the above and other concerns about the law to the Constitutional Court. On October 10, 2012, the Constitutional Court rejected the coalition's judicial review petition in its decision No. 7/ PUU-X/2012. While the petition was rejected by the court as were several of the points in it, including the criticism about the lack of procedural requirements for wiretapping, the court did underline the need for limitations to the Intelligence Agency's work.

For example, the court did stress that there is a need for the State's intelligence apparatus to have effective oversight and that the government should therefore pass a Government Regulation to this end, in order to prevent

abuses of power. The court added that there is a separation between the role of the intelligence agencies and the law enforcement system, including the police and Attorney General's Office, and that these roles and powers cannot be transferred. The Court's verdict does therefore also point out that interrogations that are covered by the mandate of the police should not be conducted by the Intelligence Agency.

The judgment considered that the limitations provided by the law would prevent abuses of power by intelligence apparatus. This argument by the court does not take the institutional culture and the wide abuses of power by various state bodies into account. The intelligence agency has been involved in serious violations of human rights. For example, there is evidence that the murder of human rights defender Munir Said Thalib in 2004 took place with involvement by the National Intelligence Agency. Overcoming the abusive practices in Indonesia's state intelligence body does therefore require additional oversight, accountability and limitations of mandate.

5.5 The Pursuit of Justice-Complaint Mechanisms and Access to Legal Aid

The widespread problem of human rights violations in Papua is nurtured by the absence of effective legal remedies available to Papuans. While most of the abuses perpetrated by state officials against Papuans are punishable under the Penal Code, criminal prosecutions of these cases are few and far between. Military tribunals and the police internal PROPAM mechanism lack independence and a policy to end human rights violations. In the absence of effective complaint mechanisms that guarantee the right to an effective remedy, the perpetrators enjoy impunity while victims are frustrated and in some cases radicalised to the point of taking justice into their own hands, resulting in a further escalation of violence.

Impunity in Papua was one of the issues raised by several States during the United Nations Universal Periodic Review of Indonesia's human rights record in May 2012.¹⁷ Indonesian Minister of Foreign Affairs, Mr. Marty Natalegawa, denied that there was a problem of impunity, claiming that 'members of the police and TNI who committed excesses in carrying out their responsibilities to maintain law and order have been held accountable and brought before the relevant courts,'¹⁸ contradicting what is happening in reality.

The ineffectiveness of the current complaint mechanisms is partly caused by the lack of independence in investigations into human rights abuses perpetrated by

state officials. In cases where a human rights abuse was perpetrated by police officers, for instance, the victims can only complain to the police and request that an investigation to take place. Victims can lodge a complaint with the police's monitoring mechanism, known as PROPAM. Yet this mechanism is for administrative matters, and at best would only lead to disciplinary punishments for the responsible police officers.

Victims who wish to submit criminal complaints on human rights abuses they experienced may take report to the criminal unit of the police. Under Indonesian laws it is the exclusive authority of the police to receive complaints on crimes prohibited under the Penal Code.

¹⁷ See, for instance, recommendation from Japan. UPR Report, *supra* note 1, para. 109.25.

¹⁸ *Id.*, para. 102.

This mechanism is problematic in cases where members of the police are responsible for the crime, in at least two senses. Firstly, it discourages the victims from submitting a complaint. Having had their rights violated by members of the police, the victims are unlikely to be interested in further contact with the police. This is either due to trauma or loss of trust. Secondly, the police as an institution tends to be reluctant to investigate its own members. This is illustrated by the absence of criminal investigations by the police into its members so far, despite numerous reports of arbitrary arrests and detentions, fabrication of charges and torture perpetrated by the police against Papuans. In cases where police members have used force –often excessively– against Papuans, the police will quickly make the claim that it was part of their duty and the individuals they targeted were posing a threat. There is no available mechanism under Indonesian law which allows other parties to challenge or review the necessity and proportionality of the police's use of force. Following the murder of Mako Tabuni, for instance, representatives of the Indonesian National Police made a false claim stating that Mako was armed, without the possibility of others to legally question his claim.¹⁹

The lack of an independent mechanism to investigate human rights violations against civilians is also a problem in cases where such abuses are perpetrated by the Indonesian military. Under the Law on Military Tribunals, any crime perpetrated by members of the military is subject to examination by a military tribunal which consists of military judges.²⁰ This provision applies not only for cases that have military characteristics, such as breaches of the military code of conduct or refusal to follow orders, but also those which are prohibited under the Penal Code such as rape and destruction of property. Human rights organisations have repeatedly been calling for the revision of the military tribunal law to allow members of the Indonesian military who have committed crimes to be tried by a civilian court. The Indonesian parliament discussed such a revision to the law a few years ago, but this was discussion was stopped, as other laws such as that on National Security Law were taken up instead as a higher priority.

The absence of independent mechanisms is only part the wider problem of unresponsiveness by state officials concerning allegations on human rights abuses. In April 2012, various human rights organisations in Papua approached several relevant authorities such as the Ministry of Law and Human Rights' local office, following a torture case perpetrated against 42 prisoners and detainees by guards at the Abepura Correctional Facility.²¹ Those who were advocating on behalf of the victims and campaigning in relation to this case complained that it was very difficult to even gain access to the government officials from the institutions mentioned above. The police was equally unresponsive and failed to initiate any criminal investigation into the torture allegations. Those who were responsible for the torture, therefore, went unpunished. The Head of the Correctional Facility, Liberty Sitinjak, was eventually removed from office but no criminal prosecution has been launched against him.²²

The futility of attempting to make use of existing complaint mechanisms to address human rights violations in Papua deepens Papuan's lack of trust in the Indonesian justice system and leads to them taking justice into their own hands. In June 2012, for instance, after learning that two military officers riding a motorcycle at high speed had hit a 10 year old boy, residents of Kampung Honai Lama stabbed the two officers to death, knowing that no legal measures would be taken against them. The stabbing later triggered the anger of other military members who ended up shooting and stabbing civilians and burning their properties.²³ More information on this case and the resulting escalation of violence can be found in the section of this report covering violations of civil and political rights.

Justice remains out of reach for Papuans, not only in instances where they are seeking the prosecution of others, but also in cases where they are being prosecuted. Most of the time, Papuans who are arrested and detained by the police are denied their right to legal counsel, in spite of provisions under the Criminal Procedure Code which guarantee this right. Article 55 of the Code stipulates that every criminal suspect has the right to be assisted by legal counsel of his or her own choosing. Article 56 goes

19 'Polisi sebut Mako Tabuni mau rebut senjata petugas', accessed on 25 March 2013, available on <http://www.merdeka.com/peristiwa/polisi-sebut-mako-tabuni-mau-rebut-senjata-petugas.html>.

20 Indonesian Law No. 31 Year 1997, Art. 9 (1).

21 '41 Narapidana LP Abepura Diduga Disiksa', accessed on 25 March 2013, available on <http://www.tempo.co/read/news/2012/06/06/058408771/41-Narapidana-LP-Abepura-Diduga-Disiksa>.

22 'INDONESIA: Guards torture 20 prisoners at the Abepura Correctional Facility, Papua', AHRC Urgent Appeal published on 22 February 2013, available on <http://www.humanrights.asia/news/urgent-appeals/AHRC-UAC-025-2013>.

23 'INDONESIA: Military members shot civilians and burned their properties in Wamena, West Papua', AHRC Urgent Appeal published on 18 June 2012, <http://www.humanrights.asia/news/urgent-appeals/AHRC-UAC-103-2012>.

further by stipulating that the State is obliged to provide free legal aid to any suspect charged with a crime that carries a maximum punishment of the death penalty or 15 years imprisonment upwards. However, these articles are being ignored in practice. For example, when Yasons Sambom and his friends were arrested in October 2012 on the false allegation of importing or distributing explosive materials,²⁴ they were detained and questioned by the police for 24 hours without having access to legal counsel. Similarly, in the previously mentioned case

of Frengky Uamang, the police did not give him any opportunity to contact his family, let alone legal counsel to assist him.²⁵

In 2011, the Indonesian government and parliament enacted a law on legal aid which reaffirms the State's 'commitment' to enlarge access to justice for indigent individuals who are in conflict with the law.²⁶ However, there has been no significant impact following the enactment of the law on the provision of legal counsel for the Papuans to date.

24 'INDONESIA: Police arbitrarily arrested five Papuan activists and copy documents related to their political activities', AHRC Urgent Appeal published on 18 October 2012, <http://www.humanrights.asia/news/urgent-appeals/AHRC-UAC-185-2012>.

25 'INDONESIA: A Papuan was tortured on the unreasonable allegation of engagement with separatist group', *supra* note 4.

26 Indonesian Law No. 16 Year 2011 on Legal Aid.



SECTION 6

DEVELOPMENT, CIVIL SOCIETY, AND CONFLICT RESOLUTION

6 DEVELOPMENT, CIVIL SOCIETY, AND CONFLICT RESOLUTION

6.1 Jakarta-Papua Dialogue

The Jakarta-Papua Dialogue is a means of building trust between Papuans and the national government and to bring about the vision of Papua Land of Peace. Various religious, academic and political groups in Papua and Jakarta have voiced their support for this initiative, as did the Indonesian President in late 2011. While he declared the dialogue to be a solution for the conflict in Papua, challenges remain in bringing the dialogue about as hard-liners in the government reject it. In the meantime concepts, discussion agendas and indicators for success have been defined in the comprehensive consultation process run by the Papua Peace Network (JDP).

Vision of Papua Land of Peace

Papua Land of Peace (PTD) has been declared as the vision of people living in the Land of the Cendrawasih bird. The *Papua Land of Peace* declaration vision was reiterated in the celebration of 158 years of evangelism in Papua and *Papua Land of Peace* Day, on 5 February 2013, at the Mandala Park, Jayapura, by religious leaders, church leaders, community leaders, the Governor of the Papua Province and the Papuan Police Chief.

The vision of *Papua Land of Peace* (PTD) contains nine core values: (1) justice and truth, (2) participation, (3) sense of security and comfort, (4) harmony/integrity, (5) fellowship and appreciation, (6) recognition and self-esteem, (7) communication and information, (8) welfare, and (9) autonomy.

The *Papua Land of Peace* vision is a mutual future, mutual dream and mutual expectations for all those who live in the Land of Papua. It does not reflect the current social reality, but rather an ideal order which is a cause to fight for, by all interested parties. *Papua Land of Peace* still needs a lot of campaigning because Papua is yet to become a peaceful place due to many problems that have not been addressed comprehensively. The *dialogue* is one of the ways to achieve *Papua the Land of Peace*.

History of the Dialogue

A dialogue between Jakarta and Papua is a dignified way, respecting humanism, democracy, and affirming

the equality of people as citizens.¹ Since mid-2009 until 2011 the Papua Peace Network (JDP) conducted public consultations about the concept of dialogue, disseminated information about it and its urgency, solicited opinions about the problems that impede peace in Papua; and contributed to bringing actors together. After that, the Papua Peace Conference (KPP) was conducted in July 2011 as the concluding measure of a long process that the JDP and the people of Papua had undertaken. The Papua Peace Conference (KPP) established 5 clusters of priority issues: political issues, socio-cultural issues, law and human rights, security, environment and natural resources. The conference also compiled indicators for Papua Land of Peace; and proposed 5 negotiators to represent the people of Papua in the dialogue.

Indigenous Papuans including representatives from traditional (adat) indigenous bodies, women, youths and the Papuan Traditional Council (DAP) have publicly announced that the indicators of peace, the issues that need to be resolved for the sake of peace, as well as the concept of the Jakarta-Papua dialogue, are the best means of finding solutions to various problems. The open approach by Papuans to address the overall problem in Papua based on indicators is commendable by all parties. Indicators, problems, and the concept of the dialogue set in the Peace Conference can now be the new basis for various parties to find a peaceful solution to the conflict. In this conflict the Indonesian government's ideology claims to defend the phrase 'The Unitary State of the Indonesian Republic (NKRI) or death' (*NKRI harga mati*)

¹ Papua Peace Network Coordinator, as quoted in *Kompas* on Thursday, April 4, 2013

while the Papuans fight for an 'Independent Papua or death'. The ideological differences lead to conflict and violence between the Indonesian government and the Papuan people continued since 1963 to this day and have yet to be settled. This prolonged conflict has resulted in a relationship of mutual suspicion and mistrust between Papua and Jakarta.

Developments since 2011

After the Papua Peace Conference, the indicators for Papua Land of Peace have been given greater precision, based on opinions requested of experts who highly familiar with the 5 clusters of problems that were identified earlier. In this process, the dialogue has become a keyword for all parties including the Indonesian Government. President Susilo Bambang Yudhoyono has committed to engage in dialogue with the Papuan people, as he asserted on November 9, 2011. Dr. Farid W. Husain was chosen by the President for the special assignment to establish communication with officials, religious leaders, traditional leaders, youth, organizations or movements, and other stakeholders in a familiar, equal, and dignified atmosphere, in accordance with presidential decree number: R-50/Pres/09/2011 from September 21, 2011.

Furthermore, the Jakarta-Papua dialogue has got wide support from various circles including, forums of religious leaders as well as churches such as the Religious Leaders Consultative Forum (FKPPA)², the Forum for Religious Cooperation (FKUB)³, and the Association of Churches in Papua (PGGP)⁴ which support the dialogue model developed by the Papua Peace Network, JDP. Similarly, the Papuan Parliamentary Caucus supports the dialogue. The Caucus includes members of the Indonesian House of Representatives (DPR-RI) and the Regional Representative Council (DPD) in Jakarta from Papua. However the Caucus argues that the Government has actually not yet formally responded to the proposed dialogue. The Academic Forum for a Peaceful Papua consisting of university

lecturers from all over Indonesia supports the dialogue as do religious circles at the national level such as the Bishops Conference of Indonesia (KWI) and the Communion of Churches in Indonesia (PGI). Both KWI and PGI had issued a statement declaring that the problem in Papua should be resolved through dialogue.

The main challenge for the Jakarta-Papua dialogue comes from "hard-liners" in the national government who reject the dialogue. This group mainly consists of ultra-nationalists and members of the military and the police. There are also "Indonesianists" residing abroad who believe that such a dialogue is not necessary and that the special autonomy for Papua is all that is required.

Outlook

The objectives of the Jakarta-Papua dialogue to build peace, are to: 1) build Papua as a land of peace; 2) resolve ideological conflicts peacefully; 3) prevent violence and building a relationship of trust with each other, through the principles and values of love, freedom, justice, truth, equality, participation, neutrality, openness. This dialogue is to be mediated by a neutral third party, an impartial outsider who is free from any pressure from either party, trusted and agreed upon by both parties. The objectives, principles and values must become the substance in the preparation of a common ground to bring together the various interests of the parties to see and understand the problem in a holistic manner.

Nine groups of stakeholders need to be involved to realize the Papua Land of Peace: 1) indigenous people, 2) all residents of Papua (including community associations), 3) the local government (provincial and district/city), 4) the national government, 5) Indonesian National Army (TNI), 6) the Indonesian National Police, 7) Companies that exploit Papua's natural resources, 8) the National Liberation Army/Free Papua Movement (TPN/OPM), and 9) Papuans who live overseas (PNG, Australia, Netherlands, UK, USA).

- 2 FKPPA: Religious Leaders Consultative Forum, it is a medium of cooperation between religious leaders in Papua, which include Christianity, Catholicism, Islam, Buddhism and Hinduism. The medium itself was founded on the initiative of religious leaders in Papua and financed by its own members.
- 3 FKUB: Forum for Religious Cooperation. It is a forum of cooperation between religious leaders, founded and financed by the government. This medium is similar across Indonesia. In the context of Papua, this forum consists of people who are also members of FKPPA.
- 4 In contrast to the Indonesian Church Association (PGI) at the national level which covers only part of the Protestant churches, PGGP: the Association of Churches in Papua is a cooperation medium which contains 47 churches in Papua at the synod level. This medium includes all the Protestant and the Catholic Churches in Papua. The leadership system in PGGP is collegial and rotating every 2 years in four clusters: the Association of Indonesian Churches in Papua (Including GKI Papua, GPI), The Association of Evangelical Churches in Papua (including the Kingmi and Baptist synods), The Association Pentecostal churches, The Association of Adventist Churches, and the Diocese of Jayapura which represents five dioceses in Papua. In this period Pastor Lipiyus Biniluk, The Chairman of GIDI Synod, serves as the Chairman for the second period at the request of the other 4 chairpersons.

To engage all stakeholders, it is necessary to open a space that allows them to meet, discuss, synchronize the concept of *Papua Land of Peace* through discussions on the indicators, identify the problems that impede peace in Papua so far, discuss realistic and measurable solutions, and bring in contributions of each group. The groups need to be facilitated to discuss *Papua Land of Peace* from the perspectives of economy, environment, socio-political aspects, socio-cultural aspects, legal aspects and human

rights, education, populist economy⁵, macro economy, culture, health, population, public services, and security.

The discussion of each theme should involve experts from universities, the government, and professional groups who are competent in the respective fields they are to be involved in. As resource persons they are to give their contributions in designing solutions to build a collective vision for *Papua Land of Peace*.

6.2 Human rights in Papua and the United Nations' Human Rights Mechanisms

Indonesia has now undergone the United Nations (UN) Human Rights Council's Universal Periodic Review (UPR) twice and the human rights situation in Papua were raised by several States during the second review. While some of the recommendations made by States were accepted, Indonesia refused those that concerned the problem of impunity and the use of a security-based approach rather than more comprehensive strategies in Papua. While Indonesia announced that it would be inviting three UN Special Procedures mandated holders to visit Indonesia, delays in making specific arrangements to allow these visits to take place indicate the government's ongoing reluctance to provide open access to such experts, notable to the mandate on freedom of expression. Indonesia's first periodic review of its human rights obligations under the International Covenant on Civil and Political Rights (ICCPR) by the Human Rights Committee will take place on July 10 and 11, 2013 in Geneva.

Papua and the UPR

In 2012, the human rights situation in Indonesia was reviewed for the second time under the UPR mechanism. The UPR is a unique mechanism of the UN Human Rights Council, in which the implementation of the international human rights obligations and the human rights situations in all UN Member-States are reviewed periodically every four and a half years. At the end of each review, the concerned State will receive a number of recommendations that it then accepts or rejects, with the expectation that it will take credible steps to implement those that it accepts.

The first UPR review took place in 2008. However, the human rights situation in Papua has not significantly improved, as shown by the reports of new cases of human rights violations every year. In the first review, a number UN Member-States had already expressed concerns with regard to the situation in Papua. The

four years between the first and the second review were marked by several grave human rights violations, including the brutal repression by the security forces of peaceful demonstrations in Timika, Sorong, Jayapura, Manokwari and Mimika.⁶ During this period, the Foreign Minister's ordered the closure of the office of the International Committee of the Red Cross (ICRC) in Papua. Access to Papua for foreign human rights defenders and journalists has also been restricted during this period, leading to a lack of sufficient external scrutiny concerning human rights violations. This has been compounded by the killing of local journalists. Despite the governments professed commitment to address the situation in Papua, the indigenous peoples there still feel the brunt of the continued use of the security approach to the conflict in the region. The deployment of Detachment 88, a US-sponsored special anti-terrorism unit, is in contradiction with the political discourse in Jakarta that claims to aim at reducing violence and protecting human rights.

5 Populist economy is based on community economic development based on local potential and the wisdom of the indigenous peoples of Papua, managed in a sustainably way.

6 See Human Rights in Papua 2010/2011, Franciscans International, FBN and AHRC.

At the international level, Indonesia boasted the adoption and implementation of the Special Autonomy Law for Papua No 21/2001. In fact, in July 2010, the Papuan indigenous community has rejected this law through a symbolic act of handing this law back to the Indonesian Government and declaring it a failure due to the lack of effective implementation of its provisions. In addition, Indonesia tried to convince the international community that it had a positive policy on Papua, through the adoption of Presidential Decrees No. 60/2011 and No. 66/2011 on the establishment of the Special Unit for the Acceleration of Development in Papua and West Papua (UP4B), whose effective implementation still needs to be monitored.

In this second review, which took place on May 23, 2012 in Geneva, the situation of human rights in Papua became one of the key human rights issues raised in the debate. In its national report submitted to the UPR Working Group as part of the review process, the Government of Indonesia, which was represented in Geneva by a delegation headed by Minister of Foreign Affairs Mr. Marty Natalegawa, recognised the challenges and constraints in dealing with the human rights situation in Papua.⁷ Indonesia also acknowledged the need to enhance its efforts to fulfil its international human rights obligations in Papua.

The international community, however, is still critical about development in Papua, as reflected in statements made by a number of States during the UPR's interactive dialogue. Of the 70 Member-States which made statements during the review, 12 states (Canada, France, Germany, Italy, Japan, Mexico, New Zealand, Norway, the Republic of Korea, Switzerland, the United Kingdom and Northern Ireland, and the United States of America) expressed concerns with regard to Papua directly or indirectly.⁸ Issues raised included the freedom of expression, the human rights violations committed by the security forces, the problem of impunity, the repression of human rights defenders, and the protection of the rights of indigenous peoples and minorities.

Nine recommendations were made in relation to human rights in Papua, including concerning the security forces' involvement in violations and the need for an end to impunity.⁹ However, Indonesia refused to accept that the problem of impunity in Papua existed. While recommendations pointed to the fact that the security approach is dominant as compared with a welfare-based approach in Papua, the Indonesian Government

responded defensively to these recommendation and denied the prevalence of their security approach.

Another key recommendation was the call for the review of articles 106 and 110 of the Indonesian criminal code on *Makar* (treason or separatism). As part of the government's strategy to restrict the constitutional rights to freedom of expression and peaceful protests for all, these articles are often used against human rights defenders and Papuan indigenous leaders who have voiced views that are critical of the situation in Papua. This is also related to the fact that the access to Papua for foreign journalists is limited while local journalists in Papua continue to face threats, intimidation and even death. The government also rejected this recommendation, and argued that there is a climate of openness supported by press freedom. In reality, Indonesia's rank fell to 139th in 2013 in the World Press Freedom Index. In 2002 it was ranked 57th, and in 2010 it was ranked 117th.¹⁰

Regrettably, Indonesia also rejected the recommendation to respect the human rights of Papuans as indigenous peoples, arguing that due to its demographic composition, Indonesia does not recognise the definition of indigenous peoples as defined by the UN Declaration on the Rights of Indigenous Peoples. This position needs to be looked at critically. Article 18B (2) of the 1945 Indonesian Constitution made a reference to traditional community. During the first quarter of 2013, the Indonesian House of Representatives has been debating the adoption of the Bill on the Recognition and Protection of Indigenous Peoples' Rights (Indonesian: *Rancangan Undang-Undang Pengakuan dan Perlindungan Hak-hak Masyarakat Adat*).¹¹

In total, Indonesia received 180 recommendations, of which 150 were accepted and 30 were rejected. Indonesia has four and a half years to implement those recommendations that it accepted, but has shown that it has typically rejected the most important recommendations, notably as concerns the situation in Papua: among those that were rejected, several recommendations made specific reference to the human rights situation in Papua. Indonesia needs to show its commitment to improving the situation in Papua, including by replacing the security approach with a more comprehensive approach that addresses all problems and prevents further violations of human rights. Ironically, three weeks after the adoption of the UPR recommendations, on 14 June 2012, Mr. Mako Tabuni,

7 See the National Report of Indonesia to the UN Working Group on Universal Periodic Review 2012, Document A/HRC/WG.6/13/IDN/1, IV Challenges and Constraints, para 125.

8 Australia made a recommendation to improve access of the ICRC throughout Indonesia. See A/HRC/21/7 para 109.9, linked to the decision of the Ministry of Foreign Affairs to ask the ICRC to leave Papua in 2009.

9 The recommendations made by New Zealand, Germany and Japan and also indirectly by Switzerland.

10 See <http://en.rsfo.org/press-freedom-index-2013,1054.html>

11 Indonesia has adopted several policies that recognise the rights of indigenous peoples such as Law UU No. 27/2007 on Coastal area and small islands, Law No. 32/2009 on Environmental Protection and Management

a leader of West Papua National Committee (KNPB) was shot dead in Papua by the Special Forces. There is a strong need to find human rights-based solutions for Papua. The inclusive dialogue between the Government of Indonesia and Papuans, which would involve all stakeholders, should take place without delay. This will serve as the first step towards a sustainable solution that is acceptable to the indigenous community.

United Nations Special Procedures

During the UPR Session in May 2012, the Government of Indonesia extended an invitation to three UN Special Rapporteurs to visit Indonesia in the course of 2012 to 2013. They are the Special Rapporteurs on the freedom of expression, the right to adequate housing and the right to health. There has been discussion between the Special Rapporteurs and the Indonesian Government; however, there is no agreed date for any of the visits. Given the urgent situation in the provinces of Papua, civil society groups are urging the three Rapporteurs to make visits to Papua a key part of their working agendas.

The Special Rapporteur on Freedom of Expression should pay particular attention to the situation in Papua. Papuans have been continuously denied the full enjoyment of the right to freedom of expression and serious violations of the freedom of the press were reported in 2011 and 2012. More information on these and other cases are detailed in section 2.1. of this report. In addition, the freedoms of expression and assembly are being suppressed through the violent repression of demonstrations, with many peaceful demonstrations having been met with a heavy-handed response by the State. Approximately 300 peaceful participants in the 3rd Papuan Congress were arbitrarily arrested by the Indonesian security forces on 19 October 2011 in Jayapura, Papua Province. Most of them were released the following day, but five have been charged for "rebellion" and "incitement" under articles 106, 110 and 160 of the Criminal Code.¹²

With 7527 reported cases of AIDS in the third quarter of 2012, according to the Indonesian Ministry of Health, Papua ranks as the province with the highest AIDS rate in Indonesia.¹³ Given that actual numbers are higher than recorded ones and the population in Papua is smaller than that of most other provinces, the situation appears to be acute and very serious. More information on the situation of the right to health in Papua is detailed in section 3.1 of this report. During the visit to Indonesia,

the Special Rapporteur on the right to health should pay special attention to the case of Papua, especially the issue of HIV/AIDS.

UN Human Rights Committee

The UN Human Rights Committee is scheduled to examine Indonesia for the first time in July 2013. The Government of Indonesia ratified the International Covenant on Civil and Political Rights (ICCPR) in 2005 and submitted its first periodic report in 2012. In this State report, the Government of Indonesia made references to Papua with regard to its decentralization policy and the adoption of regional autonomy in three provinces, Papua, West Papua and Aceh. According to the government, the aim of this autonomy is to respond to public demands for regulations to ensure development taking into account economic, social and cultural issues. Indonesia also recognised the challenges in the implementation of regional autonomy, especially in Papua province.¹⁴ Despite many other challenges to the implementation of the ICCPR in Papua, no other reference is made to Papua in the State report.

In responding to this state report, the Human Rights Committee issued a list of 32 questions to the government to the review in July 2013. Among the questions, three were related to Papua, notably a question on the excessive use of force during protests on October 19, 2011, in Jayapura, and during the 3rd Papuan Congress, which the Committee considered is the violation of the right to life (article 6 of the ICCPR). Another question relates to articles 7, 9, 10 and 14 of the ICCR on the prohibition of torture and cruel, inhuman or degrading treatment; liberty and security of persons; treatment of persons deprived of their liberty; independence of the judiciary and fair trials. The Committee asked Indonesia to "provide information on the steps taken to grant access to prisons and detention facilities by independent monitoring bodies following the refusal by the government in 2009 to grant access to the International Committee of the Red Cross (ICRC) to inspect prisons and detention facilities..." and to "respond to allegations that the State party requested the ICRC to close its field offices in Aceh and Papua provinces".¹⁵ A further question related to freedom of expression (article 9 of the ICCPR) in which the Committee asked the Government of Indonesia about the measures that have been taken to guarantee the freedom of expression in West Papua. Civilians who attempt to exercise their rights to express their Papuan identity and political opinions are

12 Komisi Nasional Hak Asasi Manusia: Laporan Sementara Hasil Pemantauan dan Penyelidikan Peristiwa Kongres Rakyat Papua III, Jakarta 02.11.2011 (*National Human Rights Commission: Monitoring and Investigation Interim Report on the 3rd Papuan Peoples' Congress, Jakarta 02.11.2011*)

13 See <http://www.depkes.go.id/en/index.php/news/press-release/797-hiv-aids-progress-in-indonesia-on-the-3rd-quarterly-in-2012.html>

14 See the Indonesian Initial State Report, CCPR/C/IDN/1, paras 12 – 16.

15 See the issues to be taken up in connection with the consideration of the Initial Report of Indonesia (CCPR/C/IDN/1) to be found in <http://www.ccrpcentre.org/wp-content/uploads/2013/04/CCPR-C-IDN-Q-1.pdf>

met with stigmatisation as separatists and face criminal punishment. Treason (*Makar*) remains as a violation in the Penal Code and is a criminal offence punishable by law, which originates in the colonial period and continues to be applied arbitrarily and abusively.

The review of Indonesia's obligations under the ICCPR in July is expected to result in strong recommendations on

Papua. The Committee should remind the Government of Indonesia to comply with its international human rights obligations under the ICCPR where these are lacking and make strong recommendations in particular on the right to self determination, the right to life, the issue of torture, the right to fair trial, as well as the rights to the freedoms of opinion and expression, assembly and association.

6.3 Unbalanced Power and Civil Society Participation

Context

2012 has been a year of increasing conflict in Papua. Almost all aspects of daily life in the region have been affected by conflict, which takes on many forms. Shootings and killings are being carried out by "unknown actors," especially culminating in a devastating spree of killings between May and June 2012 in and around Jayapura. The victims of these shootings come from all sectors of society –Papuan as well as non-Papuan – apparently very much at random. A large number of cases of violence which have often not been fully documented or occurred between civilians indicate the level of violence that persists in Papua. Examples for such incidents are as follows.

Shootings and killings by "unknown actors" also occurred around locations of the mining company Freeport near Timika are most likely related to conflicts between persons or actors working for companies in relation to their business interests, including between different sections of the police or military reportedly working for these. Clashes between tribal groups increased, once again around Timika. Conflicts have also erupted related to local election campaigns, such as in the Regency Puncak where 67 people were killed and 600 injured. Shootings and killings also occurred in the Regency Puncak Jaya, including the shooting at a small aircraft April 8, 2012 when it landed in Mulia and the most recent killing of seven members of the military and four civilians at Sinak and Tinggimambut in February 2013. The Puncak Jaya regency has become for the scene of almost continuous clashes between the security forces and local resistance groups (OPM) over the years. Intensified security sweeps have been taking place in the Paniai Regency, starting off with a crackdown by the security forces on the OPM headquarters in Madi in Dec 2011. The security forces have been carrying out heavy-handed actions across the whole region, including local sweeping operations in February 2013, in which confiscations of mobile phones took place when they were found to have Papuan songs or independence symbols on them. Thousands of people

have been fleeing their homes to look for safer places where operations by security forces wouldn't harm them. A village head was shot and killed in Sawiyatami, Regency Keerom on July 1, 2012.

Executions like the killing of Mako Tabuni on June 14, 2012 started off a campaign of criminalization of the West Papua National Committee (KNPB), a civil society mass movement demanding a referendum. Within that process, the main figures of KNPB have been chased, arrested or even killed. Examples for such cases are detailed in section 2 of this report. These actions by security forces took place largely during the second part of 2012 and have been felt all over Papua with incidents affecting Jayapura, Wamena, Merauke, Sorong, Timika, Fakfak and Manokwari.

The incidents mentioned above are just a small illustration of the variety of forms of violence taking place over the last year. It should be noted that hardly any of these incidents have been investigated properly and the perpetrators have not been identified, hence the public has to be satisfied with the claim that "unknown actors" are responsible. The convenient argument accusing the Papua Freedom Organisation (OPM) of being behind the incidents is often made, but these accusations typically lack proof.

Another form of violence can be seen in the continuous pressure on indigenous communities to release their lands for mega-projects, such as the Merauke Integrated Food and Energy Estate (MIFEE). Such projects can also take the form of initiated palm oil plantations, such as in the Keerom Regency, the Mimika Regency and other places in Papua. Violence occurs as part of horizontal conflicts¹⁶ such as in the gold mining area of Deguewo. Indigenous owners of land are denied their rights while outsiders take charge of the land's economic activities and enjoy its profits. At the same time, support is given to the 'newcomers' from members of the security forces and other representatives of official authorities in the Regency. Large investment projects are often initiated and pushed

16 Horizontal conflicts are those that do not involve state actors, such as conflicts between clans or companies.

through without following legal procedures, robbing the local communities of their land and resulting in a loss of food security. There is no sign that the government will change to more people-centred development policies that promote the rights of indigenous peoples in Papua. As long as this reality prevails, protests by local indigenous communities, who are fighting for their rights and livelihood, will continue resulting in a prolongation of the conflict and violence.

Four conclusions on “who is doing what”

Within this setting of violations of basic human rights, if we ask “who is doing what?” we can conclude that there is: [A] an increased unbalanced presence/authority of the security forces compared with the civil administration/government, illustrating the undeniable use of a security approach in Papua; [B] a continuous national trend to perceive the main problem in Papua as being an economic one, leading to new steps like the presence of the Special Unit for the Acceleration of Development in Papua and West Papua (UP4B); [C] a weakened contribution by civil society, including a confusing role by the religious leaders, especially the churches; and [D] a community living in fear and confusion, decreasing its participation and allowing conflicts to emerge easily.

A. An increasing unbalanced presence of security forces compared with the civil administration/government

The presence of the security forces is obvious in Papua. Not just because of its active deployments but also due to its involvement in the construction of new buildings and facilities. For example, in 2012 a new military command Kodim 1714 was opened in Mulia (Regency Puncak Jaya), and military facilities in the Merauke Regency have been expanded significantly, while the construction of a brand new important navy-base in Sorong has been initiated. Apart from facilities, the number of security forces

present in Papua has increased, although figures are not easily available concerning these numbers. Extra troops are on occasion brought in to carry out certain actions, such as the crackdown on the OPM-base in Madi, Paniai Regency (Dec 2011), and to pursue armed independence fighters responsible for the killing of seven members of the military and four civilians in Sinak, Tinggimambut in February 2013. Besides this, the voice of the security commanders of the military and police are frequently quoted and taken as a ‘lead-voice’ in all kinds of daily matters, showing how these forces are dominant in every day life. (More details on the security approach in Papua can be found in section 5.1. of this report.)

This unbalanced “authority” enjoyed by the security forces reflects the lack of a sustainable local government policy. Papua Province has been without a governor for all of 2012, while elections have been delayed allude to myriad internal bureaucratic problems. The same absence of a civilian Regency-head has been affecting various Regencies, while energy has been spent on internal ‘election campaigns’ often confronting two or more local candidates. The effective presence of a civil administration directing policies and their implementation has been replaced by “project activities.” This rather incidental and non-structural approach is visible through “humanitarian aid programs,” such as the provision of rice to poor people, promises of free health services, the provision of education without school fees, and the provision of funding for peace-building measures such as the reconciliation programme in the Puncak Regency.

From reports on developments in the various regencies we can conclude that the quality and availability of health and education services are far from satisfactory and do not meet Papuans’ needs. Despite the negative consequences created by a lack of civil administration policies, the central government appears to be allowing this situation to continue, including the dominance by the security forces.



Image 6.3-1: While Non-Papuans are running shops, Papuan women often have no other option for income than selling vegetables at the market, photo: Reckinger

B. The perception that the main problem in Papua is an economic one

In response to the problems in Papua, the central government claims that the main problem is economic. This claim has been backed by an evaluation of the Special Autonomy Law (OTSUS) in December 2011 which concluded that the 'main problem is economic'. However this evaluation has been seriously questioned by observers, as it didn't involve the 'legal parties' – the Papuan People's Representative Council (DPRP) and the Papuan People's Council (MRP). According to the Special Autonomy Law, Ch XXIV, Art 77, these bodies should be the key-players in the evaluation. Based on this conclusion, the Special Unit for the Acceleration of Development in Papua and West Papua (UP4B) has been given room to start working. According to its initial mandate, UP4B should give full attention to not just economic matters but also to the "social cultural and political aspects and their development," including the promotion of the Papua-Jakarta dialogue. However, in practice, the attention for the social and political aspects has not materialised in the course of 2012. The role of UP4B is increasingly being questioned, including in relation to its involvement in the road construction mega-project that will link the southwest coast to the highlands that will be carried out by the Indonesian military. This US\$ 154 million project will be implemented under the supervision of UP4B and will involve about 1000 military personnel.¹⁷

The dominant presence and impact of the security forces have been regularly questioned and requests by various actors including the Bishop of Jayapura¹⁸ to have this presence reduced significantly are not being responded to. On the other hand, by labelling the protesting activists in Papua as terrorists, new room has been created for the security forces to act and to involve units such as the Densus 88. This policy was put in place during the last months of 2012 and enjoys the full support of the central government.

One of the greatest challenges for Papua is the multitude of power bases that are in place, which engender a situation in which abuses of power are commonplace. The heavy presence of the military locally and regionally, large capital business interests, decreasing regional and local governance, activities by Jakarta connected and controlled units such as UP4B, and "disinterested or permissive" national politics together form a very complex situation. The imbalance of power between the public administration and security forces is not only confusing for the public but is also perceived as being threatening.



Image 6.3-2: Papuan community in the highlands, photo: Reckinger

C. A weakened contribution by civil society

Various civil society actors are concerned about developments in Papua. Formal representative bodies like the Papuan People's Council (MRP) occasionally do speak up, but mainly in a reactive rather than an anticipatory, pre-emptive way. Structural legislation has not been produced to stop destructive developments, such as the devastation of the environment (including the loss of forests), the very significant and uncontrolled inflation of daily needs costs, the rapidly increasing demographic changes that will be marginalizing indigenous communities over the 15 years to come, or the need for people-centred development policies.

The Papuan People's Representative Council (DPRP) has had only limited effect in influencing policies and in 2012 it spent too much time on 'side-issues' like getting involved in organising the election of the governor, taking over this task from the official election commission (KPU). This act has been deemed illegal by the Constitutional Court. The Papuan People's Council (MRP) which in principle should

¹⁷ Jakarta Post, 26 March 2013. See also comments by West Papua Advocacy Team (WPAT) in its report on Papua, April 2013.

¹⁸ In his interview on 18 November 2012, published in Jakarta Globe

be a key player within the implementation of the Special Autonomy Law (OTSUS) has become a rather ceremonial institution, stripped of its political power through various interventions by the Minister for Domestic Affairs during the election and inauguration of new members. In 2012, the MRP has not played any important role, and seems to have internally agreed to be just a harmless cultural institution.

The representatives of the various religious denominations also have a significant role to play, especially church leaders. Some new hope was produced when three church leaders were received by the President and were given a chance to inform him about the problems in Papua on December 16, 2011. They drew attention to the militarization in Papua, the related increase in violence, as well as to the need to assess the problems in Papua more comprehensively as a political problem, rather than just as an economic problem. They also voiced the opinion that the mandate of the UP4B should be reconsidered. The President welcomed the meeting as being very important and eye-opening, and invited the church leaders for a follow-up meeting that finally took place on February 1, 2012. During that meeting the main topic discussed was the need for a dialogue as initially conceptualised by the Papua Peace Network (JDP). Although the President fully agreed with the need for this dialogue during the meeting, over the months that followed there hasn't been any clear follow-up. Also no follow-up has been apparent from the churches, exposing a lack of planning on their part and a lack of consistency in policy and possible internal divisions that are preventing the churches from acting together with a united voice. Instead of joint advocacy, raising important issues, notably as concerns questions relating to human dignity, has become the privilege of just a few individual church leaders, weakening the role of the religious leaders and their impact on outcomes. The failure to speak out by the churches has led to some alienation of the churches with activists and community members, who look to church leaders for direction within the current complex and threatening situation.

Other civil society organisations like human rights NGOs try to play their role as well by drawing attention to incidents as well as structural violations of human rights, but it has to be admitted that they are generally weakened by a lack of sufficient and qualified staff. The lack of funding for such activities has become a real problem, and offers from other institutions to employ senior NGO-staff have weakened the possible role of the NGOs, in particular human rights NGOs. Human rights NGOs have struggled to act together and join forces effectively. Even when joining forces the planning and consistency in following up a case has proven to be weak.¹⁹

The Papua Peace Network (JDP) has continued in its role in pushing for an open dialogue between Papua and the government of Indonesia. Some NGOs, such as the Alliance for Democracy in Papua (ALDP) actively support this attempt to find a solution. Activities mainly consist of awareness-raising about the need for this dialogue, exploring larger support including from the non-Papuan community. All the civil society actors mentioned above support the idea of a dialogue as the only way to reach a solution in Papua. The JDP is still a very useful platform for any organisation that strives for a peaceful solution in Papua. Other voices such as the West Papua National Committee (KNPB) advocate for a referendum. However, they support the activities of the JDP, while OPM factions show varying degrees of willingness to get involved in a peaceful solution via the dialogue.

D. A community living in fear and confusion

In around mid-2012, a lot of streets in Jayapura and surroundings were empty after 19.00 in the evening. Fatal incidents that took place over the months of May and June 2012 (14 shooting incidents) created a climate of insecurity. Expressions of fear and reluctance to travel after dark are clear indicators of the level of fear. In no case of shootings were the perpetrators identified and held accountable. This collective fear is also the main issue when listening to members of communities living inland in areas where military sweeping operations have been taking place, especially in the highland Regencies. In mid-2012, church people in Paniai Regency reported on the presence of 10'000 internally displaced persons (IDPs). In this context, it is not surprising that many normal social activities came to a halt or diminished significantly.

In addition to violence, fear has been created for indigenous communities who face powerful investors who claim that they have permission to cultivate thousands of hectares of land owned by these communities. For centuries, the indigenous communities have been securing their own food from these lands. At present, however, big investments that are part of the national development programme, means they have no guarantee concerning food security or their ability to provide for their children and make sure that their family will continue to exist, as their main basis for existence, their land, is being lost to them and owned by others. These developments are a serious challenge to the indigenous way of life in Papua. Indigenous communities often feel manipulated and powerless to turn the developments to their advantage. These profit-oriented commercial economic developments are undermining people's welfare, but are being pushed for by the central and regional government even though they prove to be

¹⁹ cfr. the attachment on activities in 2012-2013 by the HR Coalition based in Jayapura

disastrous for the very future of the local communities and probably will damage the nation as a whole as well.

Another aspect of the complexity created by the current policies is the increase in corruption, manipulation of power, loss of traditional values, and the tendency to 'wait for help' or begging for support. The current strong project-mentality that affects the administration's dynamics in 'caring for the people' has led to people getting used to hand-outs. This leads to a loss of the traditional appreciation for hard work and personal achievement. It

seriously reduces the society's participation in ensuring its own welfare. This trend, combined with the availability of money and new recreational activities generates a significant increase of involvement in activities like gambling and prostitution, which is threatening the indigenous traditional community. HIV-AIDS figures in these new developing regencies are alarming.

To conclude, Papua now has a society that lives in fear, feels powerless in coping with new challenges and lacks leadership that Papuans can trust.

6.4 Failed Special Autonomy

After twelve years of Special Autonomy, Papuans have not seen the issues the law is supposed to address resolved. Poverty and violence continue, while the provincial political bodies established by the law have failed to act. Whether Jakarta's new Special Autonomy Plus approach is able to succeed depends on whether this concept is designed in a participatory way with the Papuan people, such as through the dialogue process.

The provisions of Indonesian national Law Number 21/2001 on Special Autonomy for Papua are intended to bring about justice, uphold the rule of law and respect for human rights, accelerate economic development, and improve welfare for the people of Papua. But until now, the Special Autonomy still faces problems.

Implementation problems of the autonomy law

(1) The reasons why the Papua Special Autonomy is ineffective are as follow: there are overlapping regulations passed by the national government, regulations of the provincial government (Perdasi), and special autonomy regulations (Perdasus). The lack of a significant number of institutions or the lack of their activity in Papua as mandated by the Special Autonomy Law contributes to the problem. These include the human rights court, the Truth and Reconciliation Commission, the Ad Hoc Judicial Commission, and the customary justice system. Examples of their failure include unresolved cases of serious human rights violations, such as in the cases of Wamena (2003) and Wasior (2001).

(2) Law enforcement relating to corruption cases is still political in nature. (3) Acts of violence and shootings of civilians continue. (4) Activists making use of their freedom of expression are often arrested by the authorities, and thereafter indicted as separatists under Penal Code articles on treason and sedition. (5) The regional expansion plan²⁰ is still based on political

interests, not on public interests. (6) Management and health education for Papua's indigenous people have not been sufficiently prioritised in terms of budget planning, human resource development, and the provision of facilities and infrastructure. (7) The amount allocated in the development budget for the provinces of Papua and West Papua are not sufficient to improve the human development index there.

Special Autonomy is a means through which the national government and Papuans could overcome the political conflict. However, it is being used to try to muffle complaints regarding development and demands for independence, which are constantly being voiced by Papuans. There is an expectation that through Papuan Special Autonomy, there will be hope to build a future for Papua within the framework of the Unitary State of Indonesia (NKRI). Special Autonomy is also supposed to serve as a means of conflict resolution between the parties. However it has not played this conflict resolution role until now.

There is also an added issue regarding the lack of civil authority in Papua. In general the Papuan elite do not dare raise human rights issues, as they do not want to become labelled as being separatists. The fear of stigmatisation as a 'separatist' stigma is having an impact on the effectiveness of the public administration in Papua. There is also a lack of understanding about the internal rules and decision-making mechanisms within government institutions, leading to ineffective institutions

20 This includes the expansion of districts and the support for provincial administration from the central government



Image 6.4 – 1: After 12 years of Special Autonomy, poverty continues to affect the majority of Papuans, photo: Reckinger

in the region. Furthermore, there is a lack of support and co-ordination between the Governor's Office, the Papuan People's Council (MRP) and the Papuan People's Representative Council (DPRP). The administration operates without a clear policy direction. These three institutions' understanding of Special Autonomy is still stuck in the context of funding issues and community-development orientation regarding economy, health, and education, whereas the Special Autonomy should also focus on the issue of human rights.²¹

Failure of Special Autonomy

Special Autonomy in Papua is considered to have failed to address the problems in Papua, and so the law itself is considered to have failed. Poverty, a low human development index (HDI), human rights violations and violence persist. Adriana Elisabeth, a member of the team for Papuan Studies at the Indonesian Institute of Sciences (LIPI), concluded that special autonomy has failed in terms of indicators of violence in Papua.²² A similar message was also conveyed by the Chairman of Commission A of the Papuan People's Representative Council (DPRP), Ruben Magay. Commission A is in charge of government and administration, law and human rights, including the issues of Special Autonomy.²³ It is true that during the twelve years of the Special Autonomy in Papua, a region which now includes the two provinces of Papua and West Papua, there has been increasingly rapid development. However, this development is only in terms of construction and infrastructure, but has not involved indigenous people sufficiently as its main actors.

Jakarta's new approach: Special Autonomy Plus

President Susilo Bambang Yudhoyono (SBY) has announced a new policy called "Special Autonomy Plus" for the people of Papua to be produced in August 2013, when he met Governor Luke Enembe on April 30, 2013.²⁴ Both the content of the *Special Autonomy Plus* policy and the ground on which it is granted remain unclear. It may well be just another sugar-coated political manoeuvre to evade tackling the roots of conflict over the last 50 years. President SBY needs to learn from the failure of special autonomy after 12 years. Special Autonomy has failed from its inception because it did not involve pro-independence Papuans, both those who were in the

21 Quoted from FOKER Papua NGO Annual Report, Program Implementation and Evaluation of the year 2012, page 10

22 SINDO NEWS.COM: Book launch: 11 Years of Special Autonomy in Papua Has Failed, <http://nasional.sindonews.com/read/2012/12/18/14/698543/11-tahun-otonomi-khusus-di-papua-gagal>. Tuesday, 18 December 2012 — 11:23 WIB

23 The House of Representatives Declined Special Autonomy Exhibition Plan in Jakarta; Interview with Metrotv News <http://www.metrotvnews.com/metronews/read/2013/03/19/6/139513/Dewan-Tolak-Rencana-Pameran-Otsus-Papua-di-Jakarta>, Tuesday, 19 March 2013;

24 Source: Merdeka.com; <http://www.merdeka.com/foto/peristiwa/sby-terima-gubernur-papua-di-kantor-presiden.html>

country and those who were living abroad, and who are in conflict with the Indonesian Government. Special Autonomy has failed because both sides do not have an ownership stake in the Special Autonomy.

The target to produce the *Special Autonomy Plus* policy is August 2013, which falls before the end of President Susilo Bambang Yudhoyono's administration. Whether this unilateral decision-making would be able to build trust between the Papuan people and the national government is highly questionable. Time and again,

the exclusion of the people of Papua from the decision-making process that determines the direction of development, as well as the government's inconsistency in its approach to solving the problem of human rights violations, has undermined efforts to address problems in Papua. Issues in Papua will only be resolved through a participatory dialogue including all stakeholders in a trust-building exercise between Papuans and the national government. Without this, it is feared that peace will continue to elude the region.

6.5 UP4B and Jakarta's Development Approach

The national government's plan for the acceleration of development in the Papuan provinces sets ambitious indicators including in the fields of human rights for the four year period between 2010 and 2014, in which the Special Unit for the Acceleration of Development in Papua and West Papua (UP4B) was mandated to work. However, ongoing violence and massive problems in the areas of health and education indicate a failure of this attempt to date. While the UP4B tries to address the important field of social development with human development indicators that do indeed require attention, the lack of provisions for the participation of indigenous Papuans in the design and work of this unit limits its ability to benefit Papuans in practice. Despite the availability of research on the core aspects of the complex problem in Papua, the development approach by Jakarta neglects key components that would enable a comprehensive approach, and the security forces continue to be the main beneficiaries of UP4B.

The Special Unit for the Acceleration of Development in Papua and West is an ad hoc policy, which is responsive and reactive in nature. It is an emergency response policy, addressing the "social disaster". It involves thirty-nine ministries and agencies, which are to coordinate and work together on Papuan issues. The UP4B has a mandate until 2014. To that end, the central government provided unforeseen development funds in 2012 and 2013 as stated by the Chairman of UP4B, Mr. Bambang Darmono. In the State Budget the allocation of funds for West Papua province and Papua province amount to IDR 11 trillion and IDR 28 trillion respectively in 2012 and IDR 14 trillion and IDR 33 trillion respectively for 2013.

The UP4B program is supposed to accelerate the development of basic education and health services in isolated areas covering 18 districts in Papua and three districts in West Papua. This is implemented through the Front Line Education and Health Care Services programme. Serious shortcomings in implementation of development, education, healthcare and economic empowerment have been known for several years.

For example, an evaluation in 2012 by the NGO Foker²⁵ has detailed problems in these sectors. These include

the lack of sufficient medicine and doctors in hospitals, as well as insufficient numbers of teachers in schools. A similar conclusion was drawn by the Indonesian Institute of Social Sciences (LIPI) in its Papua Road Map from 2009.²⁶ According to LIPI there are four major problems in Papua: 1. the ongoing marginalization of and discrimination against indigenous people; 2. the failure of development approaches and paradigms; 3. ongoing State violence and human rights abuses; and 4. the history and the political status of Papua. LIPI has suggested several solutions, including the empowerment of indigenous people as part of their recognition; the formulation of a new development paradigm for Papua by adopting approaches acknowledging the characteristics of local and indigenous Papuans; a human rights court; as well as the thematisation of the history and the political status through a dialogue. While the Institute's recommendations in this road map present a comprehensive approach, the central government has not made use of the conclusions of this research in developing its policy towards Papua.

The experience of various policy approaches to Papua has shown that shortsighted development programmes that do not address the problem comprehensively create new problems because they do not involve all stakeholders,

25 FOKER Papua (NGO), Results of evaluation of development in Papua and West Papua in 2001-2012 associated with special autonomy

26 Papua Road Map, 2009, Indonesian Institute of Social Sciences (LIPI)

in particular indigenous Papuans, in decision-making. Moreover, until now there remains distrust between the central government and the people of Papua. The IDR 38 trillion that has reached Papua between 2001 and 2013 under the Special Autonomy Law has not been able to resolve the problem. The Papuan people have clearly declared that Special Autonomy has failed as is detailed in section 6.4. of this report. The national government has formed UP4B in response to this failure of Special Autonomy.

President Yudhyono has admitted a lack of coordination and harmonization at the level of the national government's activities in solving the problems by describing them as very complex. The ad-hoc response to this was the issuing of Presidential Decree No. 65/2011 on the Acceleration of Development in Papua and West Papua (P4B) and Presidential Decree No. 66/2011 on the Unit for the Acceleration of Development in Papua and West Papua (UP4B). Their task is: "to provide support to the President of the Republic Indonesia in coordination, synchronization, control, and evaluate the facilitation and implementation of programmes to accelerate development in Papua and West Papua." The ad-hoc and reactive approach mentioned above shows that both the national and the local government have no grand design for development in Papua. Different parts of the national government do not share the same perspective on conflict resolution.

Human Development

Naming the approach as an "*Emergency Response for Social Disaster*"²⁷ shows an assumption by the government that the problem is merely to be understood from the aspect of social indicators in Papua, such as the Human Development Index. West Papua is ranked 29 of 33 provinces in Indonesia, while Papua Province ranks bottom, as it had the highest poverty rate nationally in 2012.²⁸ While Human Development Indicators paint a disastrous picture and do need to be addressed, this cannot be achieved with a one-sided approach that ignores other causes of the conflict and social condition. A response to this problem with economic development only is short-sighted and is not expected to sufficiently address important problems like the low school enrolment rate in Papua at the village level or very high child mortality rates. Poorly-planned development that lacks participation from the local level will create new problems, while the people of Papua are mere spectators

and are expected to follow the directions given by the national government without a say.

Case Example of Human Development Index in Mamberamo Raya:

The infant mortality rate -56 deaths in 1000 live births - remains very high, as is the number of under-five-years-old deaths each year in the region as compared with other places. Due to very low life expectancy of toddlers, parents are reluctant to give their children names until the age of five, believing that this could cause a curse that can lead to the death of the child.²⁹ A survey of ten villages in Merauke showed that only very few school-aged children are going to school, as is detailed by a very low school enrolment rate in primary school, junior high school, and senior high school as compared with the School Participation Number (APS) in Papua and the national School Participation Number. The average school period for children in the sample villages is only about 4-5 years. Causal factors for this include the fact that a lot of schools in the 10 villages are not properly managed or that children are not interested in going to school due to a lack of encouragement by parents and a non-conducive atmosphere in the village.

Table 6.5-1: School participation numbers based on a survey in remote region villages in comparison with regional numbers³⁰

SCHOOL LEVEL	10 VILLAGES IN MERAUKE REGION	AVERAGE IN PAPUA	INDONESIAN AVERAGE
Elementary school	67%	83%	97%
Junior high school	16%	78%	84%
Senior high school	6%	53%	54%

One example of the programmes developed by UP4B includes the Ministry of Education and Culture's provision of quotas and scholarships to 769 students from the provinces of Papua and West Papua to continue their education in 31 State Universities throughout Indonesia, as part of UP4B education

27 Statement by one of the Deputies of.

28 Indonesian Central Bureau of Statistics, January 2013, http://www.bps.go.id/brs_file/kemiskinan_02jan13.pdf. No. 06/01/Th. XVI, 2 Januari 2013

29 Survey Human Development Index conducted by FOKER Papua NGO in 2012

30 Survey of the Tifa Foundation and Yasanto Merauke in 2011 on Papua women's participation in village development of 10 villages (Tomer, Kuler, Onggaya, Nasem, Urumb, Waninggap, Matara, Kaiburse, Onggari and Domande) in Merauke District, using the combination method of qualitative and quantitative participation of 309 respondents. The numbers are compared with provincial and national level statistics.

program in 2012.³¹ As a policy, this programme offers some support but is not sufficiently thought through, as students who received these scholarships are not equipped with basic knowledge of the local culture and the ability to build self-confidence or manage daily living expenses during college. For example, some students who were sent to the university in Sumatra and Banda Aceh have trouble adapting, feel discriminated against, lack knowledge of the local culture there, and lack confidence in the classroom.

While the field of education and healthcare are important parts of the problem in Papua, the national government shies away from other aspects, such as law enforcement, human rights, conflict resolution issues, and history, concerning which Papuans continue to have demands that need to be addressed.

Infrastructure development is one of the UP4B's priority programmes, in order to create access to isolated areas. 1,000 military personnel will be involved in preparing a 1 km wide land clearing all along the 1000km-long Trans Papua High Way. The possibility of earning money through the logging and lumber businesses is a key reason for the military's involvement in this project. The plan does not only raise questions about the destructive impact on the natural forests of Papua, but this heavy deployment of the risks engendering abuses of human rights by the military

as was seen during Suharto's new order regime and the following reformation era in Indonesia.

On paper the UP4B program³² is very ambitious and claims to cover many more important areas. UP4B includes a list of performance indicators and target achievement indicators for both provinces for its programmes until 2014. The indicators shall cover: 1. governance, 2. politics, focusing on local election conflicts and interpretation of the implementation of the Special Autonomy Law, 3. Partiality towards Papuan People, particularly on college admissions outside Papua, 4. Law and Human Rights; 5. Environment protection and management, focusing on both the provincial and district levels; 6. Socio-cultural issues, focusing on the issues of women and children, and the protection of the local culture; 7. the security sector; 8. the health sector; 9. education; 10. infrastructure development; 11. and Populist Economic Development.³³

However its actual achievements to date in the fields of human rights and other areas are very disappointing, and given that its mandate ends in 2014, little can be expected before it concludes. The suggested indicator targets for law, human rights, and the security sector are listed in table 6.5-2. The claimed decline in the number of human rights violations in the table is in stark contradiction to actual numbers. Politicisation of cases continues to occur in cases concerning freedom of expression or stigmatisation of separatists as section 2. of this report details.

Table 6.5-2: Performance and Achievement Indicators of Law and Human Rights Sector for Papua Province, year 2012-2014, Source: P4B indicators document up to year 2014.

	PERFORMANCE INDICATORS	UNIT	ACHIEVEMENT				RELATED INSTITUTION
			2010	2012	2013	2014	
a	Cases of human rights violation	Case	25	15	10	5	Ministry of Law and Human Rights, Indonesian Military (TNI), Police
b	Legal Awareness	%	25	50	75	85	Police, Attorney office
c	Implementation Effectivity of Legal Products	%	25	50	75	85	Police, Attorney Office
d	Realization of law enforcement capacity to prevent politicization of criminal cases	Province/ District/ City	0	10	30	40	Police, Attorney Office

31 <http://www.up4b.go.id/index.php/prioritas-p4b/3-affirmative-action/item/359-afirmasi-pendidikan-untuk-orang-asli-papua-suatu-peluang-dan-tantangan>

32 See Presidential Regulation 65/2011 and 66/2011\

33 Populist economic development is community economic development based on local potential and knowledge of the indigenous peoples of Papua, that is managed in a sustainable way

The increase in the number of cases of violence in 2012 triggered security operations in response, that were aimed at stopping separatist movements and actions. The security approach is not new, but is rather the typical response by the authorities, particularly in remote areas. The decrease of the ratio of security personnel to the population in table 6.5-3 shows that the between 2010 and 2014 the actual number of personnel is planned to be increased by a factor of 5 over the 4 years concerning the police and military. While local experts in NGOs in Papua and other parts of Indonesia, as well as at the international level, have repeatedly called for a reduction of the security approach and noted that the security forces continue to be the main perpetrators of human rights violations, the national government assumes that an increase in their numbers will result in a decrease in the number of human rights violation.

The response from Papuans about UP4B's development program as summarised by NGO Foker is that "We, the Papuans do not require acceleration, but need appreciation, respect and protection, as well as recognition of our humanity as a people who inhabit the Land of Papua. Land that has been given to us by God and our ancestors. Affirmative policies should be based on social-anthropology mapping and the cultural values of indigenous people."

They furthermore question how the complex problems in Papua that have been building up over the last 50 years can actually be resolved given the short mandate of UP4B, which only lasts until 2014, Their hope for resolutions of these problems continues.

Table 6.5-3: Performance and Achievement Indicators for Security Sector in Provinces of Papua and West Papua in 2012-2014, Source : P4B indicators document up to year 2014.

	PERFORMANCE INDICATORS	UNIT	ACHIEVEMENT				RELATED INSTITUTION
			2010	2012	2013	2014	
A	Ratio of security officers as compared to population	Security officer/ civilian	1:1000	1:500	1:300	1:200	Indonesian Military (TNI), Police, Ministry of Law and Human Rights, Local Government
b	Increasing harmonization of relation between industry and workers	%	15	30	60	90	Indonesian Military (TNI), Police, Ministry of Law and Human Rights, Local Government



SECTION 7

RECOMMENDATIONS

7 RECOMMENDATIONS

7.1 Recommendations to the Government of Indonesia (Gol)

In order to End Impunity and Violence by the Security Forces the Gol should:

- 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;
- 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 to ensure that perpetrators of human rights violations from the military are held accountable through trials in civilian criminal courts;
- 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 police conducts 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 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. For this, negligence and corruption within the police are to be addressed with serious sanctions and criminal procedures where applicable.

To Ensure the Protection of Freedom of Expression, the Gol should:

- 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;
- 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;
- 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.

To Ensure the Protection of Human Rights Defenders, the Gol should:

- 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.

The Gol should undertake Legal Reforms and:

- 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;
- 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;
 - ~ in regard to Articles 106 and 110 on treason, as well as Article 160 on incitement;
- 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.

To Ensure the Protection of Indigenous People's Rights, the Gol should:

- Provide reliable statistical data regarding fundamental components of Papuan and West Papuan society, such as demography, education, governance and administration, education, health, employment, and income, together with disaggregated data on indigenous Papuans;
- Urge companies operating in Papua to respect the principle of **Free, Prior and Informed Consent** and to comply with the UN guiding principles on business and human rights;
- 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 sources of their livelihoods, including forests and land;
- The central government, including the Department of Forestry, the Ministry for Mining and the Depart-

ment 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 the Effective Provision of Public Services for the Protection of Economic, Social and Cultural Rights, the Gol should:

- Apply appropriate disciplinary measures concerning health personnel who are found to be absent from their posts, resulting in the unavailability of health services, in particular in remote areas.
- Ensure more effective measures are put in place to combat corruption in public institutions, including the police and judiciary, such as a special task force of the KPK (Indonesian Anticorruption Commission) in Papua.
- The provincial and regency administrations should 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.

The Gol should further its Cooperation with and Application of International Norms and Mechanisms:

- The government should 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 situation in Papua:
 - ~ the UN Special Rapporteur on Extra-judicial, Summary or Arbitrary Executions;
 - ~ the UN Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression
 - ~ the Special Rapporteur on the situation of human rights defenders
 - ~ 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;

- ~ the UN Special Rapporteur on violence against women, its causes and consequences;
- The GoI should accept that international human rights definitions and standards on Indigenous Peoples including the ILO Convention 169 and UN Declaration on the Rights of Indigenous Peoples (UNDRIP) 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, the Government of Indonesia should also ratify the:
 - ~ Rome Statute of the International Criminal Court
 - ~ Optional Protocol on the Convention against Torture, Cruel, Inhuman and Other Degrading Treatment
 - ~ Optional Protocols 1 and 2 of the International Covenant on Civil and Political Rights
- ~ Optional Protocol to the International Covenant on Economic, Social and Cultural Rights
- ~ Optional Protocol to the Convention on the Rights of the Child on involvement of children in armed conflict
- ~ Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography
- ~ 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, international 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 Other States

The international community is urged to:

- Strengthen the capacity of civil society actors in Papua;
- Urge the Government of Indonesia to allow visits by UN Special Procedures that specifically include unhindered access to Papua, in particular, visits by the mandates on extra-judicial killings, freedom of expression, human rights defenders, indigenous peoples and violence against women, should be given priority, given the situation prevailing in Papua;
- Support Indonesia's declared aim to conduct a dialogue between Papua and Jakarta as a peaceful conflict resolution mechanism.

The EU and its Members are urged to:

- Raise the problem of human rights violations in the Papuan provinces of Indonesia within the ongoing Human Rights Dialogue between the European Union and the Government of Indonesia, with a particular focus on the issue of impunity;
- 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 makes any arms sales to the Indonesian military irresponsible at this time, and risk fuelling further violations. It is therefore imperative that unhindered access to Papua be provided to outside observers including UN Special Procedures, the ICRC, foreign journalists and human rights NGOs, who can monitor the situation there, notably concerning the impact of military actions on the civilian population, before any arms sales can be considered.
- 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.

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
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
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
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



This human rights report seeks to make a contribution to the important process of bringing change to the serious situation in Papua, that will end violations and impunity in Papua and enable a sustainable and peaceful development of Papua as a land of peace.

Human Rights and Peace for Papua is the international coalition of faith-based and civil society organisations (the Coalition) that 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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