



# HUMAN RIGHTS AND CONFLICT ESCALATION IN WEST PAPUA

The sixth report of the International Coalition for Papua (ICP) provides an analysis of violations from January 2017 until December 2018 and an overview of developments in 2019.

Compiled by the International Coalition for Papua  
and the Westpapua-Netzwerk

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Cover image: Four Papuan boys watch an Indonesian military Mi17 helicopter at Erwer airport in Agats, Asmat district, in West Papua on January 27, 2018. Worried parents braved long queues and scorching heat in the remote Papuan jungle to get their sick babies treated, as the impoverished region grapples with a deadly measles-and-malnutrition outbreak. (Bay Ismoyo/AFP)

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Contributing Organisations:



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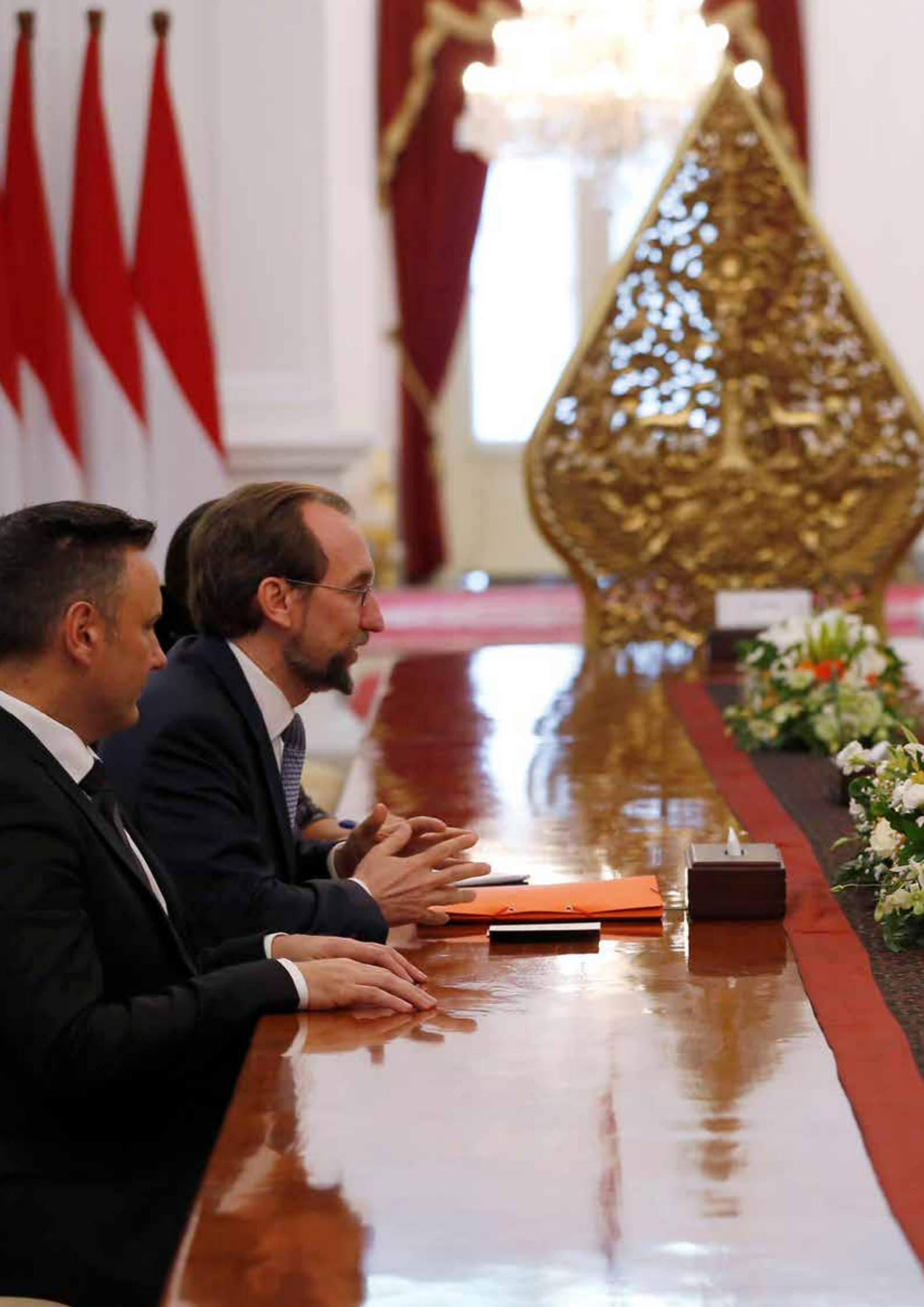
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# INTRODUCTION

UN High Commissioner for Human Rights Zeid Ra'ad al-Hussein (2nd from left) meets Indonesian President Joko Widodo (r.) at the Presidential Palace in Jakarta, February 6, 2018. (REUTERS/Darren Whiteside)

## SECTION 1

# Introduction

## 1.1 Executive Summary

Throughout 2017 to 2019 West Papua<sup>1</sup> continued to be the hot spot of human rights violations and conflict in Indonesia. The patterns of human rights violations strongly differ from other regions in the archipelago due to the unresolved political conflict, racism and serious development deficits. On the one hand the human rights situation over the past two years was characterised by stagnant, re-occurring patterns of violations - an indication of the government's lack of affirmative action in respecting, protecting and ensuring human rights. On the other hand, the human rights situation for particular groups has significantly deteriorated. These developments are related to growing aspirations for self-determination among indigenous Papuans and the aggravation of armed conflict in West Papua, which peaked in the killing of 19 government contractors and subsequent security force operations in the regency of Nduga since early December 2018.

Statistical data on civil and political rights for 2017 and 2018 indicates that –despite a few positive trends– fundamental rights and freedoms in West Papua are still subjected to severe restrictions. Impunity for perpetrators of the security forces continues to be among the key issues, creating an environment in which the right to life and prohibition of torture is not respected by security force members. While statistical figures indicate stagnation with regard to torture, political arrests and prosecutions as well as freedom of expression, they illustrate a significant increase in threats, and obstruction or intimidation against human rights defenders. The number of victims of extra-judicial killings in 2018 was the highest annual number in the past six years. The majority of victims of civil and political rights violations throughout the reporting period were indigenous Papuans. The figures mirror the deeply rooted patterns of racial discrimination in West Papua. Treason charges were less often used than in previous years to prosecute peaceful political activism. Instead, authorities use other vague criminal provisions or laws, such as the emergency law or the electronic information and transaction law.

The central government in Jakarta allocates considerably large funds to the provincial governments of Papua and Papua Barat to improve infrastructure,

1 The term West Papua refers to the Indonesian easternmost provinces of 'Papua' and 'Papua Barat'



health and education in West Papua. This monetary aid has not brought about meaningful change for the indigenous population of West Papua. There is a strong imbalance in the fulfilment of minimum health and education standards between the urban areas and the remote inland areas, where the majority of the local populations consist of indigenous Papuans. Acceptable health standards are only to be found in the cities of West Papua. In many remote areas, health facilities are dysfunctional due to the absence of health workers or lack of medicines. Multiple epidemic outbreaks combined with malnutrition in remote areas of West Papua throughout 2017 and 2018 remained unrecognised for months due to the absence of functioning health care facilities. In many areas of West Papua, the conversion of forest into plantations has led to the destruction of staple food sources and hunting grounds, forcing indigenous households to develop a dependency on commercial food products like rice, instant noodles and bottled water. Similar to what is happening in the field of health, the quality of education in the remote areas of West Papua is much lower than in the large Papuan cities. The government has achieved some progress through the employment of more teachers and building new schools. However, persistent core problems in the education system such as teacher absenteeism as well as the low education and skill level of teachers in West Papua remain unaddressed.

Women and indigenous peoples are among the most vulnerable groups in West Papua. Papuan women often experience multiple patterns of violations in their lives among which domestic violence, state violence in relation to political conflict and discrimination are the most common forms. In addition, women still face social barriers in West Papuan society. The participation of women in politics is still less than half the quota of 30 % as set by the Indonesian government. It is still very rare for women to be promoted into leading positions in the local government. Throughout the reporting period, there is only

one ministerial agency, namely the Agency for Social Affairs in the Province of Papua, which is led by an indigenous Papuan woman.

Indigenous peoples' lives in West Papua are under threat due to the demographic shift through government-driven and spontaneous migration as well as land grabbing and deforestation in relation to large scale resource exploitation projects. The demographic shift in West Papua has also resulted in the marginalisation of indigenous Papuans and growing social tensions between Papuans and Non-Papuans. Deforestation, often in relation to the establishment of palm oil plantations, has a strong impact on the food security of indigenous communities. Recent studies have shown that various forms of illegal logging and timber trade are rampant in West Papua. Timber companies often use loopholes in the Government's electronic timber monitoring system to process illegally logged timber.

President Joko Widodo (Jokowi) has pushed the development of infrastructure and the economy in West Papua. However, he failed to address long-standing structural shortcoming which continue to affect the human rights situation in West Papua. The House of Representatives planned to enact a new Criminal Code, which is due to come into effect in 2022. The new Criminal Code has failed to address the lack of clarity regarding treason and other provisions, which continue to be used in West Papua for the restriction of fundamental rights and freedoms. Similar to the criminal code, the national human rights system is in urgent need of reform with a view to increasing its effectiveness. Only a small percentage of human rights violations in West Papua result in the prosecution of perpetrators and the restitution of victims and their relatives. Legislative and executive bodies in West Papua continue to struggle with the inconsistent implementation of the Special Autonomy law, which enables them to enact special provincial bye-laws ('Perdadas') as well as regular provincial bye-laws ('Perdasi'). Jakarta uses procedural shortcomings to prevent bye-laws from coming into effect if they are contrary to the national

interests. West Papua remains one of the military (Tentara Nasional Indonesia, TNI) strongholds in Indonesia and the TNI continues to engage in the protection of private businesses, the implementation of government development projects and law enforcement operations. The influence of the TNI has grown under President Jokowi, who has appointed several former high-ranking military generals as close advisors and ministers.

Statistics on the number of armed clashes or attacks illustrate that the armed conflict in West Papua has significantly increased over the past four years. Particularly alarming is the significant increase in the number of civilian fatalities, particularly in 2018. Religious confrontations between indigenous Papuans, mainly Christians, and migrants from other parts of Indonesia, mainly Muslims, throughout 2017 and 2018

indicate growing tensions between Papuans and Non-Papuans. In addition, the presence of a radical Islamic group poses a threat to religious diversity and inter-religious tolerance in West Papua. Despite growing horizontal tensions and an aggravation of the armed conflict, the Government failed to take meaningful steps towards a dialogue in the past several years. The human rights situation in West Papua has increasingly drawn the attention of international media outlets, inter-governmental bodies and the international community throughout 2017 and 2018. The UN High Commissioner for Human Rights has repeatedly addressed the human rights situation in West Papua in public statements and he visited Indonesia in February 2018.

## Seven key recommendations addressed to the Government of Indonesia

1. **End all killings and torture of indigenous Papuans and hold all security forces' perpetrators of such acts accountable in transparent civil courts.**
2. **Provide Open Access for all foreign journalists and other Civil Society observers, to the Office of the High Commissioner for Human Rights, and to all Special Procedures of the UN Human Rights Council.**
3. **Respect and protect the right to freedom of assembly, right of association and freedom of expression of political opinions in a peaceful manner, and in particular where these differ from the unitary state ideology.**
4. **Prioritise accessibility, adequacy, availability and quality of healthcare and education for marginalised indigenous populations living outside all urban areas.**
5. **Criminalise in an effective manner all violations of 'Free Prior Informed Consent' (FPIC) principles, stop the deforestation of primary rain-forest areas for industrial or agricultural development and protect the livelihoods of indigenous communities.**
6. **Stop transmigration as a root cause of conflict and marginalization of indigenous Papuans and publish updated and ethnically disaggregated demographic data.**
7. **Engage in dialogue with the United Liberation Movement for West Papua (ULMWP) to allow for a peaceful resolution of the political and historical conflict.**

## 1.2 Editorial Update 2019

This editorial update aims to provide an overview of the most significant events and new dynamics which occurred in relation to the conflict situation in West Papua between January and October 2019, while the rest of the report is concerned with developments between January 2017 and December 2018.

The security force operation in the regency of Nduga was one of the most significant events to occur in West Papua throughout 2019. The operation was launched in December 2018 and has been ongoing throughout 2019. The armed conflict in Nduga drew the attention of international media outlets and United Nations human rights bodies as the death toll among civilians from the Nduga Regency keeps on rising. Human rights defenders counted a total of 189 civilian fatalities, among them many women and at least 41 children, between early December 2018 and 10 October 2019. The military operation in Nduga resulted in the displacement of several thousand indigenous Papuans – an exact number is not available as the government failed to establish a refugee camp and an unknown number of villagers continue to live in temporary shelters in the surrounding forests in the Nduga regency.<sup>1</sup>

Various international human rights bodies reacted to the incidents in the regency of Nduga. Multiple Special procedures mandate holders launched a communication regarding the internal displacement of thousands of indigenous Papuans<sup>2</sup>. The UN High Commissioner

for Human Rights, Michelle Bachelet, engaged with Indonesian authorities on the issue of West Papua and requested access to the region<sup>3</sup>. These contacts and communications took place between January and April 2019.

On 16 March 2019, heavy rains caused a devastating flash flood and landslides which hit the Papuan city of Sentani and parts of the nearby city of Jayapura. The heavy rainfalls led to the rise of the water level in the Sentani Lake, causing the displacement of many people living on the lakeside. A government report estimated that at least 105 persons died and 915 persons were injured during the flash flood. Eighty-two persons were reported missing, and more than 5,000 persons were displaced. Apart from the destruction of houses, the flood also severely damaged the infrastructure, such as bridges, schools and places of worship, in the Jayapura Regency.<sup>4</sup> UN chief António Guterres expressed solidarity with the Indonesian authorities in response to the devastating flash floods. Guterres stated that the United Nations are "... ready to work with them as they respond to the humanitarian needs resulting from both natural disasters"<sup>5</sup>.

A second widespread security force operation against the armed resistance in response to the killing of a military commander on 12 August 2019 has been ongoing in the Puncak Regency. According to information received, at least five indigenous Papuans were killed and two persons died after being displaced from their villages. At

1 Jubi (09.10.2019): 9 bulan mengungsi, 184 orang asli Nduga meninggal, 41 di antaranya anak-anak, available at: <https://www.jubi.co.id/9-bulan-mengungsi-184-orang-asli-nduga-meninggal-41-di-antaranya-anak-anak/> & Jubi (10.10.2019): Lima jenazah ditemukan di Mbua, tiga diantaranya perempuan. Diduga ditembak oknum TNI, available at <https://www.jubi.co.id/lima-jenazah-ditemukan-di-mbua-tiga-diantaranya-perempuan-diduga-ditembak-oknum-tni/>

2 Mandates of the Special Rapporteur on extrajudicial, summary or arbitrary executions; the Special Rapporteur on the rights of indigenous peoples; the Special Rapporteur on the human rights of internally displaced persons and the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance (02.04.2019): Special procedures communication, AL IDN 6/2019, available at <https://>

[spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gld=24508](https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gld=24508)

3 The Guardian (30.01.2019): Indonesia to let UN workers into West Papua as violence continues, available at <https://www.theguardian.com/world/2019/jan/30/indonesia-to-let-un-workers-into-west-papua-as-violence-continues>

4 Badan Penanggulangan Bencana Daerah Provinsi Papua (25.03.2019): Data dan Informasi Kejadian Bencana Banjir Bandang Kabupaten Jayapura 16 Maret 2019 (Update 26 Maret 2019)

5 UN News (17.03.2019): UN chief expresses solidarity with Indonesian authorities after flash floods kill dozens in Papua, available at: <https://news.un.org/en/story/2019/03/1034871>

least four women were injured during a security force raid in the village of Olenki and had to be hospitalised. Reports indicate that twenty houses in multiple villages were burned to the ground.<sup>6</sup> Helpers estimated that more than 1,500 indigenous Papuans were internally displaced and sought refuge in neighbouring districts of the Puncak Regency.<sup>7</sup>

The West-Papua-wide anti-racism protests and their impacts undeniably mark the most significant events throughout 2019. The protests were triggered by a series of racist assaults on Papuan students in the Javanese cities of Malang and Surabaya. In Surabaya, members of the military and nationalist mass organisations (ORMAS) gathered at the Papuan student dormitory and threatened to kill Papuan students, while shouting racist insults such as ‘animals’, ‘dogs’, ‘pigs’ and ‘monkeys’. The angry mob accused the Papuan students of having broken the flagpole with the Indonesian flag in front of the dormitory one day before Indonesian Independence Day on 17 August 2019. The police failed to disperse the violent mob and prosecute the perpetrators. Instead, a police SWAT (special weapon and tactics) team, using tear-gas forced its way into the student dormitory and arrested 43 Papuan students.<sup>8</sup>

These incidents triggered mass demonstrations against racial discrimination of indigenous Papuans in all the large cities and towns across the provinces of Papua and Papua Barat. The majority of protests in Papuan cities in late August 2019 remained peaceful. The protesters

used this momentum to express their aspirations for political self-determination. Several anti-racism demonstrations in West Papua were accompanied by acts of vandalism and security force violence against the protesters. Riots occurred in the cities of Fak-Fak, Sorong, Jayapura, Manokwari, Timika, Waghete and Wamena.<sup>9</sup> A crackdown by security force members in Waghete, Deiyai Regency, on 28 August 2019 caused the death of eight protesters and one soldier. At least 50 others were injured<sup>10</sup>.

The anti-racism protests triggered outbreaks of ethnic horizontal violence against indigenous Papuans in the cities of Fak-Fak, Jayapura and Wamena. Members of the ‘Kelompok Nusantara’ group (Nusantara Group) and ‘Barisan Merah Putih’ (Red White Front), mainly consisting of Non-Papuans armed with weapons attacked indigenous Papuans, particularly those originating from the central highlands, which are known as strongholds of the West Papuan independence movement.<sup>11</sup>

The most recent outbreak of violence took place on 23 September 2019 in the cities of Jayapura and Wamena. In Jayapura, the police reportedly arrested 733 people and killed four protesters during the forceful dispersal of a demonstration by Papuan students. Twenty-four students were allegedly injured during the incident.<sup>12</sup> The riots in the highland town of Wamena occurred after a senior high school teacher allegedly addressed a Papuan pupil as ‘child of a monkey’. Police used fire arms and tear gas against the protesters.<sup>13</sup>

6 Jubi (02.09.2019): Jumlah pengungsi di Distrik Gome terus bertambah, available at: <https://www.jubi.co.id/jumlah-pengungsi-di-distrik-gome-terus-bertambah/> & Kompas (19.09.2019): Kontak Senjata TNI-OPM Tewaskan 3 Warga, Ini Penjelasan Kodam XVII/Cenderawasih, available at <https://regional.kompas.com/read/2019/09/19/06392061/kontak-senjata-tni-opm-tewaskan-3-warga-ini-penjelasan-kodam-xvii>.

7 Jubi (02.09.2019): Jumlah pengungsi di Distrik Gome terus bertambah, available at: <https://www.jubi.co.id/jumlah-pengungsi-di-distrik-gome-terus-bertambah/>

8 The Guardian (18.08.2019): Indonesia arrests dozens of West Papuans over claim flag was thrown in sewer, available at: <https://www.theguardian.com/world/2019/aug/18/indonesia-arrests-dozens-of-west-papuans-over-claim-flag-was-thrown-in-sewer>

9 JPIC Department of Papuan Tabernacle Church (22.08.2019): Demo Penolahkan Ujaran Kebencian dan Rasisme dari Ormas, TNI POLRI dan SALPOLPP terhadap Mahasiswa Papua Malang Surabaya

10 JPIC Department of Papuan Tabernacle Church (08.09.2019): Laporan Verifikasi TNI POLRI Penembak Mati 8 orang Masyarakat Sipil, 1 anggota TNI meninggal dunia dan Melukai 50 orang Masyarakat Sipil dan melukai 7 anggota Brimob pada saat Demo damai Penolahkan Rasisme di Halaman Kantor Bupati Kabupaten Deiyai

11 Information is based on information received by various independent human rights observers

12 Jubi (25.09.2019): Sejumlah korban luka insiden Expo dipulangkan, sisanya dirawat intensif, available at: <https://www.jubi.co.id/sejumlah-korban-luka-insiden-expo-dipulangkan-sisanya-dirawat-intensif/>

According to the latest data published by the police, 33 persons were killed (25 Non-Papuans & 8 Papuans) and 82 persons injured (38 Non-Papuans & 44 Papuans) during the riot. These sudden outbreaks of violence left thousands of persons in Wamena traumatised. Moreover, ten government offices, 351 shops, 15 motor cycles, 100 cars, 27 residential houses and the Mission market were set on fire. The police statistics contrast those collected by the media outlet Jubi. According to 'Tabloid Jubi' (Jubi), the riots cost the lives of 42 persons, 16 of them ethnic Papuans. They were allegedly killed with fire arms. The riot in Wamena was accompanied by ethnic horizontal violence against Indonesian migrants.<sup>14</sup>

The government temporarily blocked the internet across the Provinces of Papua and Papua Barat<sup>15</sup> and used vague legal provisions such as treason, incitement and the electronic information and transaction law to criminalise political activists, journalists and human rights defenders in response to the West Papua-wide anti-racism riots. Statistical data suggests that

Indonesian police officers conducted 208 arrests<sup>16</sup> and pressed criminal charges against at least 93 suspects. The police targeted members of the pro-independence organisations 'United Liberation Movement for West Papua' (ULMWP) and the 'West Papua National Committee (KNPB).<sup>17</sup> The prosecutions also concerned human rights defenders and journalists advocating for the rights of indigenous Papuans. According to Amnesty International, 22 Papuan activists were charged with treason over a few weeks based on the peaceful exercise of their rights to freedom of expression, association and assembly.<sup>18</sup>

In early October 2019, multiple news outlets reported that President Joko Widodo expressed willingness to meet with representatives of the Papuan independence movement<sup>19</sup>. The chair of the ULMWP, Benny Wenda, welcomed Mr. Jokowi's statement and published a press release in which the ULMWP listed their conditions for a dialogue.<sup>20</sup>

13 Jubi (23.10.2019): Lipsus : Menggadai damai di Wamena (artikel 1 dari 6), available at: <https://www.jubi.co.id/lipsus-menggadai-damai-di-wamena-1-6/>

14 Jubi (25.10.2019): Lipsus : Menggadai damai di Wamena (artikel 4 dari 6), available at: <https://www.jubi.co.id/lipsus-menggadai-damai-di-wamena-artikel-4-dari-6/>

15 Jubi (22.08.2019): Pembatasan internet berpotensi membahayakan keselamatan warga Papua, available at: <https://www.jubi.co.id/pembatasan-internet-berpotensi-membahayakan-keselamatan-warga-papua/>

16 The number of arrests was compiled from various sources by the International Coalition for Papua and is available at: <http://www.humanrightspapua.org/news/31-2019/480-update-anti-racism-demonstrations-government-responds-with-mass-arrests-and-prosecutions-against-activists>

17 Jubi (10.10.2019): Ada tersangka baru di rusuh Wamena, available at: <https://www.jubi.co.id/ada-tersangka-baru-di-rusuh-wamena/>

18 Amnesty International (02.10.2019): Open letter on the increasing use of makar charges against Papuan activists to stifle freedom of expression, available at: <https://www.amnesty.org/download/Documents/ASA2111082019ENGLISH.pdf>

20 SBS news (02.10.2019): Indonesia's Joko Widodo open to meeting Papuan pro-independence groups, available at: <https://www.sbs.com.au/news/indonesia-s-joko-widodo-open-to-meeting-Papuan-pro-independence-groups>

21 United Liberation Movement for West Papua press release, available at: <http://www.humanrightspapua.org/images/docs/2019%2010%2002%20ULMWP%20Statement%20on%20Indonesian%20President%20Call%20for%20Dialogue.pdf>

# 1.3 The International Coalition for Papua



The International Coalition for Papua (ICP) is an international coalition of faith-based and civil society organisations (the Coalition) addressing the serious human rights condition in West Papua and supporting 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 and 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 demographical and economical marginalisation and discrimination mark the living condition for Papuans. A heavy presence of Indonesian security forces, lack of access for international observers such as journalists, corruption and transmigration from other parts of Indonesia aggravate the situation. Political prisoners and the persecution of political activists shows 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 security forces resulting in exploitation through mining, logging, harmful agricultural projects, and environmental degradation. This dynamic challenges traditional indigenous culture while Papuans demand their right to self-determination.

## What the Coalition does

The Coalition advocates human rights and 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 active participation from civil society. The Coalition recognises that Papuans see the policies put in place by the Indonesian government as failed and misused and that the policies have been rejected. With the failure of Indonesia to respond to the Papuan expectations and demands for a dialogue is not being met, the potential for violence has grown. The Coalition in this antagonized situation sees the need to support partners striving for recognition of basic human rights and seeking peaceful solutions to implement 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 for a peaceful transformation of the ongoing conflict.

## History of the Coalition

The Coalition was created in March 2003. From its launch in 2003 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 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 in Papua.

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 for the indigenous people of Papua. In order to protect and guarantee the rights of the indigenous people of Papua, the Special Autonomy Law for Papua from 2001 was seen as a way forward after Papuans had suffered for decades under military rule and its extrajudicial killings, torture, arbitrary arrests, racial discrimination, exploitation of natural resources and the destruction of livelihoods. The members of the Coalition shared that hope.

However, the Special Autonomy Law has not been implemented. Instead, the Indonesian Government violated the law various times, e.g. by Presidential Decree 01/2003 to divide Papua into three Provinces without consultation of the Papuan people. Faith-based and civil society organisations in Papua consider the Autonomy law as failed. The militarisation Papua continues and with it the violations of civil and political as well as economic, social and cultural rights of the Papuan people. Perpetrators of human rights violations are not held accountable.

In that climate of violence and fear, the Papuan religious leaders were committed to making "Papua a land of peace" with the vision to guarantee the human rights of the Papuan people restore their self-esteem and find truth and reconciliation. The Coalition supported the campaign *Papua, land of peace* and the efforts of its religious leaders through various means of advocacy. Participating organisations had created the FBN in solidarity with the Papuan people and in consultation with their Papuan partners.

## Objectives and Methodology

The major objectives of the coalition are:

- To ensure the protection of the right to life and the survival of the Papuan people
- To work towards the end of the human rights violations and impunity in Papua
- To contribute to the establishment of rule of law in Papua
- To promote the search for a peaceful solution of the unsolved conflict by addressing the root causes and upholding the vision of Papua as a land of peace

The Coalition works to achieve these aims in close cooperation with relevant partners through its joint initiatives on different levels:

- At the level of national governments of the respective organisations
- At the European Union, its institutions and agencies
- At the United Nations and especially its Human Rights Council
- At the level of international non-governmental organisations as well as religious leaders and organisations
- Through the cooperation and networking with other non-governmental organisations working on human rights, peace and the environment in Papua







# ABOUT WEST PAPUA

Village in the Papua highland.

## SECTION 2

# About West Papua

## 2.1 History

### Pre-colonial History of New Guinea

Fifty thousand (50,000) years ago, the island of New Guinea and the Australian continent were connected through a land bridge. In scientific literature this land mass was referred to as 'Sahul Shelf'. Scientists estimate that the first humans crossed the sea that was separating south east Asia from Sahul. During this time the easternmost landmass of south east Asia still extended to an area between Flores and Bali (usually referred to as the 'Sunda Shelf'). The earliest archaeological relics indicate that the first human settlements in New Guinea must have emerged approximately 45,000 years ago. Archaeologists found some rough stone tools at the Huon Peninsula (today the Morobe Province of Papua New Guinea) which were dated 45,000 years old. The oldest skull fragments in New Guinea were found in the Aitape at the northern coast and are believed to date from at least 5,000 years ago.<sup>1</sup>

Linguistic research backs up the thesis that New Guinea was colonized in at least two waves. The first migration to New Guinea already occurred between 40,000 and 45,000 years ago when the sea level was 100 to 150 meters lower. Coming from the south-east Asian mainland, the first settlers were still able to cross the waters between the Sunda Shelf and the Sahul Shelf in small boats.<sup>2</sup> The early settlers began to explore New Guinea from the coastal areas and slowly made their way to the central highlands. The languages of ethnic groups which come from the first colonizers all belong to the language family of the Trans-New-Guinea Phylum. The second migration wave to the island took place some 1,000 years ago as part of the Austronesian expansion from the mainland of South East Asia to the Pacific region. Austronesian populations settled down only in coastal areas. Austronesian languages

1 Christian Kaufmann (1987): Geschichte Neuguineas in vor-europäischer Zeit, in: Neuguinea - Nutzung und Deutung der Umwelt, Band 1 (ed. Mark Münzel), p. 81f

2 Matthew Springs (2011): Archaeology and the Austronesian expansion: Where are we now?, in Antiquity 85, p. 513, available at: <https://www.researchgate.net/publication/279711496/download>

occupy pockets in the coastal areas in the west, north, south and southeast, as well as a few inland areas of New Guinea.<sup>3</sup>

New Guinea is believed to be one of the places with the oldest findings of agricultural activities in the world. The first gardens with drainage systems were found near Mount Hagen in the Waghi Valley. Scientists estimate that parts of the drainage system were already built around 7,000 B.C. The gardens were used for the cultivation of Taro and other tuberous plants. Around 500 B.C. the ancient inhabitants of Waghi Valley expanded their fields to the surrounding slopes, using the technique of hoe cultivation.<sup>4</sup> The arrival of the sweet potato marked a significant change in agricultural and demographic development in New Guinea, particularly in the highlands where it remains the major staple food until today. The sweet potato, originating from central and south America, was brought to New Guinea by European voyagers around 1500 A.D.<sup>5</sup> and then traded from the northern coast to the central highlands of New Guinea. Sweet potatoes revolutionized food security and animal husbandry because they grow quickly, need less fertile soil, can be cultivated in high as well as low altitudes and are less prone to pests. Previous cultivation in the highlands was almost entirely based on taro, while the tribes in lowland areas used sago palms as a staple food source.<sup>6</sup>

## Colonial History of West Papua

On 13 June 1545, Yñigo Ortiz de Retez, a Spanish explorer in command of the *San Juan*, left port

in *Tidore*, an island of the East Indies (north Moluccas) and sailed to reach the northern coast of the island of New Guinea, which he ventured along as far as the mouth of the *Mamberamo River*. He took possession of the land for the Spanish Crown, in the process giving the island the name by which it is known today. He called it *Nueva Guinea* owing to the resemblance of the local inhabitants to the peoples of the *Guinea* coast in West Africa.<sup>7</sup>

Since the 18th century, the South Pacific island of New Guinea has been an object of imperial ambition, with the British, German, Dutch and Japanese laying claim to parts of the island at different times. The declaration of independence of the Indonesian Republic in 1945 brought most territories of the former Dutch East Indies under Indonesian sovereignty -except for the western half of the island of New Guinea, which remained under Dutch control.

In the 1950s the Dutch government began preparing the territory for independence through a process of decolonisation. However, the path to independence was intercepted when the government of the new Republic of Indonesia launched a military operation in December 1961 for the 'return' of Papua (then known by Indonesia as West Irian). Coming at a time of intense Cold War politics, Indonesia's military expansionism attracted international attention. The historical record also shows that US investors' interests in Papua's natural wealth arose after explorative surveys in 1960, predicting the presence of largest above-ground copper deposit at that time.<sup>8</sup> The United States stepped in to broker a deal.<sup>9</sup> It pressured the Dutch to

3 Alejandro Gutman and Beatriz Avanzati (2013): Papuan Languages, available at: <http://www.languagesgulper.com/eng/Papuan.html>

4 Christian Kaufmann (1987): Geschichte Neuguineas in vor-europäischer Zeit, in: Neuguinea - Nutzung und Deutung der Umwelt, Band 1 (ed. Mark Münzel), p. 83

5 Tim Denham (2013): Ancient and historic dispersals of sweet potato in Oceania in: PNAS vol. 110 (6), p. 1982, available at: <http://www.pnas.org/content/pnas/110/6/1982.full.pdf>

6 Richard Michael Bourke (2009): History of agriculture in Papua New Guinea, p. 17, available at: [https://www.researchgate.net/publication/314051620\\_History\\_of\\_agriculture\\_in\\_Papua\\_New\\_Guinea](https://www.researchgate.net/publication/314051620_History_of_agriculture_in_Papua_New_Guinea)

7 Jeff Moran's History Atlas, available at: <http://www.historyatlas.com/spanish-explorer-ynigo-ortiz-de-retez-in-com>

8 Denise Leith (2002): Freeport and the Suharto Regime, 1965 – 1998, in: The contemporary Pacific, Spring 2002. p. 70, available at: <https://core.ac.uk/download/pdf/5102818.pdf>

9 New York Agreement, 1962, <http://www.humanrightspapua.org/resources/history/103-nyagreement>

agree to allow Indonesia to administer Papua while the United Nations oversaw negotiations on its future.

### 1969: 'The Act of Free Choice'

Indonesia was mandated to administer a UN-supervised referendum on the future of the territory in 1969, the so-called 'Act of Free Choice'. Instead of organising a one-man, one-vote referendum, Indonesia handpicked a council of 1,026 tribal leaders from a population of more than 800,000, who would decide on behalf of the Papuan people whether the territory would integrate with Indonesia or opt for independence. Faced with coercion and intimidation, the council returned a unanimous decision in favour of Papua's integration with Indonesia.

Papuans describe the 1969 consultation as an 'Act of No Choice'. The legitimacy of the process has also been questioned by the few international observers present at that time, human rights activists and legal experts in Indonesia and internationally. Yet at the time, the UN merely 'took note' of the undemocratic process of the Act.<sup>10</sup> This amounted to recognition of Indonesian sovereignty (unlike East Timor, whose forced integration into Indonesia was never recognised by the UN). From the outset, the majority of Papuans opposed Indonesian rule and they resented the way they had been denied their right to determine their political status and freely pursue their economic, social and cultural development.<sup>11</sup> In response to this opposition -both from armed groups and the general population- the Indonesian government resorted to violence and oppression. This is the background to the colonisation by Indonesians that threatens the existence of indigenous Papuans –and the root of the conflict that continues until today.

### Special Autonomy

Respect for Papuan aspirations and a real chance to resolve the causes of conflict and injustice in Papua appeared possible after the downfall of the Suharto regime in 1998 - but only for a brief moment. Following the independence of East Timor in 1999, concerns about the fragmentation of the Indonesian Republic were high, and the nationalist ideology of the Indonesian state proved too strong. Yet, in Papua, the fervour for independence could not simply be reversed. In an attempt to quell demands for independence, the Indonesian government offered a package of autonomy measures to give Papuans a greater say in their governance. Under Special Autonomy,<sup>12</sup> the provincial administration has greater authority over local policy and decision making, as well as increased control of revenues raised in Papua.

However, many of the promised reforms have not been implemented, and Special Autonomy has not brought about significant improvements in the welfare or dignity of indigenous Papuans. The commitment of the Indonesian government to autonomy is also increasingly questioned. This was made clear when a presidential decree, issued in 2003, authorised the division of Papua into three provinces - a move that contravened both the spirit and the letter of autonomy laws. While Indonesia has made great progress in establishing democracy and rule of law since the fall of the Suharto regime in 1998, the political and military elite in Jakarta cannot entertain the possibility of Papuan independence nor tolerate any moves in this direction. Some of the past techniques for suppressing dissent are still alive, and continue to result in human rights violations, fear and submission. The struggle for peace and justice in Papua continues.<sup>13</sup>

10 UN General Assembly Resolution 2504, <http://www.humanrightspapua.org/resources/history/104-ungar2504>

11 International Covenant for Civil and Political Rights, Article 1 & Comment No. 12 of the UN Committee for Civil and Political Rights

12 Special Autonomy Law, <http://www.humanrightspapua.org/resources/nlaw/82-otsus>

13 International Coalition for Papua: A short History of West Papua, taken from Fr Neles' Tebay (2005): West Papua: The struggle for peace with justice, available at: <http://www.humanrightspapua.org/aboutpapua/8-a-short-history-of-west-papua>,

## 2.2 Geography

### General information

The island of New Guinea is the world's second largest island after Greenland. Politically, the western half of the island is commonly referred to as West Papua and comprises two provinces of Indonesia: Papua and Papua Barat. The eastern half forms the territory of the independent state Papua New Guinea (PNG). The shape of New Guinea is often compared with a bird. This is the reason why the north-western peninsula is named the Bird's Head Peninsula (*Vogelkop* in Dutch, *Kepala Burung* in Bahasa Indonesia; also known as the Doberai Peninsula), and the Bird's Tail Peninsula in the southeast of Papua New Guinea.

In terms of landscape types, West Papua can be divided into: Mountainous regions - the Central Highlands, swampy inland areas that are located between the central highlands and the coasts and Coastal regions including the offshore islands in the Cendrawasih Bay (Biak, Numfor and Yapen) and west of the Vogelkop area (Raja Ampat). The landscape type of savanna grasslands is unique to the Merauke area of the southern coast and may only be found there. The highest peak in West Papua is the *Puncak Jaya* or *Carstensz Pyramid* with an altitude of 4,884 metres, containing permanent equatorial glaciers. Various other smaller mountain ranges occur both north and west of the central ranges.<sup>1</sup>

### Climate

Most areas are characterized by an equatorial climate throughout the year, with some seasonal

variations caused by the northwest monsoon and the southeast trade winds. Precipitation varies between the seasons, but this is less predictable than in other parts of Indonesia due to the existence of microclimates, e.g. in some parts of the highlands, the Bird's Head Peninsula, the northeast coast. Especially in the southeast rainfall is less than 2,000 mm/year. Precipitation increases between November and March. The monsoon and trade winds bring drier weather from April to September. In the highlands, precipitation may reach more than 5,000 mm/year. The temperature varies greatly with altitude. In the central highlands, night frosts may occur above 4,000 m and periodic snowfalls above 4,500 m.<sup>2</sup>

### Biodiversity

The natural vegetation of West Papua covers the full range of tropical forests from lowland to alpine, and peat swamp to mangrove. Forest Watch Indonesia and Conservation International conducted a survey in 2000, which estimated that roughly 85% of West Papua's land mass was covered by forest, while the non-forested 15% of the land area was classified as settlements, agricultural land and transmigration settlements.<sup>3</sup> After the Amazon and Congo, New Guinea is home to the 3rd largest rainforest in the world.<sup>4</sup>

West Papua's rain forests are characterized by extremely high biodiversity –they are home to various unique endemic species such as paradise birds, Kasuari birds and tree Kangaroos. Biologists estimate that there are more than 600

1 Norwegian Department for Development Cooperation (2009): Environmental and Socio-Economic Baseline study – Papua, Indonesia, Study 4/2009, p. 14f, available at: [https://evalueringsportalen.no/evaluating/norwegian-environmental-action-plan-baseline-study/FinalReport\\_Indonesia.pdf/@inline](https://evalueringsportalen.no/evaluating/norwegian-environmental-action-plan-baseline-study/FinalReport_Indonesia.pdf/@inline)

2 Prentice, M.L. and G.S. Hope (2007): Climate of Papua and its recent changes, in Marshall & Beehler eds Part 1, The ecology of Papua, pp 177-195.

3 Norwegian Department for Development Cooperation (2009): Environmental and Socio-Economic Baseline study – Papua, Indonesia, Study 4/2009, p. 17, available at: [https://evalueringsportalen.no/evaluating/norwegian-environmental-action-plan-baseline-study/FinalReport\\_Indonesia.pdf/@inline](https://evalueringsportalen.no/evaluating/norwegian-environmental-action-plan-baseline-study/FinalReport_Indonesia.pdf/@inline)

4 WWF: New Guinea, available at: [http://wwf.panda.org/knowledge\\_hub/where\\_we\\_work/new\\_guinea\\_forests/area\\_forests\\_new\\_guinea/plants\\_animals\\_new\\_guinea\\_forests/birds\\_forests\\_new\\_guinea/](http://wwf.panda.org/knowledge_hub/where_we_work/new_guinea_forests/area_forests_new_guinea/plants_animals_new_guinea_forests/birds_forests_new_guinea/)

species of birds, 180 species of mammals, 150 species of frogs, over 61 species of snakes, 141 species of lizards and at least 100,000 species of insects in West Papua. The high biodiversity of West Papua is also evident among plants with 15,000 species of vascular plants –2,000 of them are orchid species alone.<sup>5</sup> While the greatest diversity of plants is to be found in lowland forests, bird diversity increases in higher altitudes. Meanwhile, mammals are at their most diverse in lower montane forest (1,000-2,000 m).<sup>6</sup> Between 1998 and 2008, biologists found more than a thousand new animal species, which is an indicator of the huge biodiversity and remoteness of New Guinea.<sup>7</sup>

But it is not only the Flora and Fauna on the island of West Papua which have an extremely high value in terms of its biodiversity. The surrounding seas are one of the world's top priorities for marine conservation with an extraordinary number of hard corals, molluscs and reef fish. They serve as a nesting site for migratory sea turtles, passages for migrating mammals and mantas, and a feeding ground for large populations of tuna.<sup>8</sup>

## Natural Resources

The resource industry with the widest geographical impact in West Papua is the logging industry, whose concessions cover nearly a third of the province. About half of West Papua's 22 million hectares is classified as "production forest" which make these areas particularly vulnerable to deforestation due to timber production

and plantation activities. Forestry concessions are reported to cover 13 million hectares.<sup>9</sup> Many production forest areas are classified as Conversion Forest, which can be clear-felled and replaced with agriculture oil-palm plantations, forestry plantations or rapid-growing wood for pulp production. Some of this forest is nominally Limited Production Forest. This category is usually applied to forests in steppe terrain, in which some restrictions apply, where only trees with a certain diameter may be felled. Most conservation areas are located in mountainous areas with low potential for exploitation or largescale agricultural plantations.<sup>10</sup>

The government places a high priority on the exploitation of mineral resources which are high on the list as potential revenue generators. Currently, the largest operations in the extractive sector are the Freeport Gold and Copper Mine in Mimika regency and the British Petroleum Tangguh Gas exploitation project in Bintuni Bay.<sup>11</sup> Besides gold and copper, foreign investors have expressed interests in the exploitation of West Papua's coal deposits. In 2017, officials from two Indian government agencies conducted the first of a series of meetings with Indonesia's Ministry of Energy and Mineral Resources in Jakarta. Media outlets claimed that India is pushing for special privileges -including no-bid contracts on resulting concessions- for the exploitation of coal reserves in West Papua in exchange for technical support and the provision of funds for geological surveys.<sup>12</sup>

5 Ibid. p. 18f

6 WWF: New guinea Animals and Plants, available at: [http://wwf.panda.org/knowledge\\_hub/where\\_we\\_work/new\\_guinea\\_forests/area\\_forests\\_new\\_guinea/plants\\_animals\\_new\\_guinea\\_forests/](http://wwf.panda.org/knowledge_hub/where_we_work/new_guinea_forests/area_forests_new_guinea/plants_animals_new_guinea_forests/)

7 WWF: More than 1000 new species found in New Guinea, available at: [http://wwf.panda.org/wwf\\_news/?200766/More-than-1000-new-species-found-in-New-Guinea](http://wwf.panda.org/wwf_news/?200766/More-than-1000-new-species-found-in-New-Guinea)

8 Norwegian Department for Development Cooperation (2009): Environmental and Socio-Economic Baseline study –Papua, Indonesia, Study 4/2009, p. 19, available at: [https://evalueringsportalen.no/evaluating/norwegian-environmental-action-plan-baseline-study/FinalReport\\_Indonesia.pdf/@inline](https://evalueringsportalen.no/evaluating/norwegian-environmental-action-plan-baseline-study/FinalReport_Indonesia.pdf/@inline)

9 Wahyu Candra Irawan (2011): Natural resources and conflict in Papua, Indonesia, available at: <http://essc.org.ph/content/view/606/163/>

10 Norwegian Department for Development Cooperation (2009): Environmental and Socio-Economic Baseline study –Papua, Indonesia, Study 4/2009, p. 26, available at: [https://evalueringsportalen.no/evaluating/norwegian-environmental-action-plan-baseline-study/FinalReport\\_Indonesia.pdf/@inline](https://evalueringsportalen.no/evaluating/norwegian-environmental-action-plan-baseline-study/FinalReport_Indonesia.pdf/@inline)

11 Ibid. p. 30

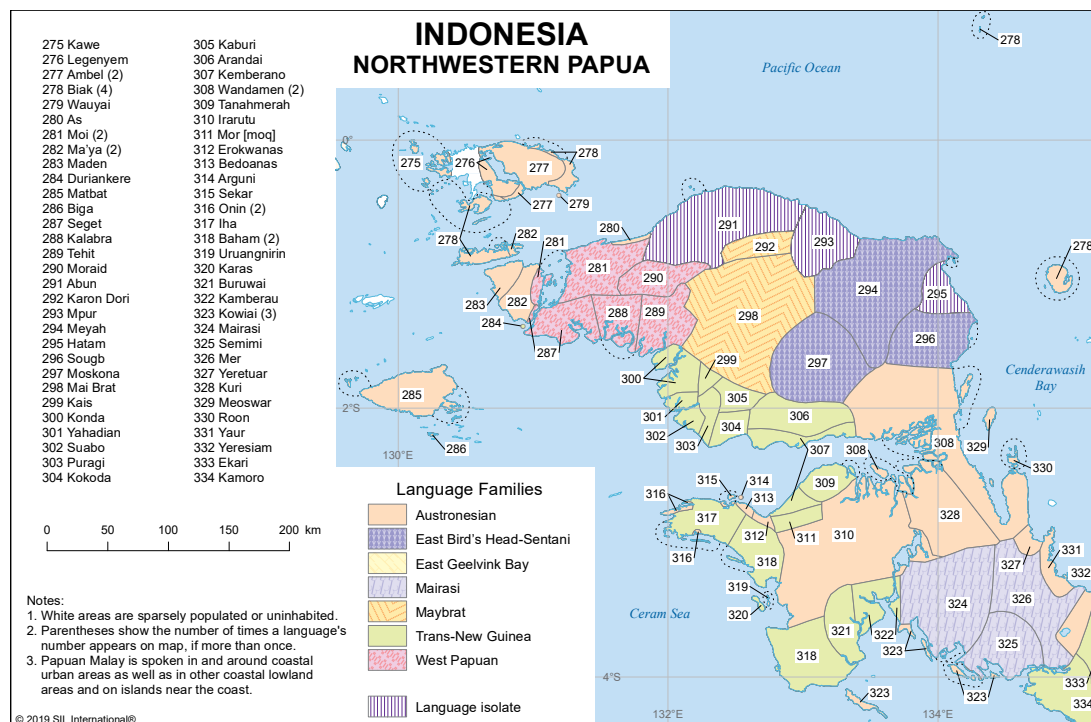
12 Mongabay (11 June 2018): India eyes coal reserves in Indonesian Papua, available at: <https://news.mongabay.com/2018/06/india-eyes-coal-reserves-in-indonesian-papua/>

## 2.3 Ethnography

### Ethnic Diversity

West Papua is characterized by an extreme ethnic diversity among its indigenous population. Based on linguistic research, 276 languages are found in West Papua, composed of 274 living languages and 2 second languages without mother-tongue speakers. If one uses language as a benchmark for the distinction of indigenous ethnic groups, there are 274 different indigenous tribes in West Papua (see Maps 2.3.1 & 2.3.2). Most of these languages have fewer than 3,000 speakers each and have multiple dialects that vary between areas, and sometimes from village to village. The language group with the largest speaking communities in West Papua are those of the Dani languages with approximately 270,000 speakers, which can be divided into several sub-groups.<sup>1</sup>

There are multiple reasons for the development of such a huge language diversity with micro speaking communities in a relatively limited area. One of them is the geography of New Guinea. The large variety of landscape types -ranging from coastal areas and wetlands to mountainous regions- is full of natural barriers like wide rivers, steep valleys and dense rainforests, which make it hard for social groups to interact with each other. This has caused the indigenous people to separate and spread out, forming different language groups over time.<sup>2</sup> Warfare and feuds were an inherent part of life's reality among indigenous groups, contributing to the isolation among different ethnic groups in New Guinea. At the end of the 19<sup>th</sup> century, Governments and missionaries began to open up the areas, leading to a decrease of tribal warfare.<sup>3</sup>

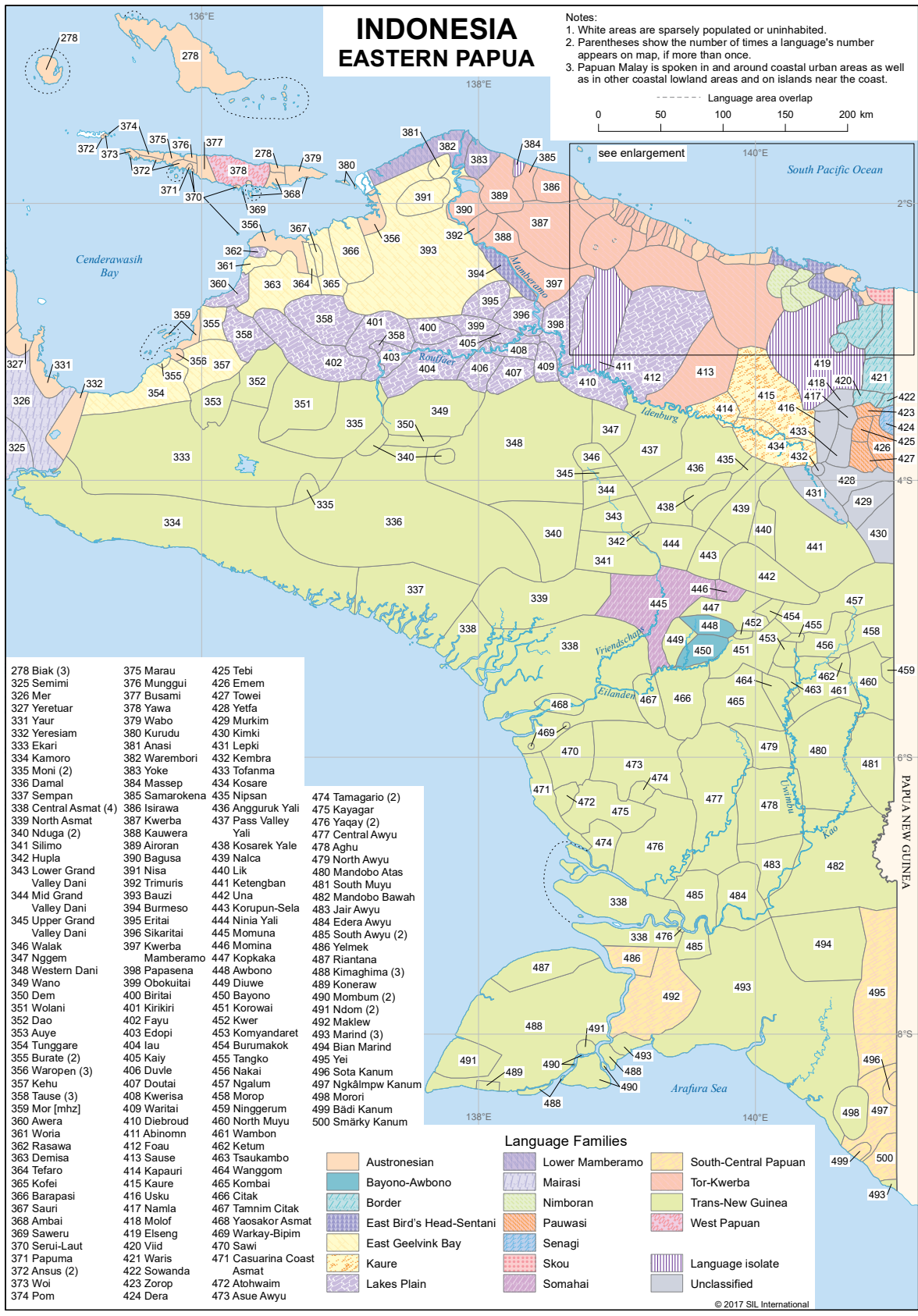


Map 2.3.1: Indigenous languages in the Province of Papua Barat, Source: [https://www.ethnologue.com/16/show\\_map/IDP/](https://www.ethnologue.com/16/show_map/IDP/)

1 Ethnologue, Languages of the World: Languages of Indonesia (Papua), available at: [https://www.ethnologue.com/16/show\\_country/IDP/](https://www.ethnologue.com/16/show_country/IDP/)

2 Sophie Anderson: The extreme linguistic diversity of Papua New Guinea, available at: <http://www.omniglot.com/language/articles/pnglanguages.htm>

3 Norwegian Department for Development Cooperation (2009): Environmental and Socio-Economic Baseline study – Papua, Indonesia, Study 4/2009, p. 38, available at: [https://evalueringsportalen.no/evaluating/norwegian-environmental-action-plan-baseline-study/FinalReport\\_Indonesia.pdf/@inlin](https://evalueringsportalen.no/evaluating/norwegian-environmental-action-plan-baseline-study/FinalReport_Indonesia.pdf/@inlin)



Map 2.3.2: Indigenous languages in the Province of Papua, Source: [https://www.ethnologue.com/16/show\\_map/IDP/](https://www.ethnologue.com/16/show_map/IDP/)



Despite this ethnic diversity, indigenous Papuans consider themselves as Melanesians, sharing a common pattern of social organization, leadership and ways of livelihood.

### Customary systems of livelihood

The customary systems of livelihood in West Papua strongly vary between the lowlands and the central highlands. The major staple food in the lowlands is sago which is harvested from the tree marrow of a swamp palm (*Metroxylon sago*). Sago palm stocks grow naturally in swampy areas but are also replanted by indigenous communities to sustain the stocks as an important food source. Sago exploitation is combined with hunting and fishing as well as the planting of bananas and tubers. In coastal areas or islands with limited or no sago palm stocks, the diet is supplemented with fish from the ocean and the planting of Cassava.

In the Central Highlands, food production is based on the cultivation of tubers, mainly sweet potato and taro. Highland forests are inhabited by only a few larger animals; hence husbandry of pigs is of great importance for highland communities. Pigs serve not only as a source of protein but are of great importance for ritual exchange and the consolidation of social relations between clans and ethnic groups. The establishment and maintenance of gardens in the central highlands require a higher work input than in the lowlands. Sweet potato and taro gardens are established on steep mountain slopes, often through the construction of terraces. An exception is the Baliem valley, where local indigenous communities have adjusted the cultivation methods to flat terrain by building drainage ditches around the gardens.<sup>4</sup>

4 Ibid. p. 20

### Leadership systems

The most common forms of leadership in West Papua are chiefdoms and big-men systems. The big-men systems are commonly found in the central highlands and hinterland areas of West Papua. It is a highly egalitarian form of political organisation in which community leaders emerge through skills and other leadership qualities: they must be courageous and skilled in war, be inspirational with oratorical skills, have a wide social network and are able to manage resources and debt. The latter implies the ability to provide food and other goods for feasting and ceremonial exchange. Big men use exchange and provision of goods to consolidate political support within their communities. It is not uncommon that big men have more than one wife, but a polygamous lifestyle is not a necessity.

The most common form of leadership in coastal areas are chiefdoms, which are inherited through patrilineal descent. Chiefdoms are characterized by a clear hierarchy. The chief has ownership rights over land, makes communal decisions and plays a major role in settling disputes within the community. In the Raja Ampat Islands and the Bintuni Bay area as well as some adjacent coastlines, the kingdoms of the Moluccans had considerable influence on local leadership systems – which can be classified as a derivation of the Kingship system. Several ethnic groups in West Papua like those residing in the Cenderawasih Bay area have adopted a mixture of the afore mentioned political systems.<sup>5</sup>

### Social Organisation

All indigenous societies in West Papua share a common principle of social organisation which is patrilineal descent. An ethnic group usually consists of many lineage groups or clans that

5 Norwegian Department for Development Cooperation (2009): Environmental and Socio-Economic Baseline study – Papua, Indonesia, Study 4/2009, p. 20, available at: [https://evalueringsportalen.no/evaluering/norwegian-environmental-action-plan-baseline-study/FinalReport\\_Indonesia.pdf/@inline](https://evalueringsportalen.no/evaluering/norwegian-environmental-action-plan-baseline-study/FinalReport_Indonesia.pdf/@inline)

claim collective ownership of land and natural resources. There are some indigenous groups in the central highlands, where each clan belongs to a particular moiety. The affiliation to a moiety or clan is important for the selection of marriage partners and determines incest barriers<sup>6</sup> that may vary among different indigenous groups. Although, the land and resources are generously shared between clan members, the basic economic unit of production and consumption is the household consisting at least of married couples and their offspring. It is common that extended family members live as part of a household.

Marriages are sealed through the ceremonial payment of a bride-price, which often consist of pigs, food and ceremonial items that strongly vary between ethnic groups. After the marriage ceremony, the female spouse moves from her household to the husband's family.<sup>7</sup> Ethnic groups of the Cenderawasih Bay area have adopted large Chinese porcelain plates as essential symbolic currency for bride-price payments. In other parts of West Papua particular plants, special stone blades or glass pearls are exchanged between clans.

6 Karl Heider (1970): *The Dugum Dani: A Papuan Culture in the Highlands of West New Guinea*, available at: <https://books.google.co.id/books?id=Dx0uDwAAQBAJ&pg=PT98&lpg=PT98&dq=Papua+moiety+Dani&source=bl&ots=ISlt-Mf0f7&sig=6-GUDjyW22fJcoZUWQofJz1KdJc&hl=en&sa=X&ved=2ahUKewjx08LjnMTdAhVDXSsKHf-AzEQ6AEwAHoECAGQAQ#v=onepage&q=Papua%20moiety%20Dani&f=false>

7 Norwegian Department for Development Cooperation (2009): *Environmental and Socio-Economic Baseline study – Papua, Indonesia, Study 4/2009*, p. 20, available from [https://evalueringsportalen.no/evaluering/norwegian-environmental-action-plan-baseline-study/FinalReport\\_Indonesia.pdf/@inline](https://evalueringsportalen.no/evaluering/norwegian-environmental-action-plan-baseline-study/FinalReport_Indonesia.pdf/@inline)



# POLITICAL AND CIVIL RIGHTS

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## SECTION 3

# Political and Civil Rights

Statistical data on civil and political rights for 2017 and 2018 indicates that –despite a few positive trends– fundamental rights and freedoms in West Papua are still subjected to severe restrictions. The government under President Joko Widodo continues to control the long-standing political conflict in West Papua through a security-based conflict approach while pushing economic development and infrastructure projects. While the provinces of Papua and Papua Barat are special autonomy regions, the aforementioned policies are imposed on the local governments and the Papuan people without consultation or participation. This has resulted not only in the aggravation of a violent conflict but also in the deterioration of the civil and political rights situation. The majority of victims of civil and political rights violations throughout 2017 and 2018 were indigenous Papuans. The figures of indigenous victims mirror the deeply rooted patterns of racial discrimination which exist in the authorities and in society.

The number of cases and victims of torture and ill-treatment throughout 2017 and 2018 indicate neither an aggravation nor an improvement in comparison to previous years. The vast majority of the cases were committed by members of the police. In 5.4% of the cases, victims were below the age of 18 years. The case pattern shows that torture and ill-treatment against minors occurred exclusively in the central highlands. Torture was most commonly used for the purpose of punishment, followed by acts of ill-treatment in relation to crowd control operations and other security force operations. The pattern of cases points to a strong correlation between cases of torture or ill-treatment and extra-judicial killings (EJK).

Human rights defenders documented a total number of 21 cases of EJKs throughout the years 2017 and 2018. Twelve out of these 21 reported cases of EJKs occurred in connection to torture and ill-treatment. Despite the longstanding political conflict in West Papua, only a small number of these cases were related to political activity. In the vast majority of cases, security force officers attempted to maintain public order or punish groups or individuals who ‘misbehaved’ in public. During the reporting period only three out of 21 cases resulted in investigations against the perpetrators –an emblematic number for the widespread impunity in West Papua. A military operation in response to the killing of 17 road workers by the West Papua

National Liberation Army (*Tentara Pembebasan Nasional Papua Barat* TPN-PB) in the regency of Nduga caused the annual number of EJK victims in 2018 to rise to 23 –the highest annual number of victims associated with extra-judicial killings in the past six years.

While the number of political prisoners has been steadily decreasing since 2013, one can observe an increase of political arrests since 2015. At first glance, this may appear contradictory, but indeed the numbers illustrate the persistent strategy of law enforcement institutions to prevent political protests. Security forces commonly disperse peaceful demonstrations, arrest the protesters and detain them for less than 24 hours without pressing criminal charges. Criminal charges are mainly pressed against members of pro-independence movement organisations. Throughout the past five years, small activist groups supporting political self-determination in West Papua have formed in other parts of Indonesia. They have successfully organised demonstrations in big Indonesian cities outside of West Papua. These groups are facing strong repression –not only by Indonesian law enforcement institutions, but also by nationalist civil society groups (*Organisasi Kemasyarakatan* ORMAS), whose members have repeatedly attacked Papuan students during gatherings or public demonstrations.

The cases of procedural violations throughout 2017 and 2018 can be categorized into two major patterns. Members of the military often act in the role of law enforcement officials and arrest or detain individuals. The second category comprises procedural violations during law enforcement operations, such as group arrests without sufficient evidence or arrests without a warrant. Case studies suggest that violations of the right to liberty and security of person in West Papua are often accompanied by ill-treatment and torture. While the use of treason charges (*makar*) is decreasing, other criminal charges are used to restrict the freedom of expression and

freedom of peaceful assembly and association. The cases of political prosecutions throughout 2018 were characterized by a combination of breaches of proper law enforcement procedures, wrongful convictions, ill-treatment, and torture.

Incidents of assault, obstruction, intimidation and harassment against human rights defenders in West Papua have significantly increased throughout 2017 and 2018. The number of reported cases in 2017 was the highest during the past seven years. The most common type of reported violation was the obstruction of human rights defenders who wanted to visit arrestees during custody or detention.

President Joko Widodo publicly announced in 2015 that foreign journalists would have free access to work in West Papua. At the end of 2018, President Joko Widodo's statement was never enforced through a government regulation. Foreign journalists who want to cover West Papua still have to undergo a lengthy application procedure for their visa. If foreign journalists are permitted to report on West Papua, they are strictly monitored and prevented from critical coverage and investigative reporting. Government authorities also limit media freedom in West Papua. Websites publishing information on human rights violations or self-determination in West Papua have been blocked. While statistical data suggests that cases of intimidation, stigmatization, restrictions and obstruction against local journalists have slightly decreased since 2015, journalists continue to be among the professional groups that face a high risk. Ethnic Papuan journalists are particularly affected. Since 2017, many new news websites and social media accounts promoting government programs and policies in West Papua have emerged. This appears to be part of a new strategy by the government to influence public opinion and create a counterbalance to electronic campaigning on human rights and political self-determination.

**Table 3-1: Statistical data on civil and political rights situation in West Papua between 2012 and 2018 (Source: data compiled from media and first hand sources of information)**

Data on Civil and Political Rights in West Papua	Reporting Period						
	2012	2013	2014	2015	2016	2017	2018
Cases of Violence/Arrests/Threats against local Journalists	12	20	18	5	8	10	2
Cases of Violence/Deportation/Intimidation/Obstruction against foreign Journalists and Observers providing coverage on Papua related issues in Indonesia	2	0	2	4	0	3	2
Number of reported Torture/III-treatment Cases	28	30	76	19	20	32	21
Number of reported Torture/III-treatment Victims	99	67	135	244	64	184	55
Number of reported Cases of Extra-judicial Killings	11	6	8	10	6	10	11
Number of reported Victims of Extra-judicial Killings	18	8	12	14	6	10	23
Investigations/sanctions against Perpetrators by Police and Military	0	0	0	1	2	3	0
Number of Political Arrests	210	539	370	1083	5361	601	1068
Number of Political Prisoners/Detainees	40	70	55	57	27	0	25
Number of Peaceful Demonstrations/Assemblies/ Gatherings on Papua related to political issues, forcefully intervened by security forces	8	29	14	24	35	13	27
Violence/Threats against Human Rights Defenders	3	1	5	5	2	10	6
Cases prosecuted with Treason Charges (Article 106 and/or 110 KUHP)	27	25	31	14	15	0	7

### 3.1.1 Political Prisoners and Detainees

**According to Papuans Behind Bars (PBB), no political prisoners were prosecuted in West Papua throughout 2017. In 2018, PBB documented 25 political prisoners in West Papua. Six Papuans and one Polish citizen were charged with treason offences. Treason articles (makar) in the Indonesian Criminal Code (KUHP) are widely considered to be deeply problematic, contradicting the principle of legal certainty and undermining fundamental human rights such as the right to freedom of expression. Although West Papua has seen a decline in the use of treason laws between 2015 and 2018, law enforcement institutions instead use other charges such as assault, possession of arms, and theft to prosecute West Papuans for their political aspirations. All cases of political prosecutions throughout 2018 are characterized by a combination of breaches of proper law enforcement procedures, wrongful convictions, ill treatment, and torture.**

#### Political prisoners

Following the pardon given to five West Papuan political prisoners and the release of one West Papuan political prisoner by President Jokowi in 2015, West Papua has seen a decline in the use of treason laws.

In 2018, six West Papuans and one Polish citizen were charged under the treason laws. It does not mean, however, that West Papuans are no longer wrongfully imprisoned for their political aspirations. Recent cases of political arrests have mainly been prosecuted using charges other than those related to treason laws. Many prominent non-violent self-determination activists have been jailed, having been targeted for their political activities and profiles. Criminalization against West Papuans resulting in charges of assault, possession of arms, and theft, is common, and often used by security forces as a tactic to offer a counter narrative to politically-motivated arrests. The dynamics of political and social narratives

pertaining to West Papua, within and beyond, are complex. The data used in this chapter, compiled by *Papuans Behind Bars*<sup>1</sup> (PBB), categorizes detained members of the West Papuan National Liberation Army (TPNPB) as political prisoners, regardless of the means that they choose to express their political aspirations.<sup>2</sup>

All of the twenty-five political prisoners detailed in the next section, have been characterized by a combination of breaches of proper procedures, wrongful convictions, ill treatment, and torture. Improper procedures have included cases where an accused individual was not afforded legal counsel during interrogation or at trial, was not presented with an arrest warrant at the time of arrest, or subjected to torture. In some cases, activists were subjected to multiple breaches. For those who were sick or shot, their access to treatment was impaired. In many cases, police or military employed excessive use of force during the arrests of political prisoners.

1 Papuans Behind Bars is a collective project initiated by West Papuan civil society groups working together as a human rights coalition in West Papua. It is a grassroots initiative and represents a broad collaboration between lawyers, human rights groups, and other actors in West Papua, as well as Jakarta-based and international NGOs and solidarity groups.

2 For a further discussion on PBB's approach to monitoring political prisoners, please see: [http://www.papuansbehindbars.org/?page\\_id=315](http://www.papuansbehindbars.org/?page_id=315)

## Challenges to *makar*<sup>3</sup>

Treason articles (*makar*) in the Indonesian Criminal Code (Kitab Undang-Undang Hukum Pidana or KUHP) are widely considered to be deeply problematic, for example, by contradicting the principle of legal certainty and undermining fundamental human rights such as the right to freedom of expression. In 2017 alone, three parties presented challenges to these articles before the Indonesian Constitutional Court. One of them, a coalition of West Papuan and Jakarta-based civil society groups, argued that the application of treason articles in the KUHP restricts and criminalizes freedom of expression and peaceful calls for an end to human rights violations in Papua, and that repression of freedom of expression contradicts rights guaranteed by Indonesia's Constitution.<sup>4</sup> The petition for a judicial review submitted in March 2017 was rejected by the Constitutional Court in January 2018.<sup>5</sup>

## Kaleidoscope of political prisoners in 2018

In 2018, PBB documented 25 cases of political prisoners in West Papua: 24 West Papuans and one police national.

### • February

Two members of the West Papua National Committee (KNPB), Risal Pahabol and Misi Sowi Pahabol, were wrongfully arrested. They were accused of assaulting two medicine

sellers near the KNPB's Jayapura secretariat. They and their lawyer maintained that they were innocent and were targeted due to their political profiles. Both were later convicted by the Jayapura District Court. Each was sentenced to one year and five months in prison.

### • April

TPNPB freedom fighter Tandi Kogoya was arrested in Nabire regency in connection to a 14 November 2017 attack in the Freeport concession area. He was tried and convicted for possession of arms and ammunition, and sentenced to one year and seven months imprisonment which he is currently serving in the Timika Penitentiary.

### • May

Police rearrested Yogor Telenggen (see image 3.1.1-1), a member of the West Papuan National Liberation Army (TPNPB), who had escaped from Abepura prison in 2016. He was shot in the right leg by security forces during his arrest on 12 May 2018. Mr. Telenggen had been serving a life sentence for possession of firearms, and his involvement in several raids. Following his re-arrest, prosecutors demanded the death penalty but the judges refused on the basis of breach of procedural law, i.e. Mr. Telenggen was not afforded legal counsel during his interrogation. However, Yogor Telenggen was not released. He was returned to prison to resume his life sentence from his previous conviction.

3 The offence of *makar* (treason) was introduced into Indonesian law as part of the Criminal Code that came into force under the Dutch colonial administration in the early twentieth century. Since the downfall of the "New Order" regime under former president Suharto, Indonesia has made commendable efforts to remove repressive colonial and New Order-era legislation from its statute books. The 1969 Anti-Subversion law was repealed in 1999 while the notorious "hate-sowing" articles (154 and 155 of the Criminal Code) were declared unconstitutional by the Indonesian Constitutional Court in 2007. However, Indonesia has so far failed to complete its review of the Criminal Code

4 <http://tapol.org/news/statement-advocacy-team-citizen-freedom-tools-state-repression-abolish-treason-articles>

5 [https://mkri.id/public/content/persidangan/putusan/28\\_PUU-XV\\_2017.pdf](https://mkri.id/public/content/persidangan/putusan/28_PUU-XV_2017.pdf)





Image 3.1.1-1: Yogor Telenggen being escorted by security force members after trial (Source: Jubi)



Image 3.1.1-3: Roy Hiluka, Eki Wanena and Watlarik Hiluka during trial (Source: ALDP)

- **June**

Polce Tsugumol, Julianus Dekme, and Titus Kwalik (see image 3.1.1-2) were arrested on suspicion of being members of TPNPB. They were taken by force from their homes outside Timika. Each of them was sentenced to two years imprisonment for possession of ammunition.



Image 3.1.1-2: Titus Kwalik, Julianus Dekme and Polce Tsugumol during detention at the district police station in Timika (Source: Suara Papua)

In Wamena, Watlarik Hiluka, Eki Wanena, and Roy Hiluka (see image 3.1.1-3) were arrested for possession of ammunition and sentenced to two years and six months imprisonment. Both are serving their respective sentences in Abepura Penitentiary.

- **August**

Agustinus Yolemal (see image 3.1.1-4) was arrested in the regency of Mimika for posting a video on his social media account showing him and his son yelling support for West Papuan independence. He was charged with violations of the Electronic Information and Transaction Law, and sentenced to one year and three months imprisonment.



Image 3.1.1-4: Agustinus Yolemal during custody at the Mimika District Police station (Source: PAHAM Papua)

Isai Wilil and Agus Wasage were arrested for possession of ammunition in Wamena. Mr. Wilil was sentenced to four years and Mr. Wasage was sentenced to one year and six months imprisonment.

In Yalimo, Solak Alitnoe and Isak Wandik were arrested after attending the inauguration of TPNPB Yalimo's new commander. Both were sentenced to three years for treason.

- **September**

Jakub Fabian Skrzypski and Simon Carlos Magal (see image 3.1.1-5) were arrested in August and September, respectively, and accused of treason related to the suspicion of engagement in communication to buy and sell firearms. Simon is a student who has been actively speaking out against human rights violations in West Papua. He was said to have received a scholarship to study in Australia. Jakob is a Polish tourist who was travelling in West Papua. The two had met once and had communicated with each other twice via Facebook. Prosecutors and judges in their verdict against Skrzypski relied heavily on the fact that he met members of KNPB during his visit to West Papua.



Image 3.1.1-5: Simon Magal and Jakub Skrzypski during trial at the Jayawijaya district court (Source:Jubi)

On 10 September, a TPNPB sympathizer Ruben Wakla was arrested at Timika airport for carrying more than a hundred rounds of ammunition for TPNPB. During interrogation he was subjected to electric shock, and asphyxiation. The torture was applied to force a confession, causing Ruben Makla to falsely admit that he had been staying at KNPB's office in Timika prior to his arrest, whereas he had actually stayed at Hotel 66 in Timika. The false confession was used as a basis for a subsequent raid on KNPB's office in Timika several days later.

On 15 September, police arrested two KNPB members on charges of possession of ammunition and explosives during a raid at KNPB's secretariat in Timika. Yakonias Womsiwor and Erichzon Mandobar (see image 3.1.1-6) were shot multiple times in the leg by members of a joint police and military team during their arrest. Both were denied access to healthcare until an international campaign took place.<sup>6</sup> During their trial, two police officers testified in court that the guns, ammunition, and explosives (Molotov cocktails) found at KNPB's secretariat during the raid were planted by military personnel. Yakonias Womsiwor was sentenced to one year and six months and Erichzon Mandobar was sentenced to one year and three months, in prison respectively, on charges of disobeying authority.

6 <https://www.amnesty.org/en/documents/asa21/9186/2018/en/>



Image 3.1.1-6: Erichzon Mandobar and Yakonias Womsiwor during detention (Source: Paham Papua)

- **October**

Police arrested the chairman of KNPB Sentani region, Allen Halitopo, for selling stickers displaying the morning star symbol.<sup>7</sup> Police later found a small knife in his pocket. He was sentenced to seven months for possession of arms.

In Timika, Piter Yelemaken, an activist, was arrested at the airport upon discovery of a single round of ammunition in his bag. Mr. Yelemaken denied that the bullet belonged to him. He was convicted of possession of ammunition and sentenced to seven months imprisonment.

- **December**

In December, three KNPB members, Yanto Awerkion, Sem Asso and Edo Dogopia were arrested in Timika while they were conducting a prayer event and traditional “bakar batu” ceremony inside the compound of KNPB’s secretariat. They were arrested on charges of treason, but later convicted on charges relating to participation in an association which has intent to commit crimes or in another association prohibited by general regulations. All three received prison sentences: Yanto Awerkion was sentenced to one year, Sem Asso was sentenced to ten months, and Edo Dogopia was sentenced to eight months.

<sup>7</sup> The Morning Star flag was first raised by the West Papuan parliament under Dutch colonial rule on 1 December 1961. It signaled a recognition by the Dutch of West Papuan statehood. The Morning Star has since been considered both a symbol of West Papuan independence, and of West Papuan cultural unity. Under Indonesian rule however, its possession, public display and/or use has been met with arbitrary arrest, ill-treatment, criminalization, and torture.



## ICP recommends to the Government of Indonesia to:

- Release all political prisoners and all other persons that have been arrested or sentenced for the peaceful expression of political opinions.
- Revoke presidential regulation 77/2007 that prohibits the use of the morning star flag and respect the flag as a symbol of indigenous and regional identity as stipulated under the special autonomy law.
- Revise bills and regulations that threaten democracy and human rights protection, in particular the changes adopted to the national law on mass organizations, the electronic information and transaction law, emergency law 12/1951, articles 106 and 110 on treason, and article 160 on incitement, of the Indonesian criminal code. The government should ensure that the laws and regulations are in accordance with ratified international human rights treaties and may not be used to criminalize peaceful civil society activists.
- Strengthen legal pre-trial procedures and the independence of judges to ensure that arrests and other law enforcement operations are conducted in accordance with the Indonesian criminal procedure code.



## Recommendations by states:

- Canada recommends to the Government of Indonesia to “take steps, particularly in Papua, [...] to ensure respect for freedom of expression and peaceful protest, including through a review of regulations that can be used to restrict political expression, in particular article 106 and 110 of the criminal code, and the release of those detained solely for peaceful political activities”<sup>1</sup>



## Recommendations by international human rights mechanisms:

- The European Parliament “asks the Indonesian authorities to consider dropping the charges against [...] prisoners of conscience against whom charges have been brought for peacefully exercising their right of freedom of expression”<sup>2</sup>
- The UN Special Rapporteur on torture recommends to the Government of Indonesia “to ensure that the criminal justice system is non-discriminatory at every stage ...”<sup>3</sup>

1 Human Rights Council (05.07.2012): 2nd cycle of the Universal Periodic Review of Indonesia, available at: <http://undocs.org/A/HRC/21/7>

2 European Parliament Resolution 2017/2506 (RSP) on Indonesia adopted on 19th January 2017 in Strasbourg, available at: <http://www.europarl.europa.eu/sides/getDoc.do?type=TA&reference=P8-TA-2017-0002&language=EN&ring=P8-RC-2017-0072>

3 UN Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment (10.03.2018): Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Manfred Nowak, Addendum to Mission to Indonesia report, A/HRC/7/3/Add.7, p. 26f, available at: <http://daccess-ods.un.org/access.nsf/Get?Open&DS=A/HRC/7/3/Add.7&Lang=E>

### 3.1.2 Media Freedom

**On 9 May 2015, President Joko Widodo publicly announced that foreign journalists would have free access to work in West Papua. At the end of 2018, it is still unclear how or to what extent President Joko Widodo's commitment was actually implemented because his public statement was never enforced through a government regulation. If foreign journalists are permitted to cover in West Papua, they are strictly monitored and prevented from critical coverage and investigative reporting. Government authorities continue to limit media freedom in West Papua. Websites publishing information on human rights violations or self-determination in West Papua have been blocked and local journalists continue to be subjected to attacks, intimidation, stigmatization, restrictions and obstruction. The pattern of cases indicate that ethnic Papuan journalists are particularly affected. Since 2017, many new news websites and social media accounts have emerged which promote government programs and policies in West Papua. This appears to be part of a new strategy to influence public opinion and create a counterbalance to electronic campaigning on human rights and political self-determination.**

On the 9 May 2015, President Joko Widodo publicly announced that foreign journalists would have free access to work in West Papua. He re-confirmed the opening-up of the provinces of Papua and Papua Barat in a public interview on the 10 May 2015, stating that he had already discussed the matter with his ministers, the national police chief and military generals. Jokowi explained during the interview that the *Clearing House* procedure would be abolished and foreign journalists covering events in West Papua would no longer need a special permission differing from the permission for other parts of Indonesia.<sup>1</sup>

At the end of 2018, it is still unclear how or to what extent President Joko Widodo's commitment in 2015 was actually implemented. The access for foreign journalists to West Papua continues to be strictly limited because President Jokowi's public statement was never enforced through a government regulation. Such a regulation should

guarantee that foreign journalists can cover news events freely in West Papua without intimidation, limitations or being escorted by security force members during media coverage. In fact, President Jokowi's statement at the opening of West Papua for foreign journalists caused strong opposition from other government institutions, among them the police and military. Security force agencies reaffirmed that foreign journalists coming to West Papua will be subjected to close surveillance and must receive government permission if they want to cover events in the provinces of Papua and Papua Barat. By the end of 2018, foreign journalists still have to pass a long bureaucratic process which does not guarantee free media coverage in case of approval.<sup>2</sup>

The experience described by the Radio New Zealand journalist, Johnny Blades, is emblematic of the confusion regarding the *Clearing House* process and the obstructions which foreign journalists continue to face if they want to work

1 Tabloid Jubi (25.10.2018): Jokowi : Mulai Besok, Minggu (10/5), Akses Jurnalis Asing Ke Papua Dibuka, available at: <https://tabloidjubi.com/16/2015/05/09/jokowi-mulai-besok-minggu-105-akses-jurnalis-asing-ke-papua-dibuka/>

2 Interview with Human Rights Watch Indonesia Researcher Mr. Andreas Harsono in November 2018.

in West Papua. He applied for a journalist visa shortly after President Jokowi had announced the opening-up of West Papua. The burdensome application process took three months and required approval from twelve different state agencies, including the military. The permission was approved with the condition that Johnny Blades was only allowed to cover development related issues.<sup>3</sup> Despite having a visa and permission for media coverage in Papua Province, the local police and military rejected his permission as he wanted to get their prior consent for several sites that he had selected for coverage.<sup>4</sup>

During the reporting period various foreign journalists and international observers did not receive permission to travel to West Papua. Some journalists were arrested or obstructed during media coverage. The following cases also indicate that foreign journalists were closely monitored and not able to work freely. The examples illustrate the pattern of violations.

## Case Studies

► Two French journalists named Mr. Franck Jean Pierre Escudie and Ms. Basille Marie Longchamp were arrested as they wanted to take footage from a helicopter at the Mozes Kilangin Airport in Timika, Mimika Regency. Authorities claimed that the two journalists wanted to collect video material for a documentary. According to immigration, Franck Jean Pierre Escudie and Basille Marie Longchamp did not have journalist visas. They had entered Indonesia with a visa on arrival which can only be used for tourist purposes and were deported on 17 March 2017 due to violation of Article 122 of the Immigration Law.<sup>5</sup>

► In March 2017, the Indonesia-based independent Al Jazeera journalist, Mr. Jack Hewson, was blacklisted without any clear reason and prevented from travelling from the Philippines to Jakarta. Prior to this incident, Hewson had sent a letter to the Presidential Chief of Staff, Mr. Teten Masduki, and the president's spokesman, Mr. Johan Budi, asking for clarification of President Joko Widodo's statement regarding the opening-up of West Papua for foreign journalists. He had sent the letter in preparation for a planned media coverage of the Freeport mine in the Mimika Regency of Papua Province. The immigration Department claimed that he had allegedly violated article 75 (1) of the Immigration Law, regarding foreigners engaging in dangerous activities or actions that may put security or public order at risk or do not follow national laws. According to the head of the Immigration Public Relations Department, Mr. Agung Sampurno, the Indonesian military had allegedly reported Jack Hewson to immigration on 9 February 2017, requesting that he be prevented from staying in Indonesia. The journalist was prevented from entering Indonesia for six months.<sup>6</sup>

► In May 2017, six Japanese journalists working for the Nagamo Production house were arrested in Wamena and deported on 11 May 2018. The provincial immigration agency in Jayapura claimed that Toba Takashi, Kanemmitsu Toshiya, Takezawa Yoshihiro, Kozono Ryo, Kai Takuma and Sugai Shuichi had violated Article 6 of the Immigration Law, regarding foreigners following activities that are not in accordance with the approved visa. The six documentary film makers had collected footage on the daily lives in communities of the indigenous tribes Momuna and Koroway in the Regency of Yahukimo. The

3 International Press Institute (07.12.2016): Indonesia urged to address press freedom violations in West Papua, available at: <https://ipi.media/indonesia-urged-to-address-press-freedom-violations-in-west-papua/>

4 Suara Papua (26.11.2018): Wawancara Ketua AJI Kota Jayapura tentang Kebebasan Pers di Papua Tahun 2018, available at: <https://suarapapua.com/2018/11/26/wawancara-ketua-aji-kota-jayapura-tentang-kebebasan-pers-di-papua-tahun-2018/>

5 Berita Jatim.com (19.03.2017): Dua Wartawan Perancis Ditangkap

Saat Hendak Liputan Di Papua, available at: [http://beritajatim.com/politik\\_pemerintahan/292911/dua\\_wartawan\\_prancis\\_dideportasi\\_saat\\_hendak\\_liputan\\_di\\_papua.html](http://beritajatim.com/politik_pemerintahan/292911/dua_wartawan_prancis_dideportasi_saat_hendak_liputan_di_papua.html)

6 Tempo (28.03.2017): Imigrasi Cekal Jurnalis Al Jazeera, Ini Tanggapan Aktivistis HRW, available at: <https://nasional.tempo.co/read/860279/imigrasi-cekal-jurnalis-al-jazeera-ini-tanggapan-aktivis-hrw>



Image 3.1.2-1: BBC journalist Ms. Rebecca Henschke  
(Source: Twitter)

group of Japanese film makers were arrested after members of the intelligence unit for the surveillance of foreigners (BAIS POA) had reported them to the local immigration office.<sup>7</sup>

► The BBC journalist Ms Rebecca Henschke, was forced to leave West Papua in early February 2017 for allegedly offending members of the military on her Twitter account. Henschke was in the Asmat region to cover the health situation in the area. A measles epidemic and associated malnutrition had caused the deaths of more than 60 children. Rebecca Henschke posted on Twitter a picture of shipped goods at the port and commented “these are the humanitarian supplies for the extremely malnourished children in Papua - instant noodles, sweetened soft drinks and biscuits”. The military issued a complaint stating that the journalist had hurt the feelings of soldiers who intended to help the

people in the Asmat Regency. They also claimed that Henschke’s photo showed deliveries to local shops, not the humanitarian supplies. Police and immigration officers questioned her for 17 hours. Immigration authorities found all her documents in order and allowed Rebecca Henschke and her team to continue their work. After the intimidating encounter with military, police and the immigration personnel, the team decided to return to Jakarta.<sup>8</sup>

► Immigration officers prevented Ms. Belinda Lopez, a PhD candidate in Indonesian studies at Macquarie University, from entering Indonesia shortly after landing at the International Ngurah Rai Airport in Bali on 3 August 2018. She was detained for 17 hours at a room inside the airport and forced to board a flight to Australia the following day. According to Facebook and Twitter posts, the authorities repeatedly asked Belinda Lopez whether she was a journalist and had “done something bad to Indonesia”. The incident appears to be closely related to her former work as editor for the Indonesian newspapers *The Jakarta Post* and *The Jakarta Globe*. Belinda said that Indonesian Immigration authorities had denied the prolongation of her visa in 2016 after being suspected of working as a reporter in the province of Papua. At that time, she was told that this measure was an administrative matter which meant that she could not return to Indonesia for six months. Immigration office spokesman Mr. Agung Sampurno confirmed that Belinda Lopez was on an immigration blacklist but denied that the deportation was conducted on suspicions she was heading to Papua as a journalist.<sup>9</sup>

7 Benar News (12.05.2017): 6 Jurnalis Jepang Dideportasi dari Papua, available at: <https://www.benarnews.org/indonesian/berita/jurnalis-jepang-deportasi-papua-05122017164051.html>

8 Human Rights Watch (06.02.2018): BBC Correspondent Detained in Indonesia Now Freed, available at: <https://www.hrw.org/news/2018/02/06/bbc-correspondent-detained-indonesia-now-freed>

9 9 News (05.08.2018): Australian woman on honeymoon deported from Bali for being ‘blacklisted’, available at: <https://www.9news.com.au/national/2018/08/05/00/34/australian-woman-belinda-lopez-detained-bali-honeymoon-papua>



Image 3.1.2-2: Ms. Belinda Lopez during detention at the Ngurah Rai International Airport in Bali (Source: Twitter)

### Situation of local media outlets and journalists

On the one hand, it cannot be denied that the situation of press freedom in Indonesia including West Papua has significantly improved since the beginning of the reformation era in 2000. However, some aspects of press freedom still fall short, especially in West Papua, where opposition and government-critical groups use the media to amplify their aspirations to a broader audience. Government authorities continue to limit media freedom through various types of intervention.

There are three main reasons why press freedom in West Papua has not yet been achieved. First, the Indonesian Press Council (Dewan Pers Indonesia) and press organizations in Indonesia have not sufficiently promoted the Indonesian Press Law among government authorities and civil society. The sections two and three of the law contain definitions regarding press freedom,

the role of the media in a democracy and rights of journalists. The lack of understanding regarding the press law and media freedom has led to a number of cases in which civilians, government authorities, political representatives or law enforcement personnel have obstructed or assaulted journalists in West Papua. Second, many media outlets in Indonesia, particularly in West Papua, prioritize the economic aspect of the media business and avoid critical reporting in the public interest which could have negative side effects for the outlet. Third, government authorities continue to deliberately limit press freedom through multiple means, stretching from subtle intervention like bribery to physical assault. Hardly any of these cases are processed by law, (e.g. in public and impartial trials), especially if the perpetrators are government authorities.

In 2017, the Indonesian Government attempted to criminalize several critical Papuan news outlets. Moreover, journalists in West Papua continue to be subjected to attacks, intimidation, stigmatization, restrictions and obstruction –the pattern of cases indicate that ethnic Papuan journalists are particularly affected. According to the 2017 report of the Independent Journalist Alliance in Indonesia (AJI), the province of Papua ranked number ten with an average Media Freedom Index of 63.88 which is categorized as ‘rather free’. The province Papua Barat was among the areas with the most severe restrictions on media freedom in Indonesia. The province ranked only 23 out of 24 provinces with an average media freedom of 52.56, categorized as less free. Only the province of Bengkulu had a worse ranking.<sup>10</sup> The chairperson of AJI in Jayapura, Mr Lucky Ireeuw, assessed that the interventions by government authorities have changed throughout the past years as the media landscape in West Papua has become more diverse. In the past, government authorities tried

<sup>10</sup> Alliance of Independent Journalists in Indonesia () :Hantu Senjakala dan Intimidasi, Laboran Tahunan AJI 2017, p. 55f, available at: <https://drive.google.com/file/d/11F9RrDhGN5PXWLMhY2DfEeWlv4f1SWkX/view>



to intervene at the editorial level. Nowadays, authorities directly approach the journalists to influence media coverage through multiple means, including bribery.<sup>11</sup>

The World Association of Newspapers and News Publishers (WAN-IFRA) launched an investigation into the media freedom situation in the Papuan cities of Jayapura, Merauke and Timika between 30 January and 3 February 2017. A delegation from the Media Freedom Committee Indonesia (MFCI) consisting of eight Indonesian journalists followed local journalists from Papuan news outlets during media coverage for five days. The Committee reported that Government officials and security personnel are discriminatory towards indigenous Papuan journalists –especially if Papuan journalists ask for information on criminal investigations that have a political dimension. Journalists in West Papua are stigmatized as pro-independence or nationalist factions, which results in intimidation and fragmentation among the journalist community. Environmental degradation through development programs is underreported due to heavy restrictions on press freedom. Journalists from the Papua South Post shared stories about police and government intimidation, including a prohibition on reporting on President Joko Widodo's Merauke investment program. Particularly female journalists in Papua are at risk of becoming victims of sexual harassment. Not all of these cases are reported.<sup>12</sup>

## Case studies

► On 4 November 2016, the Ministry of Communication and Informatics blocked the website of the Papuan news outlet Suara Papua

for almost two months without providing an explanation or reason for the restriction. The censorship was lifted after the government agency failed to provide proof of any violation of the journalist's code of ethics or false news against ethnic or racial groups or individuals. In early 2017, Suara Papua was again attacked by unknown hackers –the website could not be accessed for three months as a result of an internet attack.<sup>13</sup> Apart from Suara Papua, the Government also blocked the Papuan news websites *Infopapua.org*, *Tabloid-wani.com*, *Papuapost.com*, *Freepapua.com* and *Ampnews.org* without providing details of the legal grounds for the censorship.<sup>14</sup>

► On 15 February 2017, RRI Jayapura journalist Ms. Lina Umasugi was threatened by a group of political supporters as she tried to cover the activities at a polling station in Entrop, located at the Hanyaan Complex in Entrop, Jayapura. The supporters prevented her from covering the polling station and threatened to kill her if she would not leave the Hanyaan Complex, immediately.<sup>15</sup>

► On 15 April 2017, two police officers from the Yahukimo district police prevented 'Kabar Kampung' journalist Mr. Herens Lokon and Mr. Yonatan Itlai as well as Mr. Piter Lokon (Jubi) and Mr. Ardi Bayage (SuaraPapua.com) from covering the first landing of a military transporter airplane type Hercules at the Nop Goliat Airport in Dekai, the largest town in the Yahukimo regency. The officers did not allow the journalists to enter the airport to take pictures of the airplane, arguing that the journalist did not have a permission letter from the airport authorities.<sup>16</sup>

11 Interview with AJI Jayapura chairperson, Mr Lucky Ireeuw, in October 2018

12 Engage Media (15.02.2017): Press Freedom Investigation in Papua Highlights Challenges for Local Journalists, available at: <https://www.engagemedia.org/blog/press-freedom-investigation-papua-challenges-for-local-journalists>

13 Suara Papua (31.01.2018): Pemerintah seenaknya blokir website dan portal berita, available at: <https://suarapapua.com/2017/01/31/pemerintah-seenaknya-blokir-website-dan-portal-berita/>

14 Suara Papua (18.04.2017): available at: <https://suarapapua.com/2017/04/18/blokir-lima-situs-di-papua-indonesia-dinilai-bungkam-ekspresi-maya-rakyat-papua/>

15 AJI Kota Jayapura (14.02.2019): Data Kekerasan Terhadap Jurnalis di Papua -Jayapura tahun 2017-2018

16 Suara Papua (17.04.2017): Anggota Polisi Larang Empat Wartawan Liput Launching Hercules Di Yahukimo, available at: <https://suarapapua.com/2017/04/17/anggota-polisi-larang-empat-wartawan-liput-launching-hercules-di-yahukimo/>

► On 28 April 2017, the three journalists Mr. Ricardo Hutahaean (Metro TV), Mr. Mesak Ithem (TVRI) and Mr. Audi (Jaya TV) covered a court trial to settle a dispute between local politicians at the Jayawijaya District Court in the city of Wamena. Prior to the trial, Ricardo Hutahaean was worried about their safety and had asked the chief of district police to guarantee that the journalists would not face repressive acts. However, no police officers came to the district court to provide security to them at the court hearing. The three journalists received death threats after covering the court hearing. A group of twenty political supporters approached the journalists inside the district court building and forced them to delete the video footage.<sup>17</sup>

► On 1 May 2017, around 9.00 am, police officers arbitrarily arrested 'Tabloid Jubi' journalist Mr. Yance Wenda as he was covering a peaceful demonstration by the pro-independence organization KNPB (West Papua National Committee) in Sentani, Jayapura Regency. An officer approached Yance Wenda, allegedly took his glasses away and asked him whether he was a KNPB supporter. Yance told the officer that he was a journalist while looking for his press ID. Before he could show the ID, another officer snatched his bag and arrested him. He was subsequently detained for four hours at the Jayapura district police station, where officers allegedly tortured him. According to Yance Wenda, police officers beat him on the face, back, legs and arms using their bare hands and rattan sticks. One officer kicked Yance Wenda in the face, causing a deep cut to the inside of his lower lip.<sup>18</sup>



Caption: Image 3.1.2-3: Mr. Yance Wenda, showing the injuries he sustained as a result of torture during his police custody (Source: Tabloid Jubi)

► On 23 May 2017, the journalists Ms. Siti Aminah (HarianPapua), Ms. Selviani Bu'tu, (Radar Timika) and Mr. Aloysius Nasma (Salam Papua) came to the office of the Mimika Spacial Planning Agency (BAPPEDA) in Timika, where they wanted to interview the head of the BAPPEDA Control Department. As they were waiting in front of the office, the head of the Construction and Infrastructure Department angrily reprimanded Ms. Siti Aminah and subsequently told the journalists to leave the office. The civil servant later apologized for his behavior.<sup>19</sup>

► On 29 June 2017, a group of supporters of the mining company PT Kristalin Eka Lestari assaulted Tabloid Jubi journalist Mr. Titus Ruban at Kilometer 39 Kali Mosairo in the Makimi District of Nabire Regency. The supporters approached the location armed with bows and wooden sticks after local community members and human rights activists had complained that the company had conducted mining activities beyond their concession area. The supporters slapped and punched Mr Ruban as he wanted to cover the dispute.<sup>20</sup>

17 Oke Nasional (29.04.2018): 3 Wartawan Diancam Dibunuh ketika Liput Sidang Pidana Pilkada Tolikara, IJTI: Kami Akan Selidiki, available at: <https://nasional.okezone.com/read/2017/04/29/337/1679347/3-wartawan-diancam-dibunuh-ketika-liput-sidang-pidana-pilkada-tolikara-ijti-kami-akan-selidiki>

18 Tabloid Jubi (02.05.2017): Wartawan dipukul dan ditangkap, Legislator: pimpinan polisi harus minta maaf, available at: <http://tabloidjubi.com/m/artikel-5930-wartawan-dipukul-dan-ditangkap-legislator-pimpinan-polisi-harus-minta-maaf.html>

19 AJI Kota Jayapura (14.02.2019): Data Kekerasan Terhadap Jurnalis di Papua -Jayapura tahun 2017-2018

20 Ibid.

► On 17 October 2017, at around 12.00 am, six plain clothes military personnel came to the house of 'Suara Papua' journalist Mr. Stevanus Yogi in Enarotali, Paniai Regency. The three military officers entered his house without asking for permission or showing a warrant. They checked each room inside the house. Three officers were guarding the yard in front of the house. According to Stevanus Yogi, the military members were armed with bayonet knives and stated that they were allegedly searching for a thief. However, the local journalist understood the incident as an act of intimidation against him, explaining that the security force members only targeted his house in the area. The head of the 'Suara Papua' editorial team, Mr Arnold Belau also perceived the house search as an act of intimidation against his journalist and linked the incident to the Paniai Shooting in December 2014. Stevanus Yogi was one of the journalists who was involved in the media coverage on the case which led to the publication of various critical articles.<sup>21</sup>

► On 5 November 2017, 'Pasific Pos' journalist Mr. Ridwan Cholid Abubakar was attacked by a military officer in Jayapura while he was waiting for a friend at the so-called Argapura Bawah Complex. A member of Kodim/1704 Wamena military unit with the initials TK stopped his motorcycle next to him, grabbed his arm and accused him of being a drug user. When Ridwan explained to the military person that he did not take any drugs, the soldier punched him repeatedly in the face causing bruises to the journalist's left cheek and neck. According to Ridwan Cholid Abubakar, the military officer was acting under the influence of alcohol.<sup>22</sup>

► On 11 November 2017, at 10.50 pm, a group of police officers of Mimika Police Office (Polres

Mimika) ill-treated 'OKE Zone' journalist Mr. Saldi Hermanto, as he was sitting in a public post near the police traffic control post, which is known as a meeting spot for local journalists. A group of at least six police officers approached Saldi and dragged him inside the traffic control post, where they repeatedly punched him to the head and upper body. Saldi sustained bruises to the left temple and his right ribs, causing difficulties in breathing after the attack. The reason for the attack was a Facebook post in which Saldi allegedly criticized the performance of the local police in securing the outbreak of chaos during a public entertainment show at the Timika night market, resulting in public panic among the crowd.<sup>23</sup>



Image 3.1.2-4: Local journalist Mr. Saldi Hermanto after the attack (Source: Oke Zone)

► On 5 May 2018 at 9:00 am, Mr. Mando Mote, a 29-years-old civil servant from Deiyai Regency, was collectively beaten up by police officers as he tried to access the front yard of a guest house in Nabire, where the public election commission (KPU) had organised a political debate between politicians running for election as regent of

21 Suara Papua (23.10.2017): Enam Anggota TNI datang rumah wartawan Suara Papua di Paniai, available at: <https://suarapapua.com/2017/10/23/enam-anggota-tni-datangi-rumah-wartawan-suara-papua-di-paniai/>

22 Tabloid Jubi (06.11.2017): Anggota TNI pemukul wartawan segera diperiksa, available at: <http://www.tabloidjubi.com/artikel-11282-anggota-tni-pemukul-wartawan-segera-diperiksa-.html>

23 Oke Zone (12.11.2017): Astaga! Wartawan Okezone Diduga Dianiaya Oknum Kepolisian Timika, available at: <https://news.okezone.com/read/2017/11/12/340/1812602/astaga-wartawan-okezone-diduga-dianiaya-oknum-kepolisian-timika>

Deiyai Regency. As police officers saw that 'JUBI' journalist Mr. Albert Youw was recording the ill-treatment with his mobile phone, they forcefully snatched his cell phone. One of the officers grabbed Albert Youw by the neck while another officer took his glasses, threw them to the ground and stomped on them. Several officers allegedly insulted Albert Youw, calling him 'shit journalist' ('wartawan tai') and 'stupid journalist' ('wartawan bodoh'). After the incident, the head of Nabire district police, Mr Sonny Sanjaya, asked Albert Youw not to publish the incident and suggested to settle the police misconduct outside the law. An officer of the police intelligence unit gave Mr. Youw an envelope with 1.5 million rupiahs (approximately 97 Euros. Mr. Albert Youw accepted the money as a compensation for his glasses. He later published the incident and reported the assault to the 'Indonesian Alliance of Independent Journalists' (AJI).<sup>24</sup>

► On 1 December 2018, members of the local police and the military obstructed Papuan journalist Mr. Piter Lokon in the city of Tomohon, North Sulawesi Province, as he covered a prayer session in commemoration of the 1<sup>st</sup> December at the Papuan student dormitory. People in West Papuan consider the date as the Papuan national independence day. Piter Lokon, who works for the independent news outlet Tabloid Jubi since 2016, had received an official invitation to cover the prayer session. Around 4.40 pm, joint security forces entered the dormitory building and seized the participants' belongings. As Piter Lokon informed the officer that he is a journalist covering the commemoration, members of the police, military special force unit (KOPASSUS), sub-district representatives and nationalist mass organisations surrounded and collectively questioned him (see image 3.1.2-5). Doubting that Mr. Lokon was a journalist, the police officers took pictures of him and seized his bag with the camera, a lense and his mobile phone.



Image 3.1.2-5: Members of the police, military and government officers surrounding Mr. Piter Lokon at the dormitory (Source: JUBI)

## Manipulation of public opinion

There are multiple ways whereby public opinion on West Papua is manipulated – the most visible method is to use the internet, particularly social media channels like Twitter, Facebook and Instagram. There are many social media accounts that promote the unitary state doctrine of the Indonesian government and criticize human rights related issues or aspirations for self-determination. Many accounts do not appear to be genuine accounts of private users. Their posts are only limited to West Papua-related issues and are shared on a daily basis. The posts often contain counter-information or alternative facts to incidents and developments that are discussed in the media. They often carry the names of indigenous clans as surnames and the profile pictures show indigenous Papuans - however, their posts often contain dialect terms that are used outside of West Papua. Several accounts share posts in English to reach a foreign audience.

There are hundreds of Twitter accounts that share information representing and promoting the Indonesian Government's point of view. An internet research on Twitter identified the following accounts of this type: @kapitennkri, @Alfredo\_Kaway, @Papua\_satu, @Papeda, @

24 JPIC KINGMI Papua (06.05.2018): Aparat Brimob, Polisi Dalmas dan Propos pengerojokan terhadap seorang Pegawai Negeri Sipil (PNS) Deiya dan Wartawan Jubi di Halaman Guest House

wethePapuans, @KitongKribo, @Papuannewsid, @WestPapuaRus, @MelanesiaPapua, @PapualD, @WestPapuaZone1, @SaveWestPapuald, @Papuanews\_, and @Sahabat\_Papua. Their posts often carry hashtags like #PapuaIndonesia, #PapuaNKRI or #WestPapuaNKRI.

Similar observations apply to Facebook, where pro-independence activists struggle with persons defending the unitary state doctrine and the Indonesian Government's course. Some posts on false accounts are supposed to provoke Pro-Papuan activists to expose their political opinion on Facebook. This might be a government strategy to collect information on users representing a pro-Papuan or government-critical opinion. Apart from private Facebook accounts many 'Facebook fan-pages' that consistently share counter-information and alternative facts have mushroomed during the past years. The pages have a high number of 'likes', creating the image that a great number of people support their views. Examples of such pages are 'Save NKRI' (80.000 likes), 'NKRI Harga Mati' (15.000 likes), West Papua Indonesia (156.000 likes) or 'Suara Papua - Saya Indonesia' (52.000 likes).

The third social media platform that is widely used in the struggle for public opinion is Instagram. Short videos and images showing landscapes and tourist destinations in West Papua are shared by dubious accounts. The posts often carry particular hashtags with a high number of posts, e.g. #PapuaIndonesia (43.200 posts), #PapualtuIndonesia (72.500 posts), #PapuaJugalIndonesia (1.600 posts), #PapuaNKRI (26.100 posts), and #West PapuaNKRI (6.600 posts). The internet research identified several Instagram accounts of this type, among them PapuaIndonesia (18.700 followers), Papuanese\_ (3.200 followers), Papua\_basodara (1.500), sako\_Papua (921 followers) and Papua\_nkri (7.600 followers).

The most vigorous efforts in the struggle for public opinion have been made through the establishment of new online news websites.

During the past three years many new websites and free blogger sites have emerged. While the sharing of information through social media is regulated by the Electronic Transaction and Information (ITE) Law, the press law and the journalist code of ethics set the legal framework for the production and sharing of news. Similarly, with social media accounts that appear not to be genuine, these websites promote only pro-government values and policies. Examples of such news sites are [www.papuanews.co.id](http://www.papuanews.co.id), [www.harianpapua.com](http://www.harianpapua.com), [www.papuaindonesia.com](http://www.papuaindonesia.com), [www.cenderawasih-pos.com](http://www.cenderawasih-pos.com) or [www.sayaindonesia.co.id](http://www.sayaindonesia.co.id). There are also several websites such as [www.freewestpapuacampaign.com](http://www.freewestpapuacampaign.com) and [www.freewestpapua-indonesia.com](http://www.freewestpapua-indonesia.com) that promote similar pro-Government information in the English language. In most cases it is not known who created these websites, who is responsible for their maintenance and to what extent the Indonesian government is involved. However, some Papuan journalists claim that several websites which provide information in English have been set up by pro-Indonesian intellectuals to counterbalance campaigns for Papuan self-determination.

The opinion of civil society representatives and journalists regarding these sites differ, arguing that there are both, positive and negative aspects to consider. Most of these websites produce news on a daily basis which are published on the internet. The news provides alternative facts and versions of incidents that often deviate from the real facts published by registered news outlets, which have been collected through journalistic methods and in accordance with the journalistic code of ethics and press laws in Indonesia. The presence of a large variety of news websites providing contrary information has left many readers in West Papua confused. The chairperson of the 'Independent Journalist Association' (AJI) in Jayapura, Mr. Lucky Ireeuw, represented the view that the existence of a growing number of internet news sites was a positive development, allowing the readers to choose their preferred source of information.



## ICP recommends to the Government of Indonesia to:

- Open access to West Papua for international human rights organisations, journalists and international observers.
- Review the national intelligence law to ensure that the definition of state secrets is clear enough to prevent the misuse of the law against journalists.
- Substitute the clearing house procedure with a transparent visa procedure, allowing international journalists and observers to cover activities freely in West Papua.
- Develop and adopt a regulation which guarantees foreign journalists to cover news events freely in West Papua without intimidation, limitations or being escorted by security force members during media coverage.
- Prevent attacks, intimidation, stigmatization, restrictions and obstruction against local journalists by enforcing the prosecution of perpetrators in public trials.
- Stop censorship of Papuan news outlets and websites providing alternative news content such as cases of human rights violations and self-determination.
- Issue a standing invitation to the UN Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression

## *ICP recommends to the Indonesian Press Council (Dewan Pers Indonesia) and other press-related institutions in Indonesia to:*

- Promote the Indonesian Press Law among government authorities and civil society, particularly sections two and three of the law, which contain definitions regarding press freedom, the role of the media and the rights of journalists.



## Recommendations by states:

- France recommends to the Government of Indonesia to “facilitate the work of human rights defenders and journalists throughout the country”<sup>1</sup>
- Iraq recommends to the Government of Indonesia to “step up efforts to ensure protection of journalists and human rights defenders”<sup>2</sup>
- France recommends to the Government of Indonesia to “ensure free access for foreign journalists to Papua and West Papua”<sup>3</sup>

1 Human Rights Council (14.07.2017): 3rd cycle of the Universal Periodic Review of Indonesia, available at: [http://ap.ohchr.org/documents/dpage\\_e.aspx?si=A/HRC/36/7](http://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/36/7)

2 Ibid.

3 Human Rights Council (05.07.2012): 2nd cycle of the Universal Periodic Review of Indonesia, available at: <http://undocs.org/A/HRC/21/7>



## Recommendations by international human rights mechanisms:

- The Special Rapporteur on freedom of peaceful assembly and association calls on the Indonesian Government to “ensure the protection of those monitoring and reporting on violations and abuses in the context of peaceful assemblies”<sup>4</sup>

### 3.2 Freedom of Peaceful Assembly

In 2017, thirteen peaceful protests were forcibly interrupted by security forces. The figure more than doubled to 27 such interruptions in 2018. These figures indicate that the number of protests has decreased in comparison to the years 2015 and 2016. Throughout the past five years, small activist groups have formed in other parts of Indonesia which support the issue of political self-determination in West Papua and have successfully organised demonstrations in Java, Maluku and Sulawesi in the past two years. These groups are facing strong repression –not only by Indonesian law enforcement institutions, but also by nationalist civil society groups (*Organisasi massa* ORMAS), whose members have repeatedly attacked Papuan students during gatherings in their dormitories or during public demonstrations. Demonstrations are dispersed if they touch politically sensitive issues and protesters are arrested, although most demonstrations are registered beforehand. The protesters are usually released within 24 hours without the police pressing criminal charges.

Statistical data on peaceful assemblies on West Papua-related issues for the years 2017 and 2018 indicates that fewer peaceful protests have taken place than in the previous years of 2015 and 2016 (see Table 3-1 in the introduction to the civil and political rights chapter). In 2017, thirteen peaceful protests were interrupted with force by security forces. The figure more than doubled to 27 such interventions in 2018. The fluctuations in the number of peaceful protests throughout the past five years depend on multiple factors. International campaigns by the United Liberation Movement for West

Papua (ULMWP) and particular developments on a national level or at the United Nations were often accompanied by peaceful demonstrations in multiple cities of West Papua and other islands of Indonesia. Apart from such occasional demonstrations, movement organisations inside and outside of West Papua organised periodic peaceful commemorations on the 1<sup>st</sup> December, on the 1<sup>st</sup> May and on International Human Rights Day (10<sup>th</sup> December). The peak of peaceful activities with 35 intervened protests in 2016 was closely related to a number of international advocacy efforts by the ULMWP (see Table 3.2.1).

4 Mandates of the Special Rapporteur on minority issues; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on the rights to freedom of peaceful assembly and of association and the Special Rapporteur on the situation of human rights defenders (08.09.2017): Communication in relation to excessive use of force by police officers against Papuan villagers - some of them minors - during protests in Oneibo Village, AL IDN 6/2017, p. 4f, available at: <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gld=23322>

Throughout the past five years, small activist groups began to form in other parts of Indonesia who support the issue of political self-determination in West Papua. The Indonesian Peoples Front for West Papua (Front Rakyat Republik Indonesia untuk West Papua, FRI West Papua) is a movement consisting of non-Papuan students and activists who have successfully organized demonstrations in Java, Maluku and Sulawesi, mainly in cooperation with the Papuan Student Alliance (Aliansi Mahasiswa Papua, AMP). The ability to organise and coordinate protests in multiple cities of Indonesia at the same time indicates that the groups in and outside of West Papua are connected and organised. However, the AMP and FRI West Papua are experiencing growing repression by Indonesian law enforcement institutions and nationalist civil society groups (Organisasi Kemasyarakatan, ORMAS). There have been a number of cases where Papuan students and non-Papuan supporters were attacked by ORMAS members. Police did not always successfully protect the Papuan protesters from violent acts<sup>1</sup>.

In Indonesia, law enforcement institutions continue to limit the democratic space on West Papua-related issues. This government-driven policy particularly affects the freedom of peaceful assembly and association, guaranteed under Indonesian national law. Protestors are obliged to inform the police beforehand about an assembly but do not require a permit from the police. However, the police in Indonesia continues to use the lack of a “police acknowledgement letter” (“Surat Tanda Terima Pemberitahuan” STTP) in response to a “notification letter for a demonstration” as justification to declare demonstrations illegal. Police institutions - in and outside of West Papua - refuse to issue “police acknowledgement letters” (STTP) to prevent particular Papuan civil society groups from the enjoyment of their right

to freedom of expression or disperse peaceful assemblies on sensitive political issues.

Throughout 2017 and 2018, organisations such as the West Papua National Committee (Komite Nasional Papua Barat), ULMWP, West Papuan National Authority (WPNA) and Papua People’s Democratic Movement (Gerakan Rakyat Demokratik Papua, GARDA Papua) were among the groups which faced repression and even prosecution. Their members and supporters were arbitrarily arrested during peaceful public protests, internal assembly meetings or preparatory activities, like the distribution of leaflets. Outside of West Papua, the AMP and FRI West Papua were repeatedly prevented from carrying out peaceful protests. Arrests of protestors were occasionally accompanied by security force violence (see chapter 3.6 on Torture and Ill-treatment).

Following a similar pattern, arbitrary arrests in response to peaceful political protests –as a practice– are conducted by police outside and inside of West Papua. This must be understood as strategy to deliberately prevent certain groups from peaceful assembling and expressing their opinion. Although most protestors are released within 24 hours without criminal charges, the practice represents a violation of the freedom of peaceful assembly and freedom of expression as guaranteed under international human rights law. Police officers arrest and temporarily detain the protestors to register their names. Protestors who have been repeatedly arrested due to their participation in political activity on sensitive political issues may risk a criminal record. The police in West Papua pressed criminal charges against KNPB activists who had organised political protests. The charges varied from treason, illegal possession of sharp weapons or association with a criminal organisation (see Chapter 3.1.1 Political Prisoners).

<sup>1</sup> National Student Front Surabaya & Papuan Student League Surabaya (16 August 2018): Rilis Kronologis Penyerangan Terhadap Asrama Mahasiswa Papua



**Table 3.2-1: Table of forcibly dispersed demonstrations and peaceful assemblies throughout 2017 and 2018 (Source: multiple media sources)**

2017					
Nr. of public Assemblies	Date	Dispersed Demonstrations/ Assemblies/Activities	Location(s)	Arrests	Reported Violations
1	01/05/17	Commemoration of 1st May organized by KNPB	Sentani, Jayapura Regency	200	Unlawful arrests, torture/ill-treatment
2	03/05/17	Demonstration for the opening of West Papua for foreign journalists	Timika, Mimika Regency	30	Unlawful arrest, and prohibition of peaceful demonstration
	05/05/17	Distribution of leaflets for the upcoming election of new local KNPB board	Manokwari City, Manokwari Regency	6	Unlawful arrests
3	30/05/17	Prayer session celebrating the election of the new board of the KNPB Timika branch	Timika, Mimika Regency	7	Unlawful arrests, torture/ill-treatment
4	31/05/17	Prayer session celebrating the election of the new board of the KNPB Merauke branch	Merauke City, Merauke Regency	77	Unlawful arrests
	01/07/17	Preparing copies of leaflets for a public discussion for the commemoration of 1st July	Nabire City, Nabire regency	1	Unlawful arrests
5	04/07/17	Arrest of KNPB supporters demanding the release of their companion after being arbitrarily arrested	Nabire City, Nabire regency	30	Unlawful arrests, torture/ill-treatment
6	06/07/17	Arrest of KNPB supporters demanding the release of their companions after being arbitrarily arrested	Nabire City, Nabire regency	89	Unlawful arrests, torture/ill-treatment
7			Semarang, Central Java	47	Unlawful arrests, ill-treatments
8	15/08/17	Commemoration of New York Agreement organized by Fri West Papua and AMP	Yogyakarta, Central Java	29	Unlawful arrests
9			Jakarta	24	Unlawful arrests, 5 protestors sustained injuries due to ill-treatments during arrest
10	20/11/17	House search and unlawful arrest of KNPB leaders at the KNPB Secretariat Maybrat	Myabrath, Regency	11	Unlawful arrests
	30/11/17	Arrest of KNPB members who prepared for peaceful commemoration of 1st December at the KNPB Kumandu Secretariat	Almasuh, Merauke Regency	22	Unlawful arrests
11			Sorong Regency	3	Unlawful arrests
12	01/12/17	Prayer session for the commemoration of 1st December	Salatiga/ Semarang, Jawa Tengah	3	Unlawful arrests
13	01/12/17	Commemoration of 1st December	Nabire City, Nabire Regency	3	Unlawful arrests
<b>TOTAL</b>				<b>582</b>	

2018						
Nr. of public Assemblies	Date	Dispersed Demonstrations/Assemblies/Activities	Location(s)	Arrests	Reported Violations	
1	05/04/18	Solidarity action for victims of natural disasters in Papua New Guinea	Abepura, Jayapura Municipality	5	Arbitrary arrest	
2	07/04/18	Solidarity action for victims of natural disasters in Papua New Guinea	Taman Porasko, Jayapura Municipality	11	Arbitrary arrest	
3	24/04/18	Peaceful demonstration in support of the Solomon Islands Government for diplomatic efforts on West Papuan selfdetermination	Papuan Governor's Office, Jayapura Municipality	9	Arbitrary arrest	
4	09/08/18	Peaceful commemoration of the 'International Day of the World's Indigenous Peoples'	Merauke, Merauke Regency	4	Arbitrary arrest	
5	16/08/18	Arrest of Ferry Gombo for organizing orientation activity for UNCEN first semester students (OSPEK) on 14 August 2018, in which senior students distributed bracelets with the morning star symbol	Waena, Jayapura Municipality	1	Arbitrary arrest	
6	28/08/18	Arrested student representatives during STIKOM activity for first semester students (OSPEK)	STIKOM, Jayapura Municipality	4	Arbitrary arrest	
7	03/09/18	Peaceful demonstration demanding the closing of the Freeport Mine in Tembagapura, the demilitarization of West Papua and the constriction of the market for indigenous Papuan women	Waena, Jayapura Municipality	14	Arbitrary arrest	
8	03/09/18	Peaceful demonstration in support of Vanuatu and other Pacific island countries to raise the issue of self-determination for West Papua at the upcoming Pacific Islands Forum (PIF) meeting	USTJ Abepura, Jayapura Municipality	34	Arbitrary arrest, ill-treatment	
9			Sentani, Jayapura Regency	45	Arbitrary arrest	
10	08/09/18	Peaceful demonstration in support of the United Liberation Movement for West Papua (ULMWP)	Kaimana, Teluk Bintuni Regency	35	Arbitrary arrest	
11	24/09/18	Peaceful demonstration in support of the United Liberation Movement for West Papua (ULMWP)	Abepura & Waena, Jayapura Municipality	67	Arbitrary arrest, ill-treatment	
12	09/10/18	Meeting at KNPB office in Timika	Timika, Mimika Regency	7	Arbitrary arrest	
13	13/10/18	Festival event at the Papuan student dormitory in Makassar	Makassar, South Sulawesi Regency	5	Arbitrary arrest, ill-treatment	
14	16/10/18	Second KNPB Convention in Sentani	Deprapre, Jayapura Regency	3	Arbitrary arrest	
15	16/11/18	President's visit to Merauke Regency	Merauke	1	Arbitrary arrest	
16	01/12/18	Demonstrations in various cities of Indonesia and West Papua for commemoration of 1st December	Kupang	421	Arbitrary arrest, ill-treatment	
17	01/12/18		Ambon			
18	01/12/18		Ternate			
19	01/12/18		Jayapura			
20	01/12/18		Jakarta			
21	01/12/18		Manado			
22	01/12/18		Waropen			
23	02/12/18	Mass arrest of Papuan students in Surabaya	Surabaya	233	Arbitrary arrest	
24	10/12/18	Commemoration of International Human Rights Day	Timika	90	Arbitrary arrest, ill-treatment	
25	10/12/18		Biak	2	Arbitrary arrest	
26	10/12/18		Merauke	41	Arbitrary arrest	
27	31/12/18	Commemoration of KNPB Anniversary	Timika	6	Arbitrary arrest, ill-treatment	
<b>TOTAL</b>				<b>1038</b>		



## ICP recommends to the Government of Indonesia to:

- provide adequate training for people working in government and administrative agencies to foster understanding, respect and protection of the rights to freedom of expression and opinion, peaceful assembly and self-determination, while they perform their duties.
- Develop and enforce policies that ensure the role of the police as protectors of the right to peaceful assembly and expression of political opinions, including those different from or opposed to the government's position, particularly in the provinces of Papua and Papua Barat
- Stop the prosecution, intimidation and harassment of people expressing peaceful resistance against plantation companies that are violating their rights.
- Immediately stop the prevention or dispersal of peaceful commemorations of international human rights day (10. December) and the international day of the world's indigenous peoples (9. August) in West Papua.
- Issue a standing invitation to the UN Special Rapporteur on the rights to freedom of peaceful assembly and of association.



## Recommendations by states:

- Germany recommends to the Indonesian Government to “improve training and administrative instructions for police and local authorities to ensure that the right to peaceful assembly is universally respected, including in the provinces of Papua and West Papua”<sup>1</sup>
- The United States of America recommends to the Government of Indonesia to “end prosecutions under articles 106 and 110 of the Criminal Code for exercising freedom of expression and peaceful assembly”<sup>2</sup>
- Ireland recommends to the Government of Indonesia to “ensure that existing legal and constitutional provisions protecting human rights, in particular freedom of expression, association and assembly are fully implemented nationwide ...”<sup>3</sup>

1 Human Rights Council (14.07.2017): 3rd cycle of the Universal Periodic Review of Indonesia, available at: [http://ap.ohchr.org/documents/dpage\\_e.aspx?si=A/HRC/36/7](http://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/36/7)

2 Ibid.

3 Ibid.



## Recommendations by international human rights mechanisms:

- The European Parliament “encourages the Government of Indonesia to take all necessary measures to ensure that the rights of peaceful activists are protected, and to ensure that an enabling environment is created for the realisation of freedom of speech and freedom of peaceful demonstration”<sup>4</sup>
- The European Parliament “urges the Indonesian and local authorities in Papua to implement immediate and effective measures to ensure the safety and security of peaceful political activists exercising their rights; calls on the authorities to ensure that people in Papua are able freely to express their ideas and opinions without fear of punishment, reprisal or intimidation”<sup>5</sup>
- Multiple UN special procedures mandate holders recommend to the Indonesian government to ensure that law enforcement officials are trained in and aware of international human rights standards and international standards for the policing of peaceful assemblies and to investigate allegations of indiscriminate and/or excessive use of force by law enforcement officials.<sup>6</sup>
- Multiple UN special procedures mandate holders recommend to the government of Indonesia to ensure that the lethal use of firearms may only be made when strictly unavoidable in order to protect life, as stipulated in Principle 9 of the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials (1990). Firearms should never be used simply to disperse an assembly; indiscriminate firing into a crowd is always unlawful (para 60 of the recommendations). Should lethal force be used, restraint must be exercised at all times and damage and/or injury mitigated, including giving a clear warning of the intent to use force and to provide sufficient time to heed that warning, and providing medical assistance as soon as possible when necessary (principles 5 and 10).<sup>7</sup>
- “The Special Rapporteur [on the rights to freedom of peaceful assembly and of association] urges the Government of Indonesia to take measures to put in place an enabling environment for associations to operate safely and for protests to take place free from undue restrictions. [...] Prohibitions should be measures

4 European Parliament Resolution 2017/2506 (RSP) on Indonesia adopted on 19th January 2017 in Strasbourg, available at: <http://www.europarl.europa.eu/sides/getDoc.do?type=TA&reference=P8-TA-2017-0002&language=EN&ring=P8-RC-2017-0072>

5 Ibid.

6 Mandates of the Special Rapporteur on minority issues; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on the rights to freedom of peaceful assembly and of association and the Special Rapporteur on the situation of human rights defenders (08.09.2017): Communication in relation to excessive use of force by police officers against Papuan villagers - some of them minors - during protests in Oneibo Village, AL IDN 6/2017, p. 5, available at: <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gld=23322>

7 Mandates of the Special Rapporteur on extrajudicial, summary or arbitrary executions; the Special Rapporteur on the rights of indigenous peoples; the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance; the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment and the Special Rapporteur on the human rights to safe drinking water and sanitation (07.12.2018): Communication in relation to allegations of extrajudicial killings through either torture, intentional killing or excessive use of force of six indigenous Papuans by the police and the military in 2017 and 2018 which are alleged to be part of a broader pattern of extrajudicial killings of indigenous Papuans, AL IDN 7/2018, p. 10f, available at: <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gld=24202>

of last resort. [...] He believes that a swift notification procedure to hold a peaceful assembly complies better with international standards, whereas other requirements can lead to undue interference. Similarly, he is of the view that authorities should automatically grant associations legal personality as soon as notified (A/HRC/20/27, paragraph 28)<sup>8</sup>

- The UN Human Rights Committee (CCPR) recommends that the Government of Indonesia “should take the necessary steps to ensure that any restrictions to the freedom of expression comply fully with the strict requirements of article 19, paragraph 3, of the Covenant [on civil and political rights], as further clarified in general comment No. 34. The State party should ensure the enjoyment by all of the freedom of peaceful assembly and protect protesters from harassment, intimidation and violence. The State party should consistently investigate such cases and prosecute those responsible.”<sup>9</sup>

## 3.3 The Right to Liberty and Security of Person

Throughout the years 2017 and 2018, human rights defenders in West Papua reported a total number of twelve cases, which can be segregated into two major categories. Such violations commonly occur if members of the military act in the role of law enforcement officials and arrest or detain individuals. The second category comprises procedural violations during law enforcement operations, such as group arrests without sufficient evidence or arrests without a warrant. Many ordinary people in West Papua still lack an understanding of their rights and of criminal procedures, so the majority of such violations are not reported. Case studies suggest that violations of the right to liberty and security of person in West Papua are often accompanied by ill-treatment and torture.

Violations of the right to liberty and security of person in West Papua are commonly committed by police and military personnel. Throughout the years 2017 and 2018, human rights defenders reported a total number of twelve cases. This number excludes arrests in relation to the right

to peaceful assembly, which have been covered in chapter 3.2 of this report. The following section segregates the cases into two major categories of such violations. In the specific context of West Papua, the right to liberty and security of person is often violated if members of the military act in

8 Special Rapporteur on the rights to freedom of peaceful assembly and of association (10.06.2015): Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association, Maina Kiai Addendum Observations on communications transmitted to Governments and replies received, A/HRC/29/25/ADD.3, p. 49, available at: <http://undocs.org/A/HRC/29/25/ADD.3>.

9 UN Human Rights Committee CCPR (21.08.2013): Concluding observations on the initial report of Indonesia, CCPR/C/IDN/CO/1, p. 8f, available at: <http://undocs.org/CCPR/C/IDN/CO/1>

the role of law enforcement officials and arrest or detain persons. The second category comprises procedural violations during law enforcement operations.

Procedural violations by law enforcement officers in the context of West Papua vary. Such violations may remain unnoticed if victims do not receive legal support from lawyers. Many ordinary people in West Papua still lack a clear understanding of the criminal procedures and their rights. Therefore, it is likely that the eleven reported cases are only the tip of an iceberg. Police officers often conduct arrests without warrants. The warrant documents are commonly arranged later on, after the arrests have already been conducted. This violates Article 18 (1) of the 'Indonesian Criminal Procedure Code' (Kitab Undang-Undang Acara Pidana, KUHAP), which requires that the law enforcement officers show a warrant for arrest to the suspect unless he is caught in the act of committing a criminal offense. Another common procedural violation is the arrest of entire groups of people although evidence supports the criminal involvement

of some of the members of the group only. The unlawful arrest of 49 Papuan students in Surabaya City of Java Timur Province indicates that this type of violation also occurs outside of West Papua.

It is very common that violations of the right to liberty and security of person in West Papua are accompanied by ill-treatment and torture as the examples in the case study section will exemplify. During the reporting period violence during unlawful arrests occurred in eight out of twelve cases. Violence seems to be particularly common if members of the military act in the capacity of law enforcement officers. Five out of six reported cases of this category were accompanied by acts of torture – one of them resulting in the victim's death. Law Number. 8/1981 from the Criminal Procedure Code (KUHAP) clearly states that law enforcement is the task of the police, while the military's role focusses on Defense against armed threats from outside and inside the country and the maintenance of national security in case of chaos.<sup>1</sup>

### International Covenant on Civil and Political Rights, Article 9. [Right of Liberty and Security of Person]

1. Everyone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law.
2. Anyone who is arrested shall be informed, at the time of arrest, of the reasons for his arrest and shall be promptly informed of any charges against him.
3. Anyone arrested or detained on a criminal charge shall be brought promptly before a judge or other officer authorized by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release. It shall not be the general rule that persons awaiting trial shall be detained in custody, but release may be subject to guarantees to appear for trial, at any other stage of the judicial proceedings, and, should occasion arise, for execution of the judgement.
4. Anyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings before a court, in order that that court may decide without delay on the lawfulness of his detention and order his release if the detention is not lawful.
5. Anyone who has been the victim of unlawful arrest or detention shall have an enforceable right to compensation.

1 Law 34/2004 on the Indonesian National Army, Article 6 (a), (b), (c)

## Military acting in the capacity of law enforcement officials – Case studies

► A group of military personnel arbitrarily arrested Mr. Hendrik Bosayor (30 years) on 4 August 2017 in Sowi I of Manokwari Regency. According to Hendrik Bosayor's family, Hendrik Bosayor was unlawfully detained for eight days in a former office building of the company PT. Coklat Ransiki in Sowi. He was finally released on 11 August 2017. The unlawful arrest was allegedly related to the theft of a fire arm, which had been stolen from a member of the military special unit KOPASSUS. Military personnel allegedly tortured Hendrik Bosayor during detention (see Chapter 3.6 on Torture and Ill-treatment).<sup>2</sup>

► On 1 May 2017, at 09.00 am, Mr Yus Degei and Mr Piet Degei were accused of theft by the owner of a store in Uwibutu village of Madi district, Paniai Regency. Subsequently, the shop owner reported the alleged theft by phone to members of the nearby 753 military base. A few minutes later, two members of the 753 Paniai military unit arrived at the location and instantly attacked Yus Degei and Piet Degei with knives (see Chapter 3.6 on Torture and Ill-treatment).<sup>3</sup>

► On 18 November 2017 three military personnel from the military post, Yalet came to the house of Mr. Ishak Dewayekua after they had received information that Ishak was seen drunk in public. Prior to the incident, Ishak had allegedly signed a statement in which he promised to stop drinking alcohol. The group of military arrested Ishak and temporarily detained him at the Yalet military post in the Kimam District of Merauke Regency. They severely tortured Ishak Dewayekua during arrest and detention and later brought him to the Kimam Sub-district police station. He died

the following day as a result of the injuries he sustained during torture (see chapter 3.5 on Extra-judicial Killings).<sup>4</sup>

► On 4 October 2017, at around 08.00 pm, four army officers unlawfully arrested two villagers named Nolbet and Zakheus in Moso Village, Muara Tami District of Jayapura Regency. The two young men had allegedly disturbed other villagers while under the influence of alcohol. The military personnel also went to the house of teacher Mr. Thomas Manufandu, entered without showing a warrant and arbitrarily arrested Thomas' son, Mr. Kostan Manudandu. Subsequently, the army officers brought Nolbet, Zakheus and Kostan to the military post in Moso and tortured them as an act of punishment (see Chapter 3.6 on Torture and Ill-treatment).<sup>5</sup>

► On 10 September 2018 at around 09.15 am, two air force members intercepted and subsequently arrested Mr. Sukay Alan Suebu on his way home. Prior to the incident Sukay Alan Suebu was dismissed from the company PT Jayawijaya. One of his colleagues made fun of his dismissal, so Sukay Suebu slapped the colleague on the cheek. One of the air-force personnel was the brother of Sukay's colleague and wanted to punish him for slapping his brother. The military first brought Sukay Alan Suebu to the sub-district police station near Sentani Airport (Polsek KP3U Bandara Sentani) and later detained him for several hours at the nearby military base. A group of six military officers collectively tortured him at the military base (see Chapter 3.6 on Torture and ill-treatment).<sup>6</sup>

► Members of the military special forces 'Kopassus' (Komando Pasukan Khusus) conducted raids in the villages Nosolanop, Mesember, Benganggin and Beanegogom, which are located in the Tsinga

2 Lensa Papua (12.08.2017): Ada warga sipil desekap oknum anggota TNI, available at <https://www.lensapapua.com/ragam-berita/ada-warga-sipil-disekap-oknum-anggota-tni/>

3 Independent Human Rights Defender (16.05.2017): Penyiksaan Dua Masyarakat Sipil di Uwibutu

4 KontraS (18.01.2018): Laporan Investigasi Penyiksaan Warga Kimaam oleh TNI

5 JPIC GKI-TP (09.11.2017): Anggota Tentara Nasional Indonesia / Militer Memukul Warga kampung Moso Mengintrogasi dan melakukan tindakan Kekerasan Kepada Petugas gereja Di Kampung Moso, Distrik Muara Tami, kota Jayapura

6 Suara Papua (26.09.2018): Seorang warga mengaku dianiaya enam anggota paskhas TNI LANUD Jayapura, available at: <https://suarapapua.com/2018/09/26/seorang-warga-mengaku-dianiaya-enam-anggota-paskhas-tni-lanud-jayapura/>

District of Mimika Regency in early December 2018. Two villagers named Joap Beanal and Minus Kum were arrested in Beanegogom village on 2 December 2018 as they protested against the raids. The military members did not show warrants or other document from the Mimika local government legitimizing the raid. Joap Beanal and Minus Kum were detained for nine days before they were allowed to return to the village on 10 December 2018. Family members were restricted from visiting them during detention.<sup>7</sup>

### Procedural violations during arrests and detention – Case studies

► In the night of 9 to 10 June 2018, a series of unlawful arrests were reported from the Mimika Regency. Police officers from the Mimika district police station unlawfully arrested Mr. Polce Tsugumol (31 years), Ms. Orpa Wanjomal (40 years), Mr. Titus Kwalik (48 years), Mr. Julianus Dekme (31 years) and Mr. Alosius Ogolmagi (49 years) at multiple locations in Timika City. All five arrestees were indigenous Papuans – three of them were ill-treated during arrest. The victims stated that the police officers conducted all arrests without showing warrants. The warrants were only given to relatives two days after the arrest, on 12 June 2018

On 9 June 2018 at around 09.00 pm, members of the Mimika Sub-district police unlawfully arrested Mr. Polce Tsugumol at SP Dua Street. Subsequently, the officers drove to Polce Tsugumol’s step mother’s home named Ms. Orpa Wanjomal, entered her house without showing a warrant. Orpa Wanjomal was arrested and detained for more than 24 hours and later released. On 10 June 2018 around 03.00 am, police officers came to Mr. Titus Kwalik’s house at SP Lima and forced their way into the building. As Titus refused to follow the police officers to their

vehicle, several officers dragged him outside. Almost simultaneously, police officers broke the front door of Mr. Julianus Dekme’s house open while Julianus and Alosius Ogolmagi were sleeping.<sup>8</sup>

► On 23 August 2018 at 08.00 pm, fully armed members of the local police with balaclavas came to Mr. Agustinus Yolemal’s house in Kwamki Narama, Timika. The officers forcefully broke the door open, searched the house and arrested Mr. Agustinus Yolemal (42 years), his sister, his wife and his six-year-old son without showing a warrant. While Mr. Yolemal’s sister, his wife and son were released after the interrogation, Agustinus Yolemal remained in custody at the Miru police station in Timika. The police charged Agustinus Yolemal under Article 45A (2), referring to “disseminating hostility against the state ideology” under the Law on Electronic Information and Transaction (ITE Law). The warrant was authorized one day after the arrest - letter head of the warrant shows the 24 August 2018 (see image 3.3-1).<sup>9</sup>

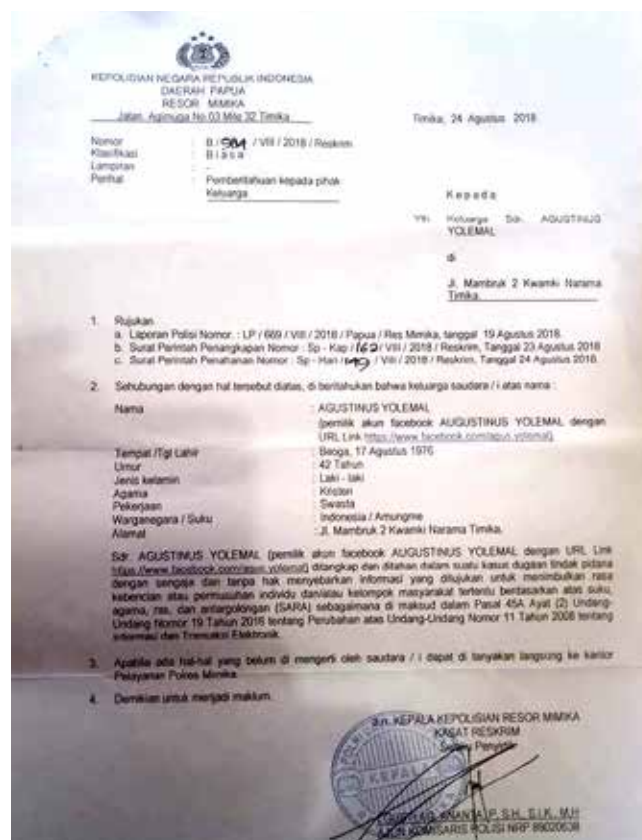


Image 3.3-1: Warrant letter authorizing the arrest of Mr. Agustinus Yolemal –the letter head states the 24 August 2018, while the actual arrest occurred on 23 August 2018. (Source: PAHAM Papua)

7 Independent human rights defenders (15.12.2018): Kopasus Melakukan Operasi Penyisiran Di Distrik Tsinga  
 8 PAHAM Papua (15.06.2018): Kronologi pendampangan Hukum Terhadap 5 Korban di Timika  
 9 PAHAM Papua (04.09.2018): Laporan Kasus Agustinus Yolemal



twenty police officers forcefully entered the Papuan student dormitory in Tampaksari District of Surabaya City, Java Timur Province. The officers did not show a warrant and stated that they wanted to arrest a suspect of an alleged knife attack. As the police officers could not find the suspect, they unlawfully arrested all 49 dormitory residents and brought the students to the Surabaya municipality police station (POLRESTABES Surabaya), where they were interrogated (see Image 3.3-2). The students stated that police officers forced students to testify. Some students were allegedly subjected to excessive use of force during the arrest. Prior to the incident, 30 members of multiple nationalist mass organisations had come to the dormitory to raise the Indonesian flag in the dormitory front yard in preparation for the commemoration of Indonesian Independence Day on 17 August.<sup>10</sup>



Image 3.3-2: Papuan students during detention at the Surabaya municipality police station. (Source: AMP)

► On 21 November 2017, members of the Jayapura District Police arbitrarily arrested 14 indigenous Papuans who were on their way

home to Juk Lereh, Genyem District, where they were working at a palm oil plantation. Joint police and military personnel later stopped the bus at a control point in the Nimbontong district and searched the passengers' luggage inside the bus. During the search, the police found a document with a letter head of the 'Revolutionary Army of West Papua'(RAWP) in one of the passengers' bags. Instead of separating the person from the group for further questioning, all 14 group members were arrested and temporarily detained at the Jayapura District police station in Doyo Baru. The police prevented a lawyer from meeting with the arrestees during their detention. All group members were released on 22 November 2017 at 2.48 pm.<sup>11</sup>

► On 30 July 2018 in the early morning hours, three members of the Jayapura District police unlawfully arrested and ill-treated Mr. Raimond Penggu (33 years) and Mr. Viki Yikwanak (33 years) in Sentani near the old market, known as the 'Pasar Lama'. The officers intercepted and subsequently ill-treated Raimond and Viki because they suspected the two friends as perpetrators in relation to a theft case. They also damaged a side mirror and parts of the body of the car before the arbitrary arrest. Raimond Penggu and Viki Yikwanak were temporarily detained at the nearby police station until several relatives demanded their release (see Chapter 3.6 on Torture and ill-treatment).<sup>12</sup>

► On the 13 October 2018, at around 10.15 pm, members of the municipality police in Surabaya arbitrarily arrested and ill-treated three students and one activist named Amri, Fahri, Wildan and Imam after participating in a peaceful event in relation to the human rights situation in West Papua at the Papuan student dormitory in Lanto Dg. Pasewang street, Makassar, South Sulawesi Province. The arbitrary acts appeared to be acts of intimidation or punishment for visiting the

10 National Student Front Surabaya & Papuan Student League Surabaya (16 August 2018): Rilis Kronologis Penyerangan Terhadap Asrama Mahasiswa Papua

11 JPIC-GKI (25.05.2017): 14 indigenous Papuans arbitrarily arrest in Nimbontong

12 Suara Papua (30.07.2018): Okum anggota polisi di Sentani Aniaya dua supir, available at: <https://suarapapua.com/2018/07/30/oknum-anggota-polisi-di-sentani-aniaya-dua-supir/>

peaceful event which the police views as an act of separatism and criticism against the government of Indonesia. The arrested participants were

temporarily detained in a police vehicle and later released at 0.10 am (see Chapter 3.6 on Torture and ill-treatment).<sup>13</sup>



## ICP recommends to the Government of Indonesia to:

- Review the Indonesian Criminal Procedure Code (KUHP) and bring all articles in accordance with law enforcement procedure standards as stipulated in ratified international human rights treaties.
- Strengthen the role and mandate of the Indonesian National Police Commission (KOMPOLNAS).
- Ensure that perpetrators of human rights violations from the military are held accountable in public and transparent trials, particularly if the victims are civilians.
- Issue a standing invitation to the UN Working Group on arbitrary detention.
- Review Article 4 (2) of Presidential Decree No. 63 Year 2004, enabling the police to request support from military in law-enforcement operations, as this practice obstructs the legal prosecution of perpetrators from security forces.



## Recommendations by international human rights mechanisms:

- The UN Human Rights Committee (CCPR) recommends that Law enforcement officials shall, as far as possible, apply non-violent means before resorting to the use of force and firearms. They may use force and firearms only if other means remain ineffective or without any promise of achieving the intended result. Force used must be proportionate to the legitimate objective to be achieved.<sup>14</sup>
- The UN Human Rights Committee (CCPR) urges the Government of Indonesia to ensure that “the period of police custody should be reduced to a time limit in line with international standards (maximum of 48 hours); after this period the detainees should be transferred to a pretrial facility under a different authority, where no further unsupervised contact with the interrogators or investigators should be permitted.”<sup>15</sup>
- The UN Special Rapporteur on torture recommends to the Indonesian law enforcement agencies that “all detainees should be effectively guaranteed the

13 Aliansi Mahasiswa Papua AMP (14.10.2018): Kronologi Represif Aparat dan Penangkapan Empat Mahasiswa di Asrama Papua Makassar, available at: <http://www.ampnews.org/2018/10/kronologi-represif-aparat-dan.html> &

Aliansi Rakyat Makassar Untuk Demokrasi (14.10.2018): Pernyataan Sikap “Mengecam Tindakan Kekerasan Aparat Kepolisian di Asrama Mahasiswa Papua di Makassar”, available at: <http://lbhmakassar.org/press-release/aliansi-rakyat-makassar-untuk-demokrasi-mengecam-tindakan-kekerasan-aparat-kepolisian-di-asrama-mahasiswa-papua-di-makassar/>

14 UN Human Rights Committee CCPR (21.08.2013): Concluding observations on the initial report of Indonesia, CCPR/C/IDN/CO/1, p. 4, available at: <http://undocs.org/CCPR/C/IDN/CO/1>

15 UN Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment (10.03.2018): Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Manfred Nowak, Addendum Mission to Indonesia, A/HRC/7/3/Add.7, p. 25, available at: <http://daccess-ods.un.org/access.nsf/Get?Open&DS=A/HRC/7/3/Add.7&Lang=E3>

ability to challenge the lawfulness of the detention before an independent court, e.g. through habeas corpus proceedings.”<sup>16</sup>

- The UN Special Rapporteur on torture recommends to the Indonesian law enforcement agencies that “confessions made by persons in custody without the presence of a lawyer and which are not confirmed before a judge shall not be admissible as evidence against the persons who made the confession. Serious consideration should be given to video and audio taping of interrogations, including of all persons present.”<sup>17</sup>
- The UN Special Rapporteur on torture recommends to the Indonesian law enforcement agencies that “the maintenance of custody registers should be scrupulously ensured.”<sup>18</sup>
- The UN Committee against Torture (CAT) recommends the Government of Indonesia to “continue measures of police reform to strengthen the independence of the police from the military, as an independent civilian law enforcement agency”<sup>19</sup>

## 3.4 Human Rights Defenders

Throughout the past two years, the number of reported cases of assault, obstruction, intimidation and harassment against human rights defenders in West Papua has significantly increased. Human rights defenders reported ten such cases in 2017 and seven cases in 2018. The most common type of reported violation was the obstruction of human rights defenders who wanted to visit arrestees during custody or detention. Many human rights defenders in West Papua work in a highly repressive environment and often have to take high risks to investigate cases or meet with victims and witnesses. The majority of human rights defenders –especially those working independently – do not have social security coverage or a stable income.

Human rights defenders in West Papua are working in a highly repressive environment – the conflict region is characterized by a heavy security force presence. While the government often justifies the employment of military for national security purposes in the conflict region, law enforcement authorities limit human rights as well as elementary freedoms under the pretext of maintaining public order and enforcing national laws. The government of Indonesia continues to restrict access to West Papua for

international organisations, foreign journalists and observers. As the awareness of the human rights situation of West Papua in international fora like the United Nations (UN) and the Melanesian Spearhead group (MSG) is raised, the importance of human rights defenders in West Papua has significantly increased during the past number of years. Only they have access to victims, can investigate and document cases and supply international stakeholders with information on the human rights situation on

16 Ibid. p.26

17 Ibid. p.26

18 Ibid. p.26

19 UN Committee against Torture CAT (17.10.2002): Report of the Committee Against Torture, A/57/44(SUPP) paras. 36-46, p. 26, available at: [https://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolNo=A%2f57%2f44\(SUPP\)&Lang=en](https://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolNo=A%2f57%2f44(SUPP)&Lang=en)

the ground. Despite the growing interest for human rights reporting among the international community, human rights defenders in West Papua often have to struggle with a lack of funds for their work –many defenders in West Papua work independently and do not have social security coverage or a stable income through an employing organisation.

Throughout the past two years, the number of reported cases of assault, obstruction, intimidation and harassment against human rights defenders in West Papua has significantly increased. Human rights defenders reported ten such cases in 2017 and seven cases in 2018. These figures cover not only cases which occurred in West Papua, but also violations against human rights defenders who were supporting Papuan civil society groups outside of West Papua. Since 2012, the number of annual reported cases has never increased beyond five cases, as occurred in 2014 and 2015 -the number again dropped to two cases in 2016.<sup>1</sup> The growing number of reported cases indicates that the working

conditions for human rights defenders in West Papua have become more challenging during the last two years. Especially, the year 2017 was a particularly tough year for human rights defenders in the region. The number of reported cases was twice as high as in 2014 and 2015, the years with the highest reported violations during the past seven years (see Table 3.4-1).

The offenses against human rights defenders throughout the reporting period were almost equally committed by members of police and military institutions with eight and seven cases, respectively. In one case, members of a regional election campaigning team threatened the human rights defender Theo Hesezem for criticizing the regent of Yahukimo regency for the alleged violation of procedural regulation for the appointment and termination of village leaders. In a second case, an unknown party tried to publicly discredit human rights lawyer Veronica Koman, after she had published information about an ongoing military operation in the highland's regency of Nduga (see Table 3.4-1).

**Table 3.4-1: Violations against human rights defenders in West Papua throughout the years 2017 and 2018.**

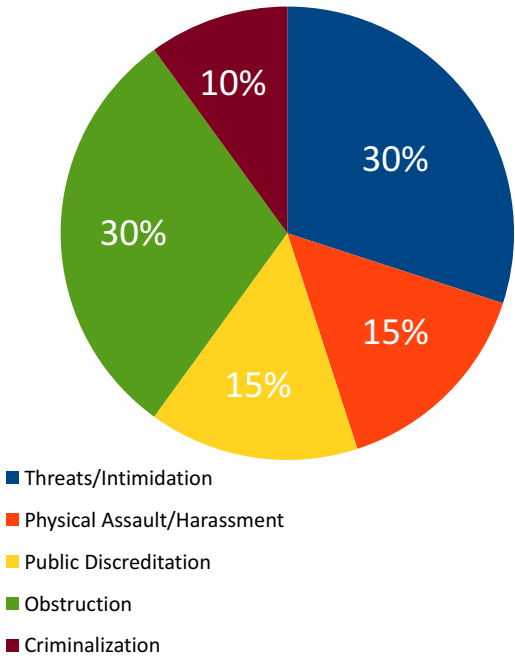
<b>Assault/obstruction/intimidation/harassment of HRD in West Papua</b>	<b>2017</b>	<b>2018</b>	<b>2017/2018</b>
Number of reported violations	10	7	17
Perpetrator was a military member	3	4	7
Perpetrator was a police officer	6	2	8
Other actors	1	1	2

The types of violations against human rights defenders throughout the years 2017 and 2018 varied. The most common type of violation was the obstruction of human rights defenders. In 30 % of the reported cases, human rights defenders were obstructed. It is quite common that lawyers

are prevented from meeting with arrested suspects and defendants or that communication between lawyers and clients was hampered, as the detainee was not allowed to leave the cell. Threats against and intimidation of human rights defenders were equally common with

<sup>1</sup> International Coalition for Papua (September 2017): Human Rights In West Papua 2017, The fifth report of the International Coalition for Papua (ICP) covering events from January 2015 until December 2016, p. 9, available at: <http://www.humanrightspapua.org/images/docs/HumanRightsPapua2017-ICP.pdf>

30% of the reported cases, followed by physical assault or harassment of human rights defenders as well as public discreditation which occurred in 15 % of the reported cases. The attempted criminalization by authorities or other parties made up only 10% of the cases (see Graphic 3.4-1).



Graphic 3.4-1: Violations against human rights defenders in West Papua throughout the years 2017 and 2018, segregated by types.

**Cases:**

► On 5 May 2017, human rights lawyer Ms. Yanti Theresje Julianty Gasperz went to the Manokwari district police station where she wanted to provide legal support to six members of the West Papua National Committee, who

had been arrested in the afternoon as they were distributing leaflets for the election of the new KNPB board of the local branch office in Manokwari. Yanti Gasperz met with the head of operations of the Manokwari district police unit, Commissioner Winarto, and asked if she could meet the arrested KNPB members. Commissioner Winarto did grant her access, suggesting that Yanti Gasperz needs permission from the head of Manokwari district police, Mr. Christian Roni Putra. However, officer Putra was not at the police station, so she was not able to get access to the detainees.<sup>2</sup>

► A police officer from the Jayapura sub-district police station beat Mr. Nareky Kogoya (see Image 3.4-1) on 18 May 2017 during a police raid in the sub-urban area of Waena of Jayapura Municipality. The police officers were searching for suspects in a murder case. According to Nareky Kogoya, he told a police officer during the interview that he was working as staff at the Papuan representative office of the National Human Rights Commission (KOMNAS HAM). Subsequently, several officers forced Nareky Kogoya to enter a police car on site. One of the officers allegedly punched his face inside the police vehicle causing a cut on his lip. The officer also threatened Nareky not to report the physical assault. Nareky Kogoya was then brought to the Heram sub-district police station for further interrogation. Frits Ramandey, the head of the KOMNAS HAM Papuan representative office, reported the attack to the internal police investigation body PROPAM. It is unclear, as to whether the officer received disciplinary sanctions or not.<sup>3</sup>

2 LP3BH Manokwari (05.05.2018): Enam anggota KNPB ditangkap dan ditahan di Polres Manokwari  
 3 JUBI (21.05.2017): Staf Komnas HAM alami tindakan kekerasan oleh oknum polisi, 20 saksi diperiksa, available at: <http://tabloidjubi.com/artikel-6364-staf-komnas-ham-alami-tindakan-kekerasan-oleh-oknum-polisi-20-saksi-diperiksa.html>  
 JUBI (23.05.2017): Polisi ancam jebak staf Komnas HAM Kantor Perwakilan Papua dengan pasal tertentu, available at: <http://tabloidjubi.com/artikel-6429-polisi-ancam-jebak-staf-komnas-ham-kantor-pewakilan-papua-dengan-pasal-tertentu.html>



Image 3.4-1: Mr. Frits Ramandey (left) and Mr. Narey Kogoya (right) at the Papuan representative office of the National Human Rights Commission

► A military officer accused Papuan human rights defender and director of the 'Papuan Central Highlands Network for the Enforcement of Law and Human Rights' (JAPH-HAM), Mr. Theo Hese gem, of using human rights advocacy to gain popularity. The chief of staff of the 1702 Jayawijaya military command in Wamena called Theo Hese gem on 8 July 2017 by phone after he had given a press conference and informed Indonesian Military Commander, Army General Gatot Nurmantyo by SMS about the case, in order to advocate justice and seek remedies for a torture victim. During the phone call the high-ranking military officer repeatedly asked Theo Hese gem why he had reported the case to the local media. He further requested that Theo Hese gem should stop speaking about the torture case in public because the military commander was already trying to mediate between the victim's family and the perpetrators. Theo Hese gem understood the phone call as an attempt to intimidate him and discredit his work.<sup>4</sup>

► On 6 July 2017, the head of the Justice, Peace and Integrity of Creation Desk (JPIC) of the

Papuan Tabernacle Church (KINGMI Papua), Mr. Yones Douw, was prevented from meeting with members of the West Papua National Committee (KNPB), who had previously been unlawfully arrested during a peaceful protest in Nabire. The head of Nabarua Sub-district Police Station approached Yones Douw and asked him why he was looking for the arrestees. When Yones Douw stated that he was a human rights defender, the police chief wanted to check his mobile phone. When Yones Douw refused to surrender his mobile phone, arguing that such arbitrary acts would be a violation of criminal procedure, the police chief screamed at him and ordered him to leave the Nabarua Police station.<sup>5</sup>

► On 12 August 2017, the head of the Manokwari Institute for Research Study and Development of Legal Aid (LP3BH Manokwari), Mr. Yan Christian Warinussi, stated that three members of the military intelligence came to the LP3BH office and wanted to speak with him. The intelligence members left the office after Warinussi asked them to postpone the meeting to the evening. Yan Cristian Warinussi understood the visit as an act of intimidation. He concluded that the military members came to his office in relation to multiple cases of arbitrary arrest and torture by members of the military in the Sowi I, Manokwari Regency, which LP3BH had investigated.

► On 15 August 2017, police officers in Semarang arbitrarily arrested Mr. Rizky Putra Edry and Mr. Nico Andi Wauran, two human rights lawyers of the Semarang Legal Aid Institute (LBH Semarang), as they were monitoring a demonstration by Papuan students in commemoration of the 'New York Agreement'. Nico Andi Wauran was forced to squat during police detention. The peaceful protest was organised by the Indonesian Solidarity Group 'FRI West Papua' in cooperation with the 'Papuan Student Alliance' AMP.<sup>6</sup>

4 JAPH-HAM (17.07.2018): Theo Hese gem Diterror dan Dituduh Mencari Polularitas

5 KINGMI Papua (08.07.2018): Penangkapan , penganiayaan dan pemenjaraan 92 orang Anggota KNPB Oleh Kepolisian RI Polres Nabire

6 JUBI (17.08.2018): 100 arrest in Indonesian cities mark New York Agreement on Papua, available at: <http://tabloidjubi.com/eng/100-arrest-indonesian-cities-mark-new-york-agreement-papua/>

► On 21 November 2017, members of the Jayapura District Police arbitrarily arrest 14 indigenous Papuans on their way home to Juk Lereh, Genyem District. The police officers had accused them of being members of the armed separatist movement and detained them at the Jayapura district police station in Doyo Baru. On the following day, 22 November 2017, the human rights lawyer Ms. Mersi Waromi came to the district police station because she wanted to provide legal aid to the detainees. A police officer prevented her from entering the police station, so Mersi Waromi had to wait at the control post at the entrance gate. She was unable to see the detainees that day.<sup>7</sup>

► Two human rights defenders have been intimidated after an NGO coalition published a press release about Indonesian security force raids between 12 and 15 December 2017 in the Papuan central highland's regency of Nduga. On 19 December 2017 Mr. Theo Hese gem was intercepted by an intelligence member named Mr. Ardi after he attended an interview on the security force raids in Nduga at the RRI radio station in Wamena. The intelligence member asked Theo to provide information about his and his wife's identity. When Theo asked why his wife's identity was needed, the intelligence member did not reply. On 21 December 2017 a member of the Cenderawasih Military Command called Theo Hese gem, stating that the information in the press release was not true. Three days later, on 24 December 2017, Theo Hese gem received a threatening SMS with the warning that he should stop slandering the Indonesian military (TNI). The SMS stated "... Let alone just being fired for alleged human rights violations, our bodies are ready to be sacrificed... But Please!!! Stop slandering us... because slander is more painful than death!!!!"<sup>8</sup>

Likewise, the Indonesian website Stopfitnah.com started an attempt to discredit Ms. Veronica Koman after she had shared information regarding the raid through her Twitter account and in an interview with the Indonesian news magazine 'TEMPO'. The website called the information hoax news (see Image 3.4-2), and accused Veronica Koman of spreading unconfirmed information from unknown sources.<sup>9</sup> In an interview with 'TEMPO', the head of the information unit of XVII Cenderawasih Military Unit, infantry colonel Aidi, denied that the military had carried out raids and attacks against civilians in Nduga regency. Aidi claimed that the coalition had received unconfirmed one-sided information from members of the separatist Papuan Liberation Army (TPN).<sup>10</sup>



Image 3.4-2: The dubious website StopFitnah.com published this image with their article in response to the coalition statement. The sentence in the left top corner states "seems we know this hoax disseminator"

► On 3 January 2018, five Air Force officers (AURI) intercepted the Papuan former political prisoner and activist Mr. Filep Karma at the Soekarno-

7 JPIC GKI-TP (25.08.2018): Penahanan Terhadap Empat Belas Orang Dari Juk-Lereh

8 JAPH-HAM (26.12.2017): Thei Hese gem Diancam Melalui SMS Oleh Anggota Militer Dari KODAM Cenderawasih Papua, Tanggal 24 Desember 2017

9 Stopfitnah.com (20.12.2017): Kembali Berulah, Veronica Koman Sebar Hoax Berita Papua Mencekam, available at: <http://stopfitnah.com/kembali-berulah-veronica-koman-sebar-hoax-berita-papua-mencekam/>

10 TEMPO (21.12.2017): TNI Bantah Lakukan Penembakan terhadap Warga di Nduga, Papua, available at: <https://nasional.tempo.co/read/1044112/tni-bantah-lakukan-penembakan-terhadap-warga-di-nduga-papua/full&view=ok>

Hatta Airport in Cengkayang, Jakarta. The officers stopped Filep Karma because he was wearing a pin showing the image of a morning star flag (see Image 3.4-3) - a symbol of cultural identity which is also used by the Papuan independence movement. He was interrogated for almost two hours, during which one army member insulted Filep Karma, calling him a monkey. Subsequently, Filep was brought to the nearby police station of Cengkayang airport, where police officers attempted to issue a police investigation report (BAP) that would lead to prosecution. Civil liberty defender, Mr. Uchok Sigit Prayogi, assisted Filep Karma at the police station. The police did not finalize the BAP due to the lack of legal grounds for a prosecution and Filep Karma was released at 12.30 am.<sup>11</sup>



Image 3.4-3: Mr. Filep Karma wearing a pin showing the image of a morning star flag.

► On 13 June 2018, PAHAM Papua human rights lawyer Mr. Gustaf Kawer came to the BRIMOB headquarters to provide legal assistance to five detainees who were charged with article 1,

paragraph (1) of Emergency Law No 12/1951 about the unauthorized ownership or use of firearms. He was accompanied by the detainees' family members. The relatives were only allowed to see the detainees for three minutes. Likewise, the lawyer was not given sufficient time to speak with the detainees. The police officers ordered the lawyer to keep a distance of four meters from the detention cell while providing legal consultation to the detainees.<sup>12</sup>

► On 25 June 2018, several campaigning team members came to Mr. Theo Hesegeg's house, insulted him and alleged him of having misused government funds which were allocated to a village in Kurima district of Yahukimo Regency. During the heated dispute, the campaigners allegedly threatened to kill Theo Hesegeg. According to Theo Hesegeg, the threats are related to his commitment to support 199 former village leaders of Yahukimo Regency who had been terminated as village leaders and exchanged for new leaders by Yahukimo Regent Abock Busop in April 2018. Theo Hesegeg assessed that the termination of the village leaders and the appointment of new village heads were not in accordance with the procedures as described in Law 6/2014 on Villages. He had tried in vain to meet with the regent to discuss the matter with him in person.<sup>13</sup>

► On 6 July 2018, more than 100 security force officers and the head of Tambaksari sub-district, Mr. Ridwan Mubarun, came to the Papuan student dormitory in Surabaya, East Java Province and wanted to disperse a peaceful assembly organised by the students to commemorate the 20<sup>th</sup> Anniversary of the 'Biak Massacre'. The security forces were allegedly accompanied by members of nationalist mass movements. Ms. Anindya Joediono, a law student of Narotama University and activist of the National Student

11 KBR News (03.01.2018): Papuan activist Filep Karma held by airport police, interrogated and called a 'monkey', available at: [http://kbr.id/berita/nasional/01-2018/dicegat\\_tni\\_di\\_bandara\\_soekarno\\_hatta\\_filep\\_karma\\_diinterogasi\\_dan\\_dipanggil\\_monyet\\_/94285.html](http://kbr.id/berita/nasional/01-2018/dicegat_tni_di_bandara_soekarno_hatta_filep_karma_diinterogasi_dan_dipanggil_monyet_/94285.html)

12 PAHAM Papua (15.06.2018): Kronologi pendampingan Hukum Terhadap 5 Korban di Timika

13 JAPH-HAM (26.06.2018): Pemerhati HAM Diancam Tim Sukses Bupati Kabupaten Yahukimo



Front (FMN) and a lawyer from the Surabaya Legal Aid Institute (LBH Surabaya), went outside to meet with Mr. Mubarun and asked him to show the warrant for the law enforcement operation. A heated argument followed. Police officers forcefully dragged Anindya Joediono and LBH lawyer Mr. Mohamad Soleh away from the students. One police officer indecently touched Anindya's breasts and pulled her shirt until one of the buttons was ripped off in an attempt to drag Anindya to a police vehicle.<sup>14</sup>

► On 21 August 2018, Mr. X<sup>15</sup> went to a 'Bank Papua' branch office in Nabire for a financial transaction. Several Papuan women approached him and told X that a police officer had taken pictures of him inside the building. Subsequently, X walked to the police officer, Sergeant Asril L. and asked him to erase the picture from his mobile phone while explaining that the officer did not have his permission to take a photo. When X asked the officer why he had taken a picture of him and not any other person, Sergeant Asril claimed that the picture was taken for a routine police work report. The officer apologized to X as he left the branch office. X perceives the police surveillance as an act of intimidation. X has observed that almost every day motorcycle taxi drivers wait in front of his house without taking passengers. It is common that members of the police intelligence unit use motorcycle taxi drivers as a disguise to monitor public spaces. He suspects that he is under close police surveillance because of his human rights work.<sup>16</sup>

► On 5 September 2018, two human rights lawyers from the 'Association of Human Rights Lawyers for Papua' (PAHAM Papua) came to the Jayapura harbour police station to provide legal consultation to Mr. Simon Carlos Magal. Prior to the visit, the lawyers had received written permission from the criminal investigation

unit (RESKRIM) of the Papua Regional Police (POLDA Papua) to meet with Simon Magal. As the lawyers wanted to talk with the suspect at the meeting room inside the police station, which is commonly used for this purpose, the police officers refused to open the cell door. They argued that the suspect was not allowed to leave his detention cell, hence the lawyers had to speak with Simon Magal through the cell door.<sup>17</sup>

► On 18 December 2018, the Indonesian news outlet *BBC Indonesia* published a [video about a military operation in the Nduga Regency](#)<sup>18</sup>. The video contained footage of interviews with villagers from the Nduga Regency who had witnessed the killing of indigenous people by Indonesian security force members (see Chapter 3.5 on Extra-judicial Killings). Female human rights activist Raga Kogeya was interviewed and allowed the journalist to publish her identity in the video. She demanded an investigation into allegations of extra-judicial killings and asked the Indonesian Government to withdraw security forces from the Nduga regency. On 20 December 2018, police officers arbitrarily arrested Raga Kogeya and her two children (12 years and 6 years) at 9.15 am at Trikora Road in the highland city of Wamena, Jayawijaya Regency, Papua Province. Without showing a warrant, the police officers brought Raga Kogeya and her children to the police station and interrogated them. Raga Kogeya requested a lawyer, saying that she would not answer any question without legal council. The police also seized her cell phone and copied contacts and other data from her phone. Raga Kogeya and her children were released at 1.08 pm. After the release, Raga Kogeya traveled to the city of Jayapura, where she attended a meeting with other human rights defenders and civil society representatives to establish a team with the purpose to evacuate the bodies of dead civilians and investigate human rights violations

14 LBH Surabaya (06.07.2018): Hentikan Tindakan Represif dan Intimidasi Mahasiswa Papua

15 The HRD wants to remain anonymous - his name was substituted by X

16 Independent Human Rights Defender (22.08.2018): Diphoto oleh Serka Asril L Di Ruang Bank Papua Nabire

17 PAHAM Papua (05.09.2018): Laporan Kasus Simon C Magal

18 BBC Indonesia video is available at <https://www.youtube.com/watch?v=lrB5yW2glrw>

in relation to military raid in Nduga. In the early morning of 24 December 2018, Raga Kogeya returned from Jayapura City to Wamena town. Members of the intelligence followed her to the Jayapura airport, taking pictures and video recordings. The close surveillance continued as Raga Kogeya left the airport in Wamena. Plain cloth officers followed her to her house in Wamena, and have continued to monitor Raga Kogeya's movements.<sup>19</sup>



Image 3.4-4: Raga Kogeya speaking about the military operation in Nduga regency during the interview with BBC Indonesia (Source: screenshot).



## ICP recommends to the Government of Indonesia to:

- Ensure legal protection for human rights defenders, particularly for females, who face an even higher risk of physical violence and intimidation in areas with a heavy security force presence such as the provinces of Papua and Papua Barat.
- Develop participative procedures and mechanisms which include human rights defenders and civil society leaders in decision making processes on issues related to human rights, peacebuilding and conflict resolution.
- Publicly promote the importance of human rights defenders and enforce strict prosecution against state agents responsible for acts of intimidation, discreditation, harassments, and assaults against human rights defenders. Every case should be investigated in an impartial and effective manner.
- Issue a standing invitation to the Special Rapporteur on the situation of human rights defenders.



## Recommendations by states:

- Mexico recommends to the Government to “adopt legislative measures to prevent and combat intimidation, repression or violence against human rights defenders, journalists and civil society organizations.”<sup>20</sup>

<sup>19</sup> JPIC KINGMI (29 December 2018): Kronologis Penangkapan dan Ancaman Telor Terhadap Aktivis HAM Perempuan Raga Kogeya

<sup>20</sup> Human Rights Council (14.07.2017): 3rd cycle of the Universal Periodic Review of Indonesia, available at: [http://ap.ohchr.org/documents/dpage\\_e.aspx?si=A/HRC/36/7](http://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/36/7)

- Norway recommends to the Government to “take further steps to ensure a safe and enabling environment for all human rights defenders, including those representing [...] adat communities.”<sup>21</sup>



## Recommendations by international human rights mechanisms:

- “The Special Rapporteur on freedom of peaceful assembly and association calls on Member States to ensure the protection of those monitoring and reporting on violations and abuses in the context of peaceful assemblies”<sup>22</sup>
- The UN High Commissioner for Human Rights appeals “to the Government to ensure the protection of human rights defenders, in particular those advocating on land and environmental issues, and to see to it that they are not penalised or prosecuted for their exercise of the right to freedom of expression and peaceful assembly.”<sup>23</sup>
- The Committee [for economic, social and cultural rights] calls on the State party [Indonesian Government] to [...] Engage in constant dialogue with human rights defenders, protect them from acts of violence, intimidation and harassment, and thoroughly investigate all allegations of reprisals and abuse so as to bring perpetrators to justice.”<sup>24</sup>
- “The Special Representative [on the situation of human rights defenders] recommends that legislation and procedures be instituted to prevent the prosecution of human rights defenders aimed at their harassment for conducting activities that are legitimately a part of their function for the defence of human rights. For this purpose, it is important also to sensitize judicial and prosecutorial officials as well as the police so that human rights activities are not criminalized.”<sup>25</sup>
- “The Special Representative [on the situation of human rights defenders] urges the Ministry for Law and Human Rights to give more visibility to local human rights committees and to allow interaction with human rights defenders whose voices should be heard before these committees.”<sup>26</sup>
- “The Special Representative [on the situation of human rights defenders] also urges the Government to review administrative procedures in order to remove restrictive regulations that impede the right of defenders to freedom of assembly and of association.”<sup>27</sup>

21 Ibid.

22 Mandates of the Special Rapporteur on minority issues; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on the rights to freedom of peaceful assembly and of association and the Special Rapporteur on the situation of human rights defenders (08.09.2017): Communication in relation to excessive use of force by police officers against Papuan villagers - some of them minors - during protests in Oneibo Village, AL IDN 6/2017, p. 4f, available at: <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gld=23322>

23 UN High Commissioner for Human Rights (07.02.2018): Opening remarks by UN High Commissioner for Human Rights during his mission to Indonesia, available at: <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=22638&LangID=E>

24 UN Committee for Economic, Social and Cultural Rights (19.06.2014): Concluding Observations on the initial report of Indonesia, E/C.12/IDN/CO/1, p. 9f, available at: <http://undocs.org/E/C.12/IDN/CO/1>

25 UN Special Representatives on the situation of human rights defenders (28.01.2008): Report of the Special Representative of the Secretary-General on the situation of human rights defenders, Ms. Hina Jilani, Addendum, Mission to Indonesia, A/HRC/7/28/Add.2, p. 25, available at: <http://daccess-ods.un.org/access.nsf/Get?Open&DS=A/HRC/7/28/Add.2&Lang=E>

26 Ibid. p. 25

27 Ibid. p. 26

- UN Special Rapporteur on the independence of judges and lawyers recommends that “(c) the Government should provide adequate protection to judges, prosecutors, lawyers and human rights defenders against all forms of threat, harassment and intimidation. In this regard, the Government’s attention is drawn to Principle 17 of the Basic Principles on the Role of Lawyers, which states: Where the security of lawyers is threatened as a result of discharging their function they shall be adequately safeguarded by the authorities; and (d) Reports of threats, harassment and intimidation should be promptly and thoroughly investigated and the perpetrators brought to justice.”<sup>28</sup>

## 3.5 Extra-judicial Killings

Human rights defenders and local media outlets reported a total number of 21 cases of extra-judicial killings which resulted in the death of 33 victims throughout the years 2017 and 2018. Almost all cases during the reporting period were committed equally by members of the police and members of the military. The fact that all victims of extra-judicial killings were ethnic Papuans is emblematic of the continuing pattern of racial discrimination which indigenous Papuans face in Indonesia. Only three out of 21 cases between 2017 and 2018 were related to political activity and occurred in relation to security force operations against the West Papuan National Liberation Army (TPN-PB). The vast majority of cases are part of a pattern in which security force officers attempted to maintain public order or punish groups or individuals who ‘misbehaved’ in public. During the reporting period only three out of 21 cases resulted in investigations against the perpetrators—in all prosecutions the perpetrators received minor imprisonment sentences or only had to publicly apologize for their misconduct.

Human rights defenders and local media outlets reported a total number of 21 cases of extra-judicial killings (EJKs) which resulted in the death of 33 victims throughout the years 2017 and 2018. All cases during the reporting period were committed equally by members of the police and members of the military with ten such cases each. A single case, which occurred in the district of Merauke in September 2018, was committed by joint security force members. Throughout 2017, seven out of ten cases were committed by police officers while less than half

of such killings occurred with the involvement of army members. The year 2018 shows an entirely different picture. With the number of seven reported cases, the military involvement in cases of extrajudicial killings was twice as high as the police with three cases. The fact that all victims of extra-judicial killings were ethnic Papuans is emblematic of the continuing pattern of state violence, violations of the right to life and the persistent racial discrimination which indigenous Papuans face in Indonesia.

28 UN Special Rapporteur on the independence of judges and lawyers (13.01.2003): Report of the Special Rapporteur on the Independence of Judges and Lawyers Dato’ Param Cumaraswamy, submitted in Accordance with Commission on Human Rights Resolution 2002/43, Report on the Mission to Indonesia, 15-24 July 2002, E/CN.4/2003/65/Add.2, p. 25, available at: <http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=4slQ6QSmlBEDzFEovLCuW0JehA%2FfJ8BhFpaBkMTxmJImKJC%2bbiwwLbd12FstLK6yLwWbgRReISjP5fpCPUj5FWDKMmn2851kPfnAW9CU0q1PNZGR8xkuwX%2FfAwpbTdpIwSDv%2f%2b0t1FB5JpXrizv3w%3d%3d>

**Table 3.5-1: Extra-judicial Killings in West Papua throughout the years 2017 and 2018**

	2017	2018	2017/18
<b>Number of reported victims of Extra-judicial Killings.</b>	<b>10</b>	<b>23</b>	<b>33</b>
Number of indigenous Papuan victims.	10	23	33
<b>Number of reported cases of Extra-judicial Killings.</b>	<b>10</b>	<b>11</b>	<b>21</b>
Cases of Extra-judicial Killings committed by members of the police.	7	3	10
Cases of Extra-judicial Killings committed by members of the military.	3	7	10
Cases of Extra-judicial Killings committed by joint security force members.	0	1	1
Extra-judicial Killings related to political activity.	1	3	4
Extra-judicial Killings related to non-political activity.	9	8	17
Initiated processes against perpetrators.	3	0	3

Data compiled by the ICP in relation to extra-judicial killings in West Papua between 2015 and 2016 came up with the same result, that all victims were ethnic Papuans<sup>1</sup>. The comparative analysis of annual extra-judicial killing cases in West Papua shows that –despite minor fluctuations– the number of annual cases remains constant over the past seven years. In 2015, the ICP documented ten such cases, while their number decreased slightly to six cases in 2016.<sup>2</sup> The figures indicate that the human rights situation with regard to extra-judicial killings has not changed throughout the past seven years. Amnesty International published a report on extra-judicial killings in West Papua (“Don’t Bother –just let him die”, Killing with impunity in Papua) in 2018. The organisation documented 69 cases of suspected unlawful killings by security forces in West Papua between January

2010 and February 2018, with 95 victims– 89% of the victims are indigenous Papuans<sup>3</sup>. In 35 of the cases the alleged perpetrators came from the police forces, in 23 cases they came from the military, and in 11 cases both security forces were allegedly involved.<sup>4</sup>

The high percentage of indigenous Papuans among victims of extrajudicial killings are a reflection of the persisting racial discrimination which continues to exist among segments of the non-Papuan population in Papuan civil society and also in state institutions. Papuans continue to face prejudices such as being considered ‘primitive’, and ‘rebellious’. The discrimination is also reflected in the high number of extrajudicial killings which are not related to political activities but to a pattern of cases in which security force officers attempted to maintain public order or punish groups or individuals who misbehaved in

1 The figures exclude non-Papuan victims who were killed during armed conflict by members of the Papuan armed resistance (TPN-PB). The ICP represents the view that by definition an extra-judicial killing requires the involvement of a state actor. Based on this definition, rebel groups are categorized as armed criminal groups whose activities must be processed by the police through means of law enforcement based on the Indonesian Penal Code (KUHP) and the Indonesian Criminal Procedures Code (KUHAP). The figures for civilians killed during armed conflict are available in Chapter 8. 2 on Conflict Transformation.

2 The International Coalition for Papua (September 2017): Human Rights in West Papua 2017. The Fifth report of the International Coalition for Papua (ICP) covering events from January 2015 until December 2016, p. 9, is available at: <http://www.humanrightspapua.org/images/docs/HumanRightsPapua2017-ICP.pdf>

3 The analysis of extra-judicial killings in terms of ethnic affiliation with 89% of the victims being ethnic Papuans is mainly related to a different legal definition of the term. Amnesty International defines such acts as unlawful and deliberate killings carried out by order of a government or with its complicity or acquiescence, which is along the lines of descriptions provided by international experts. Extrajudicial, summary or arbitrary executions would under this understanding include unlawful killings both by state forces and by non-state groups and individuals that state authorities fail to properly investigate and prosecute.

4 Amnesty International (2018); „Don’t bother –just let him die”, Killing with impunity in Papua, p. 6f, available at: <https://www.amnesty.org/download/Documents/ASA2181982018ENGLISH.PDF>

public. Such cases occurred in relation to direct conflict escalation between victims and security force members or after non-Papuan citizens filed complaints to the police or military officers. Only four out of 21 cases between 2017 and 2018 were related to political activity and occurred in relation to security force operations against the West Papua National Liberation Army (TPN-PB).

Discriminative attitudes on the one hand, and the ongoing political conflict fuelled by aspirations for political self-determination on the other –whether through peaceful or violent means– make up the unique conditions which nourish the occurrence of extra-judicial killings in West Papua. Indigenous Papuans continue to be stigmatized as ‘separatists’ and as ‘traitors of the Indonesian nation’. As a result, members of the police and military in West Papua –often driven by nationalist attitudes and prejudice– tend to apply excessive use of force against the victims in situations, where such measures are not necessary. Based on the aforementioned observations, the ICP observes that the number of extra-judicial killings in West Papua is higher than in any other region in Indonesia, if one excludes the number of such cases in relation to combatting drugs.

A very small percentage of extrajudicial killing cases results in investigations or the prosecution of perpetrators. For the years 2017 and 2018, prosecution against perpetrators were only documented in three cases. The shooting at the Poumako Port in Timika in August 2017 and the Torture case in Merauke in November 2017 resulted in military trials against the perpetrators. In both cases the verdict was less than 2 years imprisonment. A code of conduct trial against four police officers in relation to the shooting in Oneibo Village in August 2017

produced the verdict that the perpetrators had to publicly apologize and were transferred to another district police unit. The same figures on prosecutions against perpetrators for the years 2015 and 2016 also count three prosecutions against perpetrators out of a total number of 16 cases.<sup>5</sup> The Amnesty International report which observed the legal processes of 69 cases over a period of the past eight years comes to a similar conclusion. No case was criminally investigated by an independent institution. In 25 cases there was no investigation at all, while in 26 cases the police or military claimed to have conducted internal investigations but did not make the results public. In only six cases were perpetrators held accountable for the deaths.<sup>6</sup> The low number of legal prosecutions exemplifies that the government of Indonesia still fails to implement an effective legal framework to hold perpetrators of extra-judicial killings accountable. The impunity for perpetrators perpetuates the prevalence of the use of excessive force and torture by security force members in West Papua, rewards their lack of commitment to respect the right to life and security of persons, and discourages the victims and their relatives to speak up and bring the perpetrators to justice.

While the figures of prosecutions for the past four years indicate that the law enforcement procedures for military members appear to be more efficient than those for the police, they strongly lack impartiality, accountability and restoration of justice for the victims. The victims or their relatives may file a complaint to the Military Police ‘POM’ (Polisi Militer) or to the Special Unit for Security, Military Discipline and Criminal Investigation ‘PROVOST’, both of which are parts of the Indonesian Military. Under Law No 31 of 1997, military officers who have

5 International Coalition for Papua (September 2017): Human Rights in West Papua 2017, the Fifth report of the International Coalition for Papua (ICP) covering events from January 2015 until December 2016, p. 48f, available at: <http://www.humanrightspapua.org/images/docs/HumanRightsPapua2017-ICP.pdf>

6 Amnesty International (2018): “Don’t bother –just let him die”, Killing with impunity in Papua, p. 6f, available at: <https://www.amnesty.org/download/Documents/ASA2181982018ENGLISH.PDF>

allegedly committed a crime (even that of a 'civilian nature' such as theft or assault) should be tried by the Military Court. As illustrated in the case of Mr Theodorus Cekatem, military officers convicted for assaults only had to serve a short period of imprisonment which, in some cases, were shorter than the convict's detention period prior to the court's decision. In these cases, the convicted military officers were free to go after the trials were concluded as the court ordered their sentences to be deducted by the detention period. If military officers receive imprisonment sentences it is not possible to ensure that such perpetrators serve their sentences.

Past interventions by the investigative bodies within the Police and the Military have shown that both institutions lack transparency and commonly fail in prosecuting the perpetrators or restoring justice for victims. The aforementioned cases show a pattern that investigations by the military or police bodies often take a long time, while important evidence and witness testimonies are not considered. These cases also reveal a new pattern of structural violations against the right to a fair trial: military trials are held in Jayapura, although the incidents occur in different Regencies of Papua Province. This prevents witnesses from attending the trials and testifying against the perpetrators, since most families do not have the financial means to travel to Jayapura.

### Cases:

► Between September 2016 and January 2017, joint police forces carried out multiple security force raids in the Dogiyai Regency. The raids were part of an Indonesian wide police operation named 'Mantap Praja', which was commanded by the head of the Indonesian National Police to secure local elections. Mr. Melkias Dogomo

(33 years) was arrested during one of the raids on 23 December 2016 and subsequently detained at the Moanemani Sub-district police station for several hours. Police officers allegedly intimidated Mr. Melkias Dogomo by pushing a rifle barrel into his mouth to stage a mock execution. He was tortured during detention and sustained severe injuries which resulted in his death on 7 January 2017.<sup>7</sup>

► On 10 January 2017 police officers arbitrarily arrested Mr. Otis Pekei (21 years) near the Tuka river and brought him to Moanemani Sub-district police station. The arrest occurred as part of the police operation 'Mantap Praja' for the securing of local elections. He was tortured during his time in police detention resulting in his death. Police officers brought Mr. Otis Pekei's body to his family's house around 3.00 pm in the afternoon (*see Chapter 3.6 on Torture and Ill-treatment*).<sup>8</sup>

► On the 11 January 2017, at 02.00 am, six police officers of Jayawijaya District Police arrested Mr. Edison Hese gem (21 years old) in Irian Street in Wamena. Police officers, alleged that he was drunk and tried to steal a dog. The officers collectively beat him until he sustained multiple bruises to the face and body. This was after Mr. Edison Hese gem had allegedly tried to resist arrest. The police officers then brought Mr. Edison Hese gem to the KP3 (Kesatuan Pelaksana Pengamanan Pelabuhan) Police Station near the airport and severely tortured him during detention and later during medical treatment at the Jayawijaya General Hospital (*see Chapter 3.6 on Torture and Ill-treatment*). After the medics treated some of his wounds for 30 minutes, the officers again brought Mr. Edison Hese gem back to the POLSEK KP3 police post. When the officers re-admitted Mr. Edison Hese gem at 02.30 pm, he was already unconscious. Mr. Edison Hese gem

7 Tabloid Jubi (29.01.2017): KOMNAS HAM: Dugaan kekerasan fisik akibat sweeping Dogiyai masih perlu pembuktian, available at: <http://tabloidjubi.com/m/artikel-3303-komnas-ham-dugaan-kekerasan-fisik-akibat-sweeping-dogiyai-masih-perlu-pembuktian.html>

8 Ibid.

died on the 13 January at 1.00 am inside the hospital due to the severe injuries he suffered during torture (see Image 3.5-1).<sup>9</sup>



Image 3.5-1: Mr. Edison Hesegem's body at the Jayawijaya General Hospital (Source: JAPH-HAM)



Image 3.5-2: Body of Mr. Maikel Marani after the military operation (Source: Independent human rights defenders)

► On 27 March 2017, a special police force unit under the command of Yapen District Police allegedly executed the head of the local armed resistance group Mr. Maikel Marani (28 years) in Kontinuai Village, Angkaisera District of Yapen Islands Regency. Around 01:00 am special force members in black uniforms and balaclavas forced their way into the house of Mr. Maikel Marani's in-laws, where Maikel had stayed over-night. Witnesses stated that Mr. Maikel Marani was unarmed at the time of arrest. A special forces officer released several shots at Maikel Marani as he tried to escape. One bullet hit Maikel in the leg.<sup>10</sup> Despite no further attempts to avoid the arrest, the officers again fired two shots at Mr. Maikel Marani causing his instant death. (see Image 3.5-2). Papua Regional Police spokesman Mr. Ahmad Kamal stated in an interview that Mr. Maikel Marani was shot dead after he had allegedly tried to resist arrest.<sup>11</sup>

► Mr. Ronald Auparay passed away on the 29 May 2017 in Manokwari General Hospital after he had been allegedly tortured at the district police station in Manokwari, where he was detained for more than 20 days. Family members stated that several police officers had tortured Ronald during arrest in the Apsirey area, in Sanggeng-Manokwari. Police officers at the Manokwari district police station had ignored Ronald's request for medical treatment during detention. According to the victim's relatives, Ronald suffered constant pain on the lower back, particularly during defecation.<sup>12</sup>

► On 7 July 2017, Mr. Robi Murib (27 years) and two friends had come together to share alcoholic drinks in front of Robi's house in the highland town of Ilaga, Puncak Regency. A heated argument among the three friends broke out. At that time, a group of military officers passed by at around 2.15 pm. As the military patrol approached the house, one of the officers

9 JAPH-HAM (22.01.2017): Edison Hesegem

10 Independent human rights defenders (05.04.2017): Kesaksian penembakan Maikel Marani

11 JUBI (27.03.2017): Keluarga: Mikael Merani tidak bersenjata saat

ditembak, available at: <http://tabloidjubi.com/artikel-4906-keluarga-mikael-merani-tidak-bersenjata-saat-ditembak.html>

12 LP3BH Manokwari (30.05.2017): Keluarga Menduga Ronald Auparay Mati Akibat Dianiaya Aparat



saw that Robi Murib was armed with a revolver in his belt. An eyewitness stated that one military officer allegedly opened fire at the three men. The bullets hit Robi's left and right leg, so he fell to the ground while both of his friends were able to flee the scene. According to one of Robi's friends who witnessed what happened, said that the military officers allegedly stabbed Robi Murib with their bayonets to his head and waist before they brought him to the general hospital in Ilaga town, where he died at 5.00 pm. His family collected his body from the hospital without requesting an autopsy.<sup>13</sup>

► On 1 August 2017, Mr. Yulianus Pigai (27 years) was shot dead (see Image 3.5-3) and ten other indigenous Papuans were seriously injured from bullets after members of a local mobile police brigade unit had opened fire at a crowd of villagers (see chapter 3.6 on *Torture and Ill-treatment*). Mr. Yulianus Pigai sustained lethal bullet injuries in both his thighs and stomach. The incident occurred in Oneibo, a small village located in the Tigi District of Deiyai Regency. Prior

to the shooting, a villager named Mr. Kasianus Douw had almost drowned in the Oneibo River in the early hours of the morning. When three villagers asked a construction worker of PT. Dewa Krisna Company to bring the unconscious man in his car to the Uwibutu general hospital, the construction worker refused to help and Kasianus died on the way to the hospital. Being angry about the construction worker's reluctant behaviour, a group of young villagers walked to the workers' camp and tore down their tents. Around 4.30 pm, a truck with fully armed mobile brigade police officers arrived at the location. When the villagers saw the armed police officers, they began to throw rocks and sticks at them. Instead of dispersing the crowd with warning shots, the mobile brigade officers allegedly began indiscriminate firing at the crowd using live ammunition.<sup>14</sup> In September 2017 the perpetrators had to face a police-internal 'code of conduct' trial in which four officers were sentenced to publicly apologize and were transferred to a police unit in another district.<sup>15</sup>



Image 3.5-3/4: Mr. Yulianus Pigai at the site of the crime after the shooting [left]; Mr. Yulianus Pigai's body during post-mortem examination at the hospital [right] (Source: JPIC Kingmi Papua)

13 ELSHAM Papua (07.07.2017): Miliki Pistol, Robi Murib Ditembak Mati TNI, available at: <http://elshampapua.org/2017/07/08/miliki-pistol-robi-murib-ditembak-mati-tni/>

14 JPIC KINGMI Papua (5.08.2017): Brimob Republik Indonesia menembak mati 1 orang masyarakat sipil dan melukai 10 orang masyarakat sipil Desa Oneibo, Distrik Waghetete, Kabupaten Deiyai, Papua

15 CNN Indonesia (31.08.2017): Penembakan di Deiyai, Empat Polisi Divonis Minta Maaf, available at: <https://www.cnnindonesia.com/nasional/20170831162855-12-238698/penembakan-di-deiyai-empat-polisi-divonis-minta-maaf/>

► On 9 August 2017, Chief Brigadier Yusuf Salasar – a member of the Wadan Intel II Korem 174 Timika military unit – killed Mr Theodorus Cekatem and injured two other fishermen (see Chapter 3.6 on Torture and Ill-treatment) at the Poumako Port in Timika during a dispute over customary fishing grounds between local indigenous fisher folk and migrant fishermen from other parts of Indonesia. A migrant fisherman approached one of the indigenous fishermen, snatched a bottle out of his hands and struck him with the bottle on the head. Upon seeing this, the indigenous fisherfolk got angry and the tense situation ended in a brawl between members of both groups. Chief Brigadier Yusuf Salasar monitored the brawl from a corner outside of the police post building and subsequently released three shots, aimed at the crowd, as the brawl between the two parties took place in front of the harbour security post.<sup>16</sup> In March 2018, the trial against the perpetrator was processed at the III-19 Military Court in Jayapura. Chief Brigadier Yusuf Salasar was sentenced to eight months imprisonment, to be reduced by the period of detention. The Association of Human Rights Lawyers for Papua (PAHAM Papua –Perkumpulan Advokat Hak Asasi Manusia untuk Papua) assessed that the court ruling and the demanded sentence by the military prosecutor were disproportionate to the severity of the crime.<sup>17</sup>

► On 18 November 2017, at 11.00 am, three army personnel of Yonif 755/Yalet, namely First Sergeant La Dili Wance (Vice Commander of Military Post of Kimaam Satgas Pamrahwan), Abiatar Harri Katoar and Fredrik Pattiasina (personnel at the Kimaam Military Post Kimaam Satgas Pamrahwan) unlawfully arrested Mr. Isak Dewakyekua (23 years) and tortured him severely during his arrest and detention at the

Yalet military post in Kimaam District, Merauke Regency (see chapter 3.6 on Torture and Ill-treatment). On 19 November 2017, around 2.00 am, the military officers brought Mr. Isak Dewakyekua to the Kimam Sub-district police station. When his sister visited Isak at 03.00 pm, she found him unconscious on the floor of his cell. His chest was swollen and his body was covered in bruises and blood. At 4.00 pm, the military commander Nelson Amirullah and a police officer named Mr. Nawir came to the family's house and asked where the relatives wanted to bury the body. At 7.20 pm, Isak's body (see Images 3.5-4 and 3.5-5) was brought to a health center where a post-mortem examination was conducted under the supervision of Yalet military members – the relatives were prohibited to witness the autopsy. An investigation was launched by the Military Police of Merauke (POMDAM Merauke) in November 2017. The trial (No. 62-K/PM.III-19/AD/V/2018) commenced on 5 July 2018 at the Military Court III-19, Jayapura. First Sergeant La Dili Wance was sentenced to one year and eight months imprisonment, while Abiatar Harri Katoar and Fredrik Pattiasina, each received an imprisonment sentence of one year and four months. The three defendants were charged under article 351 (1), (3), and article 55 (1/1) of the Indonesian Penal Code (KUHP), and under article 26 and article 190 (1), (3) and (4) of Law 31/1997 regarding military justice. The imprisonment period will be reduced by the period of detention. The three members were dismissed from military service.<sup>18</sup> The defendants filed an appeal against the verdict to the Military High Court in Surabaya.<sup>19</sup>

16 SKP Timika Diocese (02.09.2017): Poumako incident: lethal military violence against indigenous fisherfolk defending their livelihood, media information on the case available at: <http://suarapapua.com/2017/08/31/ini-laporan-investigasi-skp-keuskupan-timika-dalam-kasus-poumako-berdarah/>

17 PAHAM Papua (20.03.2018): Serka Yusuf Salasar, Terdakwa Kasus Penembakan di Pelabuhan Pomako-Timika Divonis 8 Bulan Penjara Oleh Hakim

18 Pengadilan Militer Jayapura (09.08.2018): Salinan Putusan, No. 62-K/PM.III-19/AD/V/2018, p. 148ff

19 KontraS (18.01.2018): Laporan Investigasi Penyiksaan Warga Kimaam oleh TNI



Image 3.5-5: Body of Mr. Ishak Dewayekua, showing torture marks. (Source: KontraS)

► On the 25 December 2017, at 4.00 am, an officer of the Mappi District police with the initials D.E. shot dead 19-year-old Mr. Nikolausi Bernolpus during a routine police patrol on Kodok Street, in Kepi Town of Mappen Regency. The incident was confirmed by the district police chief Wartono in a public interview. Mr. Nikolausi Bernolpus and several friends were sitting near the road as the police patrol passed them. An argument between the police patrol and the group occurred as the officer suspected the young men of having taken alcoholic drinks and ordered them to go home. The argument ended in a brawl, during which Mr. Nikolausi Bernolpus allegedly hit the officer with a wooden pole.

According to police chief Wartono, the officer fell on the ground, drew his gun and released two warning shots. As Mr. Nikolausi Bernolpus tried to escape, the officer released a further shot, hitting Nikolaus from behind in the neck.<sup>20</sup>

► On 1 January 2018, members of the military special forces (Kopassus –*Komando Pasukan Khusus*) tortured Mr. Anekanus Komarigi (20 years) inside the Maleo Military Post, located in the Kenyam district of Nduga Regency. Mr. Anekanus Komarigi and three friends went to the Maleo military post to buy a motor cycle because some military members allegedly ran a second hand motorcycle business. The friends sat down with two military members in front of the post to drink tea and eat cookies. As the military members went inside the post, Anekanus wanted to follow them inside to watch television. The military members prevented Mr. Anekanus Komarigi from entering and rudely pushed Anekanus outside. A subsequent dispute escalated into a brawl. Mr. Anekanus Komarigi reportedly picked up a machete and injured one military officer in the hand. Upon seeing this, other military officers approached and collectively beat Mr. Anekanus Komarigi in front of the military post. One officer released a shot and injured one of Anekanus's friends in the leg. As bystanders witnessed the torture, six military members dragged Anekanus inside the military post to continue the torture. Mr. Anekanus Komarigi died at around 3.00 pm on the spot as a result of the severe beatings.<sup>21</sup> The head of XVII Cendrawasih command, Kol Inf Muhammad Aidi, stated in a press release that the military post was allegedly attacked by four civilians using sharp weapons in an attempt to rob fire arms.<sup>22</sup>

20 JUBI (28.12.2017): Seorang remaja di Mappi tewas ditembak aparat polisi, available at: <http://tabloidjubi.com/artikel-12659-seorang-remaja-di-mappi--tewas-ditembak-aparat-polisi.html>

21 Independent Human Rights Defender (04.01.2018): Ndugama: Pembunuhan Terhadap Anekanus Komarigi, available at: <https://papuaujungpanah.blogspot.com/2018/01/ndugama-pembunuhan-terhadap-anekanus.html>

22 JUBI (03.01.2018): Tewas di Pos TNI, Kodam tuding korban ingin serang pos, available at: <https://tabloidjubi.com/artikel-12721--kekerasan-tni-terhadap-sipil-kapendam--xvii---korban-ingin-menyerang-tni--.html>



Image 3.5-6: Bruises and cuts on Mr. Anekanus Komarigi's face after being tortured to death by military officers (Source: Independent HRD)

► On 3 February 2018 at around 10.00 pm, 55-years-old Ms. Imakulata Emakeparo (see Image 3.5-7), an indigenous Papuan woman of the Kamoro tribe, was shot dead by police officers as she and her husband were crossing the river in a small canoe near the Amamare cargo dock. An autopsy showed that her death was caused by a gunshot to the head. Twenty minutes before the incident, mobile brigade officers had arrested three Papuan men who had allegedly stolen mineral concentrate at the Amamare cargo dock in the Mimika Timur Jauh District, from where the mining company PT. Freeport Indonesia transports its minerals for further processing. One of the men jumped into the water and swam towards the river estuary in an attempt to escape arrest. As Ms. Imakulata Emakeparo and her husband heard cries for help, they wanted to see what was going on. Ms. Imakulata Emakeparo was using a flashlight to guide them because it was already dark. Subsequently, her husband heard three shots, so he asked his wife to switch off the flashlight. A few moments later the husband realized that Imakulata Emakeparo was already unconscious.<sup>23</sup> Shortly after the incident, the head of Mimika District Police, Mr

Indra Hermawan, stated in a public interview that seven members of the police mobile brigade (Brimob) were under investigation in relation to the incident.<sup>24</sup> However, in March 2018 a representative of the Secretariat for Justice and Peace of the Diocese in Timika, stated that the police had not yet identified any suspect in relation to the killing. The current status of the law enforcement process is unclear.<sup>25</sup>



Caption: Image 3.5-7: Ms. Imakulata Emakeparo's body in the coffin at her burial ceremony (Source: Independent HRD)

► Mr. Yulianus Yeimo –a victim of torture in the 'Bloody Paniai Case'– passed away on 1 April 2018 in Ipakiye Village of Paniai Regency at the age of 19 years. The torture was an act of punishment because Yulianus Yeimo and his three friends –who were 14 years old at the time– had reprimanded a military officer for driving his motorcycle without headlights through Ipakiye Village. The soldier reported the incident to his comrades at Nabire 753 Arpita Military Battalion who drove back to the village to punish the children. The misconduct of the military members triggered a large protest at the Karel Gobai field in Paniai on the following day. Joint security members forcefully dispersed the crowd with fire arms, using live ammunition, causing the death of four high school students.

23 Independent Human Rights Defender (08.02.2018): Laporan Singkat Emakolata Emakeparo, Ibu Kamoro Dotembak Mati, available at: <https://jelatanews.blogspot.com/2018/02/laporan-singkat-emakolata-emalekparo-ibu.html>

24 JUBI (05.02.2018): Akibat peluru nyasar oknum Brimob, Emakulata meregang nyawa, available at: <http://tabloidjubi.com/artikel-13500-akibat-peluru-nyasar-oknum-brimob-emakulata-meregang-nyawa-.html>

25 Harian Papua (02.03.2018): SKP Nilai Proses Hukum Tewasnya Imakulata Emakeparo Lamban, available at: <https://www.harianpapuanews.com/kriminal/skp-nilai-proses-hukum-tewasnya-imakulata-emalekparo-lamban/>

At least 14 protesters were injured with bullets. Mr. Yulianus Yeimo reportedly suffered frequent bleedings after the torture he experienced on 7 December 2014 during the Bloody Paniai case. He had spontaneous nose bleedings which usually lasted more than an hour, vomited clotted blood and often fainted. The soldiers had beaten him severely with a rifle butt to the head, kicked him with heavy military boots on the chest and cut him with a knife on the head (see Image 3.5-8).<sup>26</sup> The Bloody Paniai case is one of three cases which were identified as serious human rights violations by an ad hoc government team led by the former Minister of Internal, Legal and Security Affairs, Mr Luhut Pandjaitan. During the 3rd cycle of Indonesia's Universal Period Review in May 2017, the Indonesian Foreign Minister, Mrs. Retno Marsudi, stated that the case will be processed by the National Human Rights Commission (Komnas HAM) and the General Attorney. Until now, the case has not been processed by the Attorney General's Office and none of the perpetrators have been prosecuted.<sup>27</sup>



► On 21 May 2018, Mr. Frits Raunsai, a member of Kodim 1709 Yapen Waropen military unit, killed 42-years-old Mr. Yohanis Bisai in his house in Anotaurei Village (Cengkeh Street) of Yapen Selatan District. Around 00.30 am, the perpetrator came to Mr. Yohanis Bisai's house. He punched and subsequently stabbed him with a bayonet on the forehead (see Image 3.5-9), in the chest and twice in the back. Mr. Yohanis Bisai was rushed to the intensive care unit of the General Hospital in Serui where he died due to the severe injuries which he sustained from the knife attack. Prior to the incident, a group of men from the nearby Mariadei Village had come to Mr. Frits Raunsai's property, allegedly throwing stones at the house. The reason for the mob attack is unclear. However, the perpetrator saw the victim sitting with two friends approximately 70 meters away from his house. He approached Mr. Yohanis Bisai and instantly attacked him, accusing him of being responsible for the mob attack. A relative brought Mr. Yohanis Bisai to the Serui General Hospital where he passed away on the same day. Members of the military police arrested and detained the perpetrator after the attack. The spokesman of the XVII Cenderawasih military command, Colonel Muhammad Aidi, stated in an interview published on 22 May 2018 that the military police law enforcement unit (DENPOM - Detasemen Polisi Militer) in Biak will investigate the case for further processing through a military court. The current status of the law enforcement process is unclear.<sup>28</sup>

Image 3.5-8: Scars on Mr. Yulianus Yeimo's head which he sustained as a result of torture (Source: JPIC Kingmi Papua)

26 JPIC Kingmi Papua (26.04.2018): Yulianus Yeimo 19 Tahun anak yang pertama kali mendapat penganiayaan oleh TNI Timsus 753 telah meninggal dunia

27 ICP (25.03.2017): Human rights in Indonesia under review at the UPR –eight countries address human rights situation in West Papua, available at: <http://www.humanrightspapua.org/news/23-2017/235-human-rights-in-indonesia-under-review-at-the-upr-eight-countries-address-human-rights-situation-in-west-papua>

28 Independent human rights defenders (27.05.2018): Kronologis pembunuhan Yohanis Bisai, media information available at: <https://haipapua.com/rumah-dirusak-anggota-kodim-1709-yapen-waropen-tikam-warga-hingga-tewas/>



Image 3.5-9: Stab wound on Mr. Yohanis Bisai's forehead  
(Source: Independent HRD)

► On 6 April 2018, at 7.00 pm, joint security force members came to Mauwa Village using two pick-up trucks and released multiple shots at an unknown target inside the village and the surrounding area. At 7.30 pm the villagers stopped the security force vehicles at the bridge near the village to ask for whom they were looking. Instead of entering into communication with the villagers, one of the military officers released a warning shot. As the villagers continued to prevent the vehicles from passing, the security forces requested back-up at the Moanemani sub-district police station. At around 7.45 pm, police forces from the mobile police brigade (Brimob) special forces and the crowd control unit (DALMAS –*pengendalian massa*) arrived in Mauwa Village and instantly dispersed the villagers with teargas and fire arms, using live ammunition. Mr. Rudi Auwe sustained bullet wounds to his right thigh and right wrist.

Mr. Gerry Goo (18 years) was injured severely with two bullets to the right shoulder and he sustained bruises on his back, arms and legs as police officers dragged him over the asphalt into the police vehicle. He was brought to the Kamu sub-district police station where police officers tortured him. He sustained a head injury as a result of the torture (*Image available in Chapter 3.6 on Torture and Ill-treatment*). On 7 April 2018, Mr. Gerry Goo was admitted to Siritwini General Hospital in Nabire, where he was closely guarded by police officers. Family members were not allowed to visit him at the hospital. On 21 April 2018, he was transferred to Dok II Hospital in Jayapura because the Siritwini Hospital was insufficiently equipped to conduct the surgery. The doctors at the Dok II hospital decided that his condition was not stable enough to surgically remove the bullets. On 7 May 2018, family members brought Mr. Gerry Goo back to Dogiyai Regency. The bullets remained in his body. He passed away on 9 May 2018 in Goodide Village of Dogiyai Regency, Papua Province. Neither the police nor the military have conducted investigations into the case.<sup>29</sup>

► On 4 April 2018, a military operation in Opatawak Village of Mimika Regency caused the death of at least one villager named Mr. Timotius Omabak, while two other villagers were injured by bullets. The incident occurred at 10.15 am in the Tembaggapura District near the copper and gold mine of mining giant PT Freeport Indonesia. The military operation was confirmed by media sources and the Indonesian military (TNI). Infantry Colonel Muhammad Aidi of the XVII Cenderawasih military command stated in a public interview that members of the West Papua National Liberation Army (TPN-PB) had allegedly burnt down villagers' houses after they were pushed back in a fire fight with the military. He also claimed that Mr. Timotius Omabak was a member of the TPN.<sup>30</sup> The TPN claimed that

29 JPIC Kingmi Papua (16.04.2018): Aparat Gabungan TNI POLRI menembak dan melukai 2 orang Masyarakat Sipil di Jembatan kali Mauwa di Desa Mauwa Distrik Kamu Kabupaten Deiyai Papua

30 JUBI (05.04.2018): Korban sipil mulai berjatuh, gereja minta

the military attack resulted in the death of a woman, identified as Ms. Nataro Omaleng, and a child, named Aprion.<sup>31</sup> However, a video testimony published online on 18 April 2018 describes a different version of the incident. The video shows a group of four indigenous women from Opitawak village. According to the video testimony, the villagers had raised Indonesian flags and gathered below the flags as the military forces approached and indiscriminately opened fire at them. Some villagers fled into the surrounding forest to seek shelter.<sup>32</sup>

► Mob violence on 6 June 2018 between villagers from Wouma and the neighboring village Welesi resulted in the killing of Mr. Pinggiget Murib (see Image 3.5-10). Both groups used stones and traditional weapons such as bow and arrows. One officer from the police mobile brigade special unit and a military officer were wounded during the attempt to disperse the crowd with tear gas and fire arms. The independent Papuan media outlet 'Tabloid Jubi' published a witness testimony according to which Mr. Pinggiget Murib died as a result of bullet injuries which he sustained during the crowd control operation. The chief of Jayawijaya district police denied the allegations, stating that Pinggiget Murib had sustained lethal injuries caused by stones. The victim's family demanded a compensation payment for the killing of Pinggiget Murib from the Jayawijaya regional government.<sup>33</sup>

► On 13 September 2018, at 3.00 pm, Police Mobile Brigade officer Sihombing, Indonesian Navy officer Simon Oskar Merom and the Kimaam Police Resort officer Siampa used force to gain entry into Mr. Yudas Gebze's house in Wogikel Village, Ilwayap District of Merauke Regency. The security force officers arbitrarily arrested Yudas Gebze and tortured him. The



Image 3.5-10: The body of Mr. Pinggiget Murib after the crowd control operation (Source: Independent HRD).

officers used a sharp item to cut off parts of Yudas' ears and injured his forehead, hands and left foot (see Image 3.5-11). Moreover, the security force officers repeatedly beat him on the back of the head, causing a blood injury. On 14 September 2018, at 07.00 am, members of the local police flew Mr. Yudas Gebze by airplane to Merauke. After his arrival at the Merauke Airport at 7.45 am, Yudas Gebze was brought to the Merauke General Hospital. When two of his relatives tried to visit him at the emergency unit around 09.00 am, a police officer named Kace prevented them from entering the room. The officer also gave a misleading explanation to the relatives, stating that Yudas Gebze was severely injured after being beaten up by community members. At 10.00 am, one of Yudas Gebze relatives was allowed in to visit him. According to the

TNI dan TPN-PB tak berperang di wilayah pemukiman warga, available at: <http://tabloidjubi.com/artikel-15152-korban-sipil-mulai-berjatuh-gereja-minta-tni-dan-tpnpb-tidak-berperang-di-wilayah-pemukiman-warga.html>

31 *The Jakarta Post* (04.04.2018): Fatality reported in shootout near Freeport in Papua, available at: <http://www.thejakartapost.com/news/2018/04/04/fatality-reported-in-shootout-near-freeport-in-papua.html>

32 Youtube Video "Killings of civilians in Opitawak village, Tembagapura, West Papua by Indonesian military" available at: <https://www.youtube.com/watch?v=doVftB42rGs>

33 JUBI (10.06.2018): Warga bantah korban meninggal dalam bentrokan 6 Juni karena panah dan batu, available at: <http://tabloidjubi.com/artikel-16883-warga-bantah-korban-meninggal-dalam-bentrokan-6-juni-karena-panah-dan-batu.html>

relative, Yudas Gebze's hands were handcuffed although his physical condition was very weak. At 5.00 pm, Yudas Gebze died at the Merauke public hospital. The family decided to conduct an autopsy before burying his body in Wogikel Village.<sup>34</sup> Papua Police spokesman Sr. Comr. A. M. Kamal denied the accusations that police officers had tortured Yudas Gebze and stated that his men conducted the arrest in accordance with criminal procedures. Kamal argued that Yudas Gebze resisted arrest by allegedly pulling out a knife. He added Yudas accidentally fell on broken glass and was already injured when the officers arrested him.<sup>35</sup>



Image 3.5-11: Torture marks on Mr. Yudas Gebze's forehead and legs (Source: Independent HRD)

► On 1 and 2 October 2018, an exchange of fire between members of the military and members of the TPN-PB was reported in the Tingginambut district of Puncak Jaya Regency. People in the area fled into the surrounding jungle to seek shelter from the military forces.<sup>36</sup> A military patrol had allegedly discovered a base camp of local TPN-PB leader Goliath Tabuni and succeeded forcing the resistance fighters to abandon the camp and retreat into the jungle. On 6 October 2018, the military members found the bodies of a civilian

man and woman approximately 50 meters away from the base camp. Both civilians were killed by military forces during the exchange of fire -they could be identified as Ms. Wepi Wonda and Mr. Kopingga Tabuni. Wepi Wonda was the alleged wife of Goliath Tabuni. The bodies were cremated on the same day.<sup>37</sup>

► On 22 October 2018 at 08.00 pm, Mr. Daud Ayomi (27 years) drove his motor cycle through Waroki Village, Nabire Barat District of Nabire Regency. As Mr. Daud Ayomi passed a group of four military members, one of the soldiers suddenly drew his gun and fired a shot at Daud. The bullet hit Daud in the chest, causing his instant death. The reason for the assault remained unclear. While three military members were able to flee, Staff Sergeant Surya Ganda Putra Silalahi, a member of the 1705 Paniai military district command, tried in vain to escape on Daud's motorcycle. Unable to start the engine, Sergeant Surya was separated from his comrades and hid behind Daud Ayomi's house. Around 8.30 pm a group of villagers found Sergeant Surya and subsequently killed him in a mob attack, cutting his throat.<sup>38</sup> The Head of XVII/Cenderawasih Military Area Command Information Department, Colonel Muhammad Aidi, stated in a public interview that seven villagers under the influence of alcohol attacked Staff Sergeant Surya Ganda Putra Silalahi with machetes and knives. According to Colonel Aidi, Staff Sergeant Surya killed Daud Ayomi with his pistol in an attempt to defend himself from the mob attack. He denied that Staff Sergeant Surya was accompanied by three other soldiers.<sup>39</sup>

34 Independent Human Rights Defenders (18.09.2018): An indigenous Papuan died after being arrested, tortured and died by Mobile Brigade Corps, police officer from Kimaam Police Resort, and Indonesian Navy

35 *The Jakarta Post* (18.09.2018): Police accused of killing Papuan fugitive, available at: <http://www.thejakartapost.com/news/2018/09/18/police-accused-of-killing-papuan-fugitive.html>

36 *JUBI* (06.10.2018): Diduga ada korban sipil dalam kontak tembak di Tingginambut, available at: <http://tabloidjubi.com/artikel-20101-diduga-ada-korban-sipil-dalam-kontak-tembak-di-tingginambut.html>

37 Detik Peristiwa.com (08.10.2018): Diduga Media Tabloidjubi Mengklaim Kontak Tembak Satgas Gakkum TNI/Polri Dengan KKSB Anak Kecil Dan Ibu Hamil Jadi Korban Adalah Tumpa Dasar, available at: <https://www.detikperistiwa.com/news-74736/diduga-media-tabloidjubi-mengklaim-kontak-tembak-satgas-gakkum-tni-polri-dengan-kksb-anak-kecil-dan-ibu-hamil-jadi-korban-adalah-tumpa-dasar.html>

38 JPIC Kingmi Papua (22.10.2018): TNI Berpakaian Preman Tembak Mati Daud Ayomi Mahasiswa STTWP di Waroki, Nabire Papua

39 *Kabar Papua* (23.10.2018) Satu Anggota TNI Tewas Dibacok Warga di Nabire, available at: <https://kabarpapua.co/satu-anggota-tni-tewas-dibacok-warga-di-nabire/>





Image 3.5-12/13: Mr. Daud Ayomi in a body bag (left); the bullet hit Daud in the right chest (right) (Source: JPIC KINGMI Papua)

An armed attack by members of the West Papua National Liberation Army the armed resistance on 2 December 2018 in the remote highland regency of Nduga caused the death of at least 19 construction workers. On 4 December 2018, joint security forces launched a military offensive in response to the massacre using ground troops and four military helicopters. Eyewitnesses claimed that one helicopter dropped explosives while the other three helicopters fired large calibre machine guns at various targets, including several villages. On 13 December 2018, a rescue team succeeded to evacuate the bodies of three victims (see Images 3.5-14/15/16) and speak with eyewitnesses in the districts of Mbua, Mbulmuyalma and Yigi. Between January and April 2019, the local health agency launched field visits to various other districts of the Nduga regency. The data on victims documented during the field visits to multiple districts indicate that security force members killed 12 indigenous Papuans throughout December 2018, among them two women <sup>40</sup> (see Table 3.5-2).



Image 3.5-14/15/16: Grave of Nison Umangge (top), Image of Mianus Lokbere's body as found by members of the evacuation team (mid), bullet wound on Mentus Nimiangge's back. The victim was still alive as the picture was taken (bottom). (Source: Tim Evakuasi Kemanusiaan Nduga)

40 Tim Evakuasi Kemanusiaan Nduga (27.03.2019): Laporan Kasus Nduga and Yayasan Teratai Hati Papua (March 2019): Laporan Kasus Nduga

**Table 3.5-2: Civilian casualties killed during the security force operation in Nduga Regency.**

No	Date of death	Name	Age	Gender	Village/District of the incident	Cause of death
1	04/12/18	Kwemisik Gwi	40 years	Female	Yal	Shot dead by Indonesian military (TNI).
2	04/12/18	Kerry Gwijangge	30 years	Male	Yigi	Shot dead by military members in the village of Kojundumu (Yigi District), the bullet entered his mouth exited at the back of his head causing instant death.
3	04/12/18	Mianus Lokbere	18 years	Male	Mbua	Shot dead by Indonesian military (TNI), Shot dead, body was found in rotten condition.
4	04/12/18	Nison Umangge	18 years	Male	Mbua	Shot dead by Indonesian military (TNI) during air raid.
5	05/12/19	Rabu Kogoya	50 years	Male	Nirkuri	Was in the village of Nirigibirit as the military operation was launched on 4 December 2018. Rabu decided to walk to the village of Mere. On 5 December he left for Maere village and was intercepted by members of the military. Relatives found the body the following day. According to relatives, the body showed signs of mutilation.
6	06/12/19	Oparatianus Kogoya	17 years	Male	Mugi	Shot dead by security force members in the village of Aluguru.
7	08/12/18	Seanus Murib	27 years	Male	Mugi	Shot by military members as he was fleeing into the forest.
8	09/12/18	Arlus Kogoya	39 years	Male	Yigi	Died in his house because decided not to flee with his relatives, burnt alive as Indonesian military members set several traditional houses in Karunggame Village on fire.
9	15/12/18	Mentus Nimiangge	21 years	Male	Mbulmuyalma	Shot by Indonesian military (TNI) during operation 06.12.2019, bullet pierced victim's neck and entered at the back.
10	18/12/18	Pirando Gwijangge	20 years	Male	Mapnduma	Was shot dead by military special force members at the Mburum-mbram mountain as he wanted to see the arrival of military personnel in the village of Signimarem.
11	19/12/18	Bonias Kogoya	23 years	Male	Mapnduma	Was standing at the air strip as military members arrived in Mapenduma. He was shot dead from far range as he tried to run away from the military members. The bullet pierced his chest from left to right.
12	19/12/18	Rev. Geyimin Nirigi	83 years	Male	Mapnduma	Was killed by special force members. According to relatives, Rev. Nirigi was forced to dig a hole behind his house and later executed. Military members burned the body using kerosene. The Cenderawasih military command and the Papua Regional Police claimed that Rev. Nirigi was still alive. His body was never found.

## Mysterious Killings

Besides extra-judicial killings, which can be clearly attributed to the involvement of state actors, human rights defenders have expressed concerns over a number of cases where indigenous Papuans have died in 'mysterious killings'. Investigations by law enforcement institutions commonly fail to identify the perpetrators of such cases. It is common that cases are processed as traffic accidents, without any proper criminal investigations being undertaken. Activists also reported several cases where the victim appeared to have committed suicide by hanging themselves although relatives described that the victim did not have any motive or show suicidal tendencies. These cases were excluded from this section due to lack of background information on the circumstances of such suicidal acts.

The following two cases have been listed in this section because neither eye witnesses nor criminal investigators could identify any perpetrators. However, due to inconsistencies and suspicious conduct among investigating law enforcement bodies, it must be taken into consideration that the investigating police officers attempted to quickly close the case and avoid further questions in relation to these cases. One reason for such conduct could be a lack of competence among police investigators to solve the case. A second reason may be to protect the perpetrators from the police or military.

### Cases:

► On 3 March 2018, at 5.00 pm, Fredy Tebay (15 years) left his house in the Wadio area of Nabire Town and did not return home. On 04 March 2018, at 6.20 am, the neighbours informed Fredy's parents that Fredy had been admitted to the Nabire General Hospital. The parents went to Nabire general hospital and asked the medics about their son's condition. They received information that members of the police

had admitted Fredy Tebay's body to the hospital and that the police were currently investigating the perpetrator of the killing. Thereupon Fredy's father went to the Nabire-sub-district police station. Officers told him that Freddy Tebay was hit by a car in front of the local air-force complex at 8.00 pm. Multiple findings support the presumption that the police attempted to cover-up the killing. Fredy Tebay's body showed stabbing and cutting wounds as well as bruises over the entire body and extremities (see Images 3.5-12 and 3.5-13). Furthermore, the parents and local human rights defenders asked local residents near the Airforce base if they had recognised any car accident but none of the local residents heard anything about the alleged deadly accident.<sup>41</sup>



41 Independent Human rights defenders (06.03.2018): Kronologis Penikaman Alm. Fredy Tebay



Image 3.5-17/18: Wounds in Fredy Tebay's face (left page) and body (above) after the alleged traffic accident (Source: Independent HRD)



Image 3.5-19: Sondi Amkai's body after the admission to the general hospital in Kuruk, Merauke (Source: Independent HRD)

► On 13 October 2018, in the evening, university student Sondi Amkai was kidnapped by unknown perpetrators at the 'Kelapa Lima' Harbor in Merauke Regency. The kidnappers used a pickup truck and pulled Sondi into the car. His family tried to find Sondi for two days. His body was found on 15 October 2018 in the Neto River and subsequently brought to the general hospital in Kurik District for an autopsy. The body was buried at 7.00 pm without the agreement or presence of family members. The family was also not informed about the results of the autopsy. The local police and the head of the district claimed that Sondi Amkai's body was not handed over to his family because of its physical condition.<sup>42</sup>

42 Independent Human Rights Defender (19.10.2018): Merauke info, available at: [https://m.facebook.com/story.php?story\\_fbid=343039986266394&id=100016811850592](https://m.facebook.com/story.php?story_fbid=343039986266394&id=100016811850592)



## ICP recommends to the Government of Indonesia to:

- Ensure that the police conduct professional and effective criminal investigations into all cases of violence, irrespective of the institutional status of the alleged perpetrators, the ethnicity of victims or nonjudicial complaint mechanisms such as propam that may run in parallel;
- Introduce regulations ensuring the exclusion of military personnel in law-enforcement operation and review article 4 (2) of the presidential decree no. 63 Year 2004, enabling police to request support from military in law enforcement operations. This practice is obstructing legal prosecution of perpetrators from security forces and contributes to a climate of impunity in West Papua;
- Ensure that prosecutions are carried out within the human rights court and the ad-hoc human rights court processes for all gross violations of human rights, including the wasior case from 2001/2002 and the wamena case from 2003;
- Ensure that the military is only involved in issues of external threats and not in internal social conflicts, in accordance with human rights principles;
- Establish a human rights court in West Papua and ensure the courts effectivity by extending its mandate to process all human rights cases, not only those meeting the criteria of systematic and widespread attacks against civilians.



## Recommendations by states:

- Botswana, Latvia, Madagascar, Portugal, Timor-Leste, Liechtenstein, Hungary and Guatemala recommend to the Government of Indonesia to ratify the Rome Statutes of the International Criminal Court.<sup>1</sup>
- Australia recommends to the Government of Indonesia to “finalize the investigation of all human rights cases in Papua”<sup>2</sup>



## Recommendations by international human rights mechanisms:

### *Multiple UN special procedures mandates recommend that*

- Government authorities shall carry out expeditious, independent and transparent inquiries, with a view to taking all appropriate disciplinary and prosecutorial action, to ensuring accountability of any person guilty of the alleged violations, and to compensating victim’s family.<sup>3</sup>

1 Human Rights Council (14.07.2017): 3rd cycle of the Universal Periodic Review of Indonesia, available at: [http://ap.ohchr.org/documents/dpage\\_e.aspx?si=A/HRC/36/7](http://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/36/7)

2 Ibid.

3 Mandates of the Special Rapporteur on extrajudicial, summary or arbitrary executions and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment (17.03.2017): Communication in relation to the alleged torture and cruel, inhuman and degrading treatment of Mr. Edison Hesegeg by police officers of the Jayawijaya District Police, Papua that led to his death in custody, AL IDN 1/2017. p. 2, available at: <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gld=23024>

- Law enforcement officials shall, as far as possible, apply non-violent means before resorting to the use of force and firearms. They may use force and firearms only if other means remain ineffective or without any promise of achieving the intended result. Force used must be proportionate to the legitimate objective to be achieved.<sup>4</sup>
- The Government must ensure that thorough, prompt and impartial investigations of all suspected cases of extra-legal, arbitrary and summary executions (principle 9 of the Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions) take place. This obligation includes identifying and bringing to justice those responsible; granting adequate compensation to the victim or his family; and taking steps to end impunity and the recurrence of such executions.<sup>5</sup>
- Law enforcement authorities shall ensure that families of deceased victims and their legal representatives must be informed of and have access to any hearing as well as to all information relevant to the investigation, and must be entitled to present other evidence (principle 16 of the principles on the effective prevention and investigation of extra-legal, arbitrary and summary executions (1989)).<sup>6</sup>
- Law enforcement authorities shall investigate potential unlawful deaths “promptly, effectively and thoroughly, with independence, impartiality and transparency” as stipulated in the according to the minnesota protocol on the investigation of potentially unlawful death (2016). Family members should be consulted prior to an autopsy and entitled to have a representative present during the autopsy (para 37). They should also be granted legal standing, and the investigative mechanisms or authorities should keep them informed of the progress of the investigation, during all its phases, in a timely manner (para35).<sup>7</sup>
- Indonesian military authorities shall comply with principle 29 of the updated set of principles for the Protection and Promotion of Human Rights Through Action to Combat Impunity (2005), according to which “military tribunals must be restricted solely to specifically military offences committed by military personnel, to the exclusion of human rights violations, which shall come under the jurisdiction of

4 Mandates of the Special Rapporteur on extrajudicial, summary or arbitrary executions and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment (17.03.2017): Communication in relation to the alleged torture and cruel, inhuman and degrading treatment of Mr. Edison Hesegeg by police officers of the Jayawijaya District Police, Papua that led to his death in custody, AL IDN 1/2017. p. 4, available at: <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gld=23024>

5 Mandates of the Special Rapporteur on extrajudicial, summary or arbitrary executions and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment (17.03.2017): Communication in relation to the alleged torture and cruel, inhuman and degrading treatment of Mr. Edison Hesegeg by police officers of the Jayawijaya District Police, Papua that led to his death in custody, AL IDN 1/2017. p. 4f, available at: <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gld=23024>

6 Mandates of the Special Rapporteur on extrajudicial, summary or arbitrary executions; the Special Rapporteur on the rights of indigenous peoples; the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance; the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment and the Special Rapporteur on the human rights to safe drinking water and sanitation (07.12.2018): Communication in relation to allegations of extrajudicial killings through either torture, intentional killing or excessive use of force of six indigenous Papuans by the police and the military in 2017 and 2018 which are alleged to be part of a broader pattern of extrajudicial killings of indigenous Papuans, AL IDN 7/2018, p. 7, available at: <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gld=24202>

7 Mandates of the Special Rapporteur on extrajudicial, summary or arbitrary executions; the Special Rapporteur on the rights of indigenous peoples; the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance; the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment and the Special Rapporteur on the human rights to safe drinking water and sanitation (07.12.2018): Communication in relation to allegations of extrajudicial killings through either torture, intentional killing or excessive use of force of six indigenous Papuans by the police and the military in 2017 and 2018 which are alleged to be part of a broader pattern of extrajudicial killings of indigenous Papuans, AL IDN 7/2018, p. 7f, available at: <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gld=24202>

the ordinary domestic courts or, where appropriate, in the case of serious crimes under international law, of an international or internationalized criminal court”<sup>8</sup>

### *The UN Human Rights Committee (CCPR) recommends that*

- The Government “should take practical steps to put an end to impunity for its security personnel regarding arbitrary and extrajudicial killings, and should take appropriate measures to protect the rights of political dissidents and human rights defenders. The State party should systematically and effectively investigate and prosecute cases of extrajudicial killings and, in the event of a conviction, punish those responsible, and provide adequate compensation to the victims’ families.”<sup>9</sup>

## 3.6 Torture and Ill-treatment

Throughout 2017 and 2018, a total number of 53 cases of torture and ill-treatment were documented, leading to a total number of 239 victims. 66% of the cases were committed by police officers, 24.5% by members of the military, 7.5% by personnel of joint security forces and 1.9 % by other state actors. The statistical data for the period 2017/2018 reveals that 5.4% of the victims were below the age of 18 years. In 2018, the percentage even reached 10.9%. The case pattern shows that torture and ill-treatment against minors occurred exclusively in the central highlands. 92.9% of the reported victims throughout 2017/2018 were indigenous Papuans - a strong indication of the persistent racial discrimination that indigenous Papuans have to face. Torture was most commonly used for the purpose of punishment, with 34.5.% of reported cases, followed by acts of ill-treatment in relation to crowd control operations and other security force operations where members of the security forces used physical means to discipline a person. Cases of this category comprised 32.8% of the reported cases. The pattern of cases points to a strong correlation between cases of torture or ill-treatment and extra-judicial killings (EJK). Twelve out of 21 reported cases of EJKs occurred in relation to torture and ill-treatment – this equals a percentage of 57%. Victims of torture have only unattractive options if they wish to bring the perpetrators to justice.

Human rights defenders and local media outlets reported a total number of 53 cases of torture and ill-treatment throughout the past two years. With an annual number of 32 cases, the figure for 2017 was significantly higher than for the year

2018 with 21 reported cases. Thus, the year 2017 also marks the second highest annual number of reported cases since 2012<sup>1</sup>. The majority of such cases were committed by members of the police. In 2017, police officers were involved in 65.6%,

8 Ibid, p. 11

9 UN Human Rights Committee CCPR (21.08.2013): Concluding observations on the initial report of Indonesia, CCPR/C/IDN/CO/1, p. 5, available at: <http://undocs.org/CCPR/C/IDN/CO/1>

1 The year with the highest number of violations in the past seven years was 2014, with an annual number of 76 reported cases (see International Coalition for Papua (September 2017): Human Rights in West Papua 2017, the Fifth report of the International Coalition for Papua (ICP) covering events from January 2015 until December 2016, p. 9, available at <http://www.humanrightspapua.org/images/docs/HumanRightsPapua2017-ICP.pdf>)

while members of the military committed 28.1 % of the reported cases. 6.3% of the cases occurred during joint security force operations. In 2018, 66.7% of the cases were committed by police officers, 19.0% by members of the military and 9.5% by joint security force members. Human rights defenders reported only a single case in which a government district leader ill-treated a pastor, making up 4.8% of the cases reported in 2018 (see Table 3.6-1).

The cases of torture and ill-treatment resulted in a total number 239 victims, comprising 184 victims in 2017 and 55 victims in 2018. The high number of victims in 2017 is not only caused by a higher frequency of incidents but also due to mass arrests in the town of Nabire on the 4<sup>th</sup> and 5<sup>th</sup> of July, when police officers allegedly tortured 119 supporters of the 'West Papua National Committee' (KNPB) during detention. The statistical data for the period 2017/ 2018 reveals that 5.4% of the victims were below the age of 18 years. In 2018, the percentage even reached 10.9%. The case pattern shows that torture and ill-treatment against minors occurred exclusively in the highlands, mostly during military raids or combat operations against the armed resistance movement.

Of the victims throughout the reporting period, 92.9% were indigenous Papuans, which exemplifies a strong correlation between structural violence in West Papua and ethnic affiliation. The percentage is a clear indication of the persistent

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

"For the purposes of this Convention, the term "torture" means 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. It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions"

racial discrimination that indigenous Papuans have to face in Indonesia. While the victim group of indigenous Papuans, to a large extent consisted of ordinary community members, non-Papuan victims were either striking employees of the mining company PT Freeport Indonesia or local journalists. Journalists in particular, are among the professional groups in West Papua, that face a high risk of obstruction, assault and intimidation by security forces. (see Table 3.6-1).

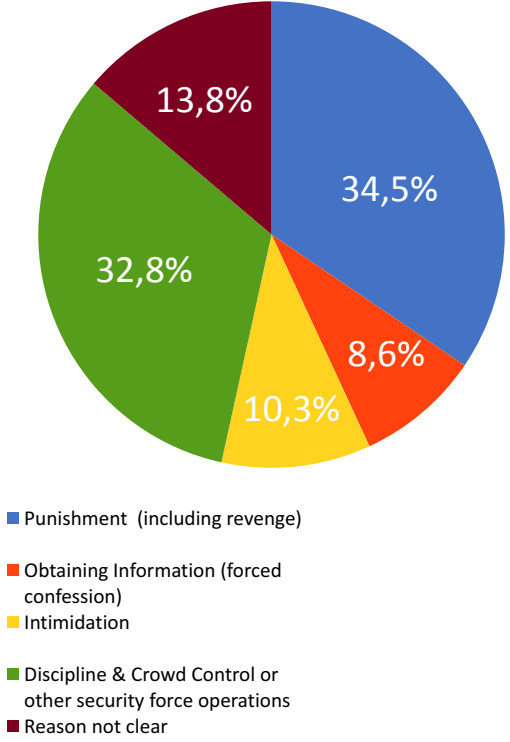
**Table 3.6-1: Torture and ill-treatment in West Papua throughout the years 2017 and 2018.**

	2017		2018		2017/2018	
	figures	%	figures	%	figures	%
<b>Number of reported cases of torture/ill-treatment.</b>	<b>32</b>		<b>21</b>		<b>53</b>	
<i>Torture/ill-treatment committed by members of the police.</i>	21	65,6%	14	66,7%	35	66,0%
<i>Torture/ill-treatment committed by members of the military.</i>	9	28,1%	4	19,0%	13	24,5%
<i>Torture/ill-treatment committed by joint security forces.</i>	2	6,3%	2	9,5%	4	7,5%
<i>Torture/ill-treatment committed by other state actors.</i>	0	0,0%	1	4,8%	1	1,9%
<b>Number of reported victims of torture/ill-treatment.</b>	<b>184</b>		<b>55</b>		<b>239</b>	
<i>Number of indigenous Papuan victims.</i>	173	94,0%	49	89,1%	222	92,9%
<i>Number of non-Papuan victims.</i>	11	6,0%	6	10,9%	17	7,1%
<i>Number of reported victims below age of 18 years.</i>	7	3,8%	6	10,9%	13	5,4%



Security forces in West Papua use acts of torture and ill-treatment for multiple purposes. The legal definition of torture by international law suggests that torture is any act inflicting physical or mental suffering for the purpose of *obtaining information or forcing a confession* [1], as forms of *punishment* [2] or subjecting a person to *coercion or intimidation* [3] (see definition in text box above). *Any other reason based on discrimination* [4] is a common element in the cases of torture by indigenous Papuans however the categorisation of cases in that regard overlaps considerably with the other categories and is not applied in this analysis. In view of this and the definition, the most common reason throughout the reporting period was the use of torture for the purpose of punishment, accounting for 34.5% of reported cases. This percentage includes the use of torture as an act of revenge or retaliation. Common circumstances in such cases were the involvement of victims in alleged criminal activity, government-critical political activity or violent acts against security force members. The use of torture as a punishment is an indication of the lack of professionalism among Indonesian security forces in West Papua, hence vigilante justice is used in addition to or as an alternative to law enforcement processes in accordance with the Indonesian Criminal Procedure Code (KUHAP –*Kitap Undang-Undang Hukum Acara Pidana*). Less common was the use of torture for the purpose of intimidation or coercion making up 10.3% as well as forcing confessions or obtaining information accounting for 8.6 % of the reported cases (see Graphic 3.6-1).

Besides acts of torture as defined by international law, state actors committed various forms of ill-treatment. These were procedural violations –often characterized by arbitrary acts or the use of excessive force– do not match the aforementioned legal definition, but cause mental and physical suffering to a person. Throughout 2017 and 2018, the majority of reported cases of ill-treatment occurred in relation to crowd control or other security force operations or during situations where security force members used physical means to display authority in order to discipline a person. Cases of this category comprised 32.8 % of the reported cases. In 13.8% of the reported cases, the motive for the use of violence remained unclear. There were a number of cases in which security force members appeared to use violence as an arbitrary act against a person. In some instances, the case reports do not allow to draw a clear conclusion regarding the perpetrator’s motive for the use of torture (see Graphic 3.6-1).



Graphic 3.6-1: Patterns resulting in the use of torture and ill-treatment in West Papua throughout the years 2017 and 2018.

The pattern of cases points to a strong correlation between cases of torture or ill-treatment and extra-judicial killings (EJKs). The majority of EJKs were *not* deliberate executions but caused by acts of severe torture, resulting in the victims' death. Twelve out of twenty-one reported cases of EJKs occurred in relation to torture and ill-treatment –this equals a percentage of 57%. Five of these cases occurred when security force officers used torture to punish suspects for their alleged involvement in a criminal offense or in attempting to resist arrest. Five of the cases were reported in relation to the excessive use of force during crowd control or other security force operations. In three cases, the motive for the use of torture was not clear.

Victims of torture and relatives of victims of extra-judicial executions have only unattractive options if they wish to bring the perpetrators to justice. One available option is to file grievances to semi-governmental organisations such as the National Human Rights Commission (Komnas HAM), the Ombudsman, or the National Police Commission. As they are not part of the Police or the Military, the investigations conducted by these parties are reasonably impartial. They, however, have limited mandates and powers. Police or military internal complaint mechanisms lack impartiality and transparency (see chapter 7.3 on National human Rights Mechanisms, Challenges and Opportunities).

### Cases:

► Mr. Melkias Dogomo (33 years) was arrested during police sweeping on 23 December 2016 and subsequently detained at the Moanemani Sub-district police station for several hours. Melkias Dogomo was tortured during detention and sustained severe injuries which resulted in his death on 7 January 2017. Police officers allegedly intimidated Malkias Dogomo by pushing a rifle barrel into his mouth to stage a mock execution (see chapter 3.5 on Extra-judicial Killings).

► On 10 January 2017 police officers arbitrarily, arrested Mr. Otis Pekei (21 years) near the Tuka river and brought him to the Moanemani Sub-district police station. Police officers tortured Otis Pekey on the way from Tuka river to the police station and during detention. Police officers brought Otis Pekei's dead body to his family's house around 3.00 pm in the afternoon (see chapter 3.5 on Extra-judicial Killings).

► On 11 January 2017, at 3.00 pm, three black pick-up trucks loaded with police officers came to Berap village and arrested Mr. David Tarkuo in relation to his alleged involvement in an armed pro-independence group. David Tarkuo's wife witnessed that one of the officers fired one shot at Mr. Tarkuo's right thigh. Subsequently, the officers dragged him out of the house and lifted him on to a police truck. As the car passed Waibron village, the police officers tortured David Tarkuo on the police truck. One officer lifted the victim's left leg while another officer shot David Tarkuo into the left knee cap. He was then taken to the district police office in Jayapura and subsequently transferred to the Bhayangkara police hospital. According to the Justice, Peace and Integrity of Creation Desk (JPIC) of the Evangelical Church in Papua (GKI-TP), David Tarkuo only received basic medical treatment for one week although he sustained two bullet injuries in both legs and was unable to leave his bed.<sup>2</sup>

► On 11 January 2017, at 02.00 am, six police officers of Jayawijaya District Police arrested Mr. Edison Hese gem (21 years old) on Irian Street in Wamena. Police officers, alleged that he was drunk and tried to steal a dog. The officers collectively beat him until he sustained multiple bruises to the face and body after Edison Hese gem had allegedly tried to resist arrest. The police officers then brought him to the police post near the airport (POLSEK KP3) and severely tortured him during detention, resulting in a series of injuries. He sustained an

2 JPIC GKI-TP (10.01.2017): Kasus Penembakan Bapak David Tarkuo di Kampung Berap

injury to the back of his head and bruises to his face. At 5.30 am the officers brought Edison Hese gem to the Jayawijaya general hospital. Hospital medical personnel witnessed that the police officers pulled him out of the car and threw him to the ground. Subsequently, two officers took his arms and dragged him from the vehicle to the Emergency room, while the other officers collectively kicked him in the lower back and repeatedly hit the victim's head with rifle butts. One officer knocked Edison Hese gem's head several times against the wall while he was meant to be receiving medical treatment. After the medics treated some of his wounds for 30 minutes, the officers again brought Edison Hese gem to the POLSEK KP3 police post. When the officers re-admitted Edison Hese gem at 02.30 pm, he was already unconscious. Mr. Edison Hese gem died on the 13 January at 1.00 am inside the hospital due to the severe injuries he suffered during torture (see chapter 3.5 on Extra-judicial Killings).<sup>3</sup>

► On 20 January 2017, members of the Moanemani Sub-District Police tortured Mr. Deserius Goo (22 years), Mr. Ferdinand Tebai (20 years) and Mr. Aleks Pigai (30 years) at the Moanemani Sub-District police station (Polsek Maoanemani) in Dogiyai regency. Ferdinand Tebai had come to Moanemani Sub-District police station in order to file a complaint against a driver who had almost crashed into him and subsequently sought shelter at the police station. An officer arrested and allegedly punched Ferdinand Tebai. Approximately 15 minutes later, Deserius Goo, Aleks Pigai and several other men came to the Moanemani Sub-District Police station and demanded the release of Ferdinand Tebai. Instead of settling the dispute by de-escalated means, the police

officers released several warning shots. While most of the men were able to escape, Deserius Goo and Aleks Pigai were arrested and beaten up by a group of police officers, some of them using sticks. Deserius Goo and Ferdinand Tebai sustained bruises to the face and on the back. In addition, Deserius Goo suffered a severe cut to the head (see image 3.6.1).<sup>4</sup>



Image 3.6-1: Mr. Deserius Goo sustained a severe head injury, bruises to the face and on his back (Source: Jubi)

► On 27 March 2017, a special police force unit under the command of Yapen District Police allegedly executed the head of the local armed resistance group Mr. Maikel Marani (28 years) in Kontinuai Village, Angkaisera District of Yapen Islands Regency (see chapter 3.5 on Extra-judicial Killings). According to eye witnesses, Maikel Marani was arbitrarily executed by members of the police special force. Subsequently, the officers tortured a villager inside the house as the raid occurred. An officer allegedly commanded H.S. (30 years) to crawl on the floor while repeatedly kicking and punching him. Another villager with the initials F.A. (28 years)<sup>5</sup> was threatened at gunpoint and forced to show the whereabouts of Maikel Marani's weapons.<sup>6</sup>

3 JAPH-HAM (22.01.2017): Edison Hese gem

4 Jubi (10): Protes temannya ditahan dan terluka puluhan pemuda datang POLSEK Moanemani, available at: <http://www.tabloidjubi.com/artikel-3162-protet-temannya-ditahan-dan-terluka-puluhan-pemuda-datangi-polsek-moanemani.html> and at: <http://www.tabloid-wani.com/2017/01/protet-temannya-ditahan-dan-terluka-puluhan-pemuda-datangi-polsek-moanemani.html>

5 Names have been replaced by initials for witness protection reasons

6 Independent human rights defenders (05.04.2017): Kesaksian penembakan Maikel Marani

► On 14 April 2017, officers of the Manokwari District Police arbitrarily arrested Mr. Mansar Rumayom (20 years) around 08.00 pm at the GOLKAR Party branch office in Manokwari and subsequently tortured him during police detention. Police officers carried out the arrest because they alleged that Mansar Rumayom was involved in a robbery. The actual reason for the arrest and the torture could be the fact that Mansar's father Mr. Onesimus Rumayom, was a political pro-independence activist who was killed by police forces during a riot in Sanggeng-Manokwari on 27 October 2017. Police officers repeatedly punched Mansar Rumayom in the face, on the back and kicked him with heavy boots on his legs. Mansar Rumayom sustained a cut to his lip, bruises on his back and bleeding injuries on both of his feet (see image 3.6.2).<sup>7</sup>

► On 20 April 2017, police officers opened fire at a group of approximately 1,000 Freeport workers in front of the Mimika District Court in Timika city. The workers were protesting against a judge's decision to detain Mr. Sudiro Petrus Selestinus, the leader of PT. Freeport Indonesia who had been accused of money laundering. As the workers and police forces pushed against each other, a clash occurred. Instead of using water cannons, the police dispersed the crowd using fire arms with rubber bullets. Five protesters were injured by bullets (see Table 3.6-2): Mr. Muhammad Faidzal (25 years) sustained a bullet wound on the buttocks; Mr. Zaenal Arifin's (44 years) right thigh was hit by a bullet; Mr. Puguh Prihantono (39 years) was hit by a rubber bullet on the right shin; Mr. Andri W. Santoso (38 years) sustained a bullet injury on the right calf; and Mr. Zakarias was injured by a bullet in the left foot. The injured protesters received medical first aid in Timika General Hospital –three of them were hospitalized.<sup>8</sup>



Image 3.6-2: Mr. Mansar Rumayom after being tortured by police officers (Source: LP3BH Manokwari)

7 LP3BH Manokwari (15.04.2017), media info on the case available at: <https://www.beritalima.com/2017/04/16/warinussy-polisi-yang-main-hakim-sendiri-harus-diproses/>

8 Lokataru (February 2018): "Freeport's Workers in Limbo": Report on the Conditions of the Strike Workers of PT Freeport Indonesia

Table 3.6-2: Protesters injured during the crackdown on 20 April 2017 (Source: Lokataru)

Nr.	Name & sustained injury	Image
1	Name: Muhammad Faizal Injury: Bullet injury on the buttocks	
2	Name: Pukuh Prihantono Injury: Bullet injury on the right shin	
3	Name: Andri Wibowo Santoso Injury: bullet injury on the right calf.	
4	Name: Zakarias Injury: bullet injury on the left foot	
5	Name: Zainal Arifin Injury: bullet injury in the right thigh	

► On 20 April 2017, at 12.00 am, three members of the Police Mobile Brigade (Brimob) heavily tortured Mr. Ulis Turot in Ayawasi Village of Maybrat Regency. Prior to the incident, Ulis Turot had consumed alcohol and asked the owner of a small shop for cigarettes. The shop owner directly called a nearby police post for help, upon which three Brimob officers came to Ayawasi Village and began to collectively beat him. Ulis Turot managed to escape and ran to his nearby house, where he picked up a machete. When the officers saw him with the weapon, they fired one shot at him. The bullet pierced Ulis Turot's stomach, causing a large exit wound in his right buttock. Eyewitnesses saw that the officers again beat Ulis Turot to the ground, handcuffed him and dragged him to the police car. Instead of hospitalizing Ulis Turot, the three Brimob officers brought him to the Kumurkek police station. After a short period of detention, local police officers accompanied Ulis Turot to Sorong General Hospital (200 km from Kumurkek police station) where he had to undergo surgery the following day.<sup>9</sup>



Image 3.6-3: Mr. Ulis Turot during medical treatment at the General Hospital in Sorong [left]; exit wound on Ulis Turot's right buttock [right] (Source: Jubi)

► On 1 May 2017, at 09.00 am, two military members attacked Mr. Yus Degei and Mr. Piet Degei with knives in Uwibutu village of Madi

district, Paniai Regency. Prior to the incident, the owner of a small shop in Uwibutu Village had accused the Papuan men of theft and subsequently reported them by phone to members of the nearby 753 military base. A few minutes later, two members of the 753 Paniai military unit arrived at the location and instantly attacked the Papuan men using their knives. Piet and Yus Degei sustained serious stabbing and slashing wounds. Yus Degei was stabbed in the face, causing a deep wound on his left cheek. Piet Degei was slashed on the back, leading to deep cuts near both shoulder blades on his upper back. Both men were brought to Paniai General Hospital, where they received intensive medical care (see Image 3.6.4).<sup>10</sup>



Image 3.6-4: Medics providing medical first aid to Mr. Yus Degei at the Paniai General Hospital (Source: Independent HRD)

► On 1 May 2017 around 9.00 am, police officers arbitrarily arrested and subsequently tortured local journalist Mr. Yance Wenda, as he was covering a peaceful demonstration by the pro-independence organisation West Papua National Committee (KNPB) in Sentani, Jayapura Regency. (Image and additional information on the case available in Chapter 3.1.2 on Media Freedom)

► On 18 May 2017, a police officer from the Jayapura sub-district police beat Mr. Nareky Kogoya during a police raid in Waena area of Jayapura municipality (additional information on

9 Tabloid Jubi (22.04.2017): Oknum Brimob di Sorsel berulah, satu warga ditembak hingga harus dioperasi, available at: <http://tabloidjubi.com/artikel-5682-oknum-brimob-di-sorsel-berulah-satu-warga-ditembak-hingga-harus-dioperasi.html>

10 Independent Human Rights Defender (16.05.2017): Penyiksaan Dua Masyarakat Sipil di Uwibutu

the case available in Chapter 3.3 on Human Rights Defenders).

► On 25 May 2017, a violent clash between a large number of protesters and military members occurred in Jayapura after members of the Korem 172/PWY military base had burned several Bibles. Military members forcefully dispersed the protest after angry demonstrators had allegedly thrown stones at police and military forces guarding the base. Witnesses reported that the military members released several warning shots into the air and then allegedly opened fire on the crowd. Three protesters named Mr. Victor Pulanda, Mr. Edi Siep and Mr. Alvian Ukago were injured by bullets and had to be hospitalized.<sup>11</sup>



Image 3.6-5–6: Mr. Viktor Pulanda (above), Bullet Injury on Mr. Alfian Ukago's left calf (bottom) (Source: JPIC GKI-TP)



Image 3.6-7: Mr. Eli Siep during medical treatment at a hospital in Jayapura. (Source: JPIC GKI-TP)

► On 29 May 2017, Mr. Ronald Auparay passed away in Manokwari General Hospital after he had been arrested in the Sanggeng area of Manokwari Regency and subsequently detained at the Manokwari district police station for more than 20 days. Family members had reported that Ronald Auparay was allegedly tortured during arrest (see chapter 3.5 on Extra-judicial Killings).

► On 16 June 2017, four police officers tortured 15-year-old Mr. Alberth Nawipa at Potikelek Market in Wamena, Jayawijaya Regency. According to local human rights defenders, the officers hit Alberth Nawipa with bare hands, wooden sticks and rubber batons on the head, back and stomach. Subsequently, the officers forced him to clean up the police post at Potikelek Market. The police arrested Alberth because he had allegedly thrown rocks at the Potikelek police post. Around 10.30 pm Alberth Nawipa felt a strong dizziness. He had to vomit, his nose started to bleed and he developed a

<sup>11</sup> JPIC GKI-TP (05.06.2017): Burning of Bibles at the Korem 172/PWY Military Base in Jayapura

swelling under his left eye. Alberth's parents immediately brought him to the Jayawijaya General Hospital in Wamena. He remained under medical observation due to the nose bleeding which continued until 11.00am the following day. Alberth was not able to lie on his back for several days due to the heavy bruises he sustained during the police torture (see Image 3.6-8).<sup>12</sup>



Image 3.6-8: 15 year old Alberth Nawipa, receiving medical treatment at the Jayawijaya General Hospital (Source: JAPH-HAM)

► On 29 June 2017, local Police conducted a widespread raid in the so-called 'Karang Barat' complex in Nabire Town, which is mainly inhabited by indigenous Papuans. Mr. Inandus Mote (20 years old) was arbitrarily arrested as he witnessed police officers opening fire at the complex. Inandus was brought to the Nabire district police headquarters where officers tortured him by repeatedly beating him in the face. As a result of the torture, Inandus Mote sustained swellings around both eyes and a bleeding nose and mouth.<sup>13</sup>

► On 4 July 2017, at 10.00 am, 30 members of the West Papua National Committee (KNPB) went to the Nabire District Police station to demand the release of Mr. Yanto Waine who had been arrested on 1 July 2017 as he was preparing copies of leaflets for a political discussion organised by

the (KNPB). Police officers arrested all 30 KNPB supporters and detained them at the Nabire District Police station. The KNPB supporters were forced to open their shirts (see image 3.6-9) and subsequently tortured using rifle butts, wooden sticks and bare hands. Two KNPB leaders named Mr. Andi Ekapia Yeimo and Mr. Samuel Wespa Kobepa remained in custody.<sup>14</sup>



Image 3.6-9: Arrested KNPB supporters being forced to open their shirts and sit in the sun (Source: KINGMI Papua)

► On 6 July 2017, at 10.00 am, police officers arrested a further 89 KNPB supporters in Nabire, demanding the release of the two KNPB leaders Andi Ekapia Yeimo and Samuel Wespa Kobepa. Those arrested were forced to enter two police trucks which brought them to the Nabaruan Sub-District Police station. According to local human rights activists, police officers tortured the protesters with rattan sticks and wooden batons, particularly targeting their heads, spine and chest (see Image 3.6-10).<sup>15</sup>

12 JAPH-HAM (17.07.2017): Alberth (Korban Penyiksaan)

13 JPIC KINGMI Papua (07.07.2017): Penangkapan, penganiayaan, penahanan dan Penyemprotan Gas Air Mata di Kompleks Masyarakat Asli Papua oleh Brimob dan Polisi Dalmas Polres Nabire

14 JPIC KINGMI Papua (08.07.2017): Penangkapan, penganiayaan dan pemenjarahan 92 orang Anggota KNPB Oleh Kepolisian RI Polres Nabire

15 Ibid.





Image 3.6-10: A police officer hit Mr. Selvianus Wogee on the head with a baton during detention at the Nabaruan police station, resulting in a blood injury to his head (Source: KINGMI Papua)

► On 22 June 2017, three members of the Wamena military command (Koramil) allegedly tortured 34-years-old Mr. Niko Hisage for seven hours at the military headquarters in the highland city of Wamena. The incident resulted from a disagreement between Niko Hisage and sergeant major Lukas Mulai over three of Niko Hisage's cows which were allegedly sold for a religious celebration. Lukas Mulai and two other military members lured Niko Hisage to the Wamena military base, where they began to question Niko Hisage around 09.30 am. The officers repeatedly punched him in the face and kicked him with their combat boots to the shin. As a result of the torture, Mr. Niko Hisage sustained a bleeding injury to his right ear, bruises and swellings below both eyes and on both legs as well as a deep cut on the inside of his lower lip. When Niko wanted to spit out the blood which had accumulated in his mouth due to the cut, the officers forced him to swallow it. Around 03.00 pm the three military members forced him to enter a bathroom at the military base, where they poured cold water over his head and forced him to crawl on the floor. At 04.00 pm Niko Hisage and his wife were allowed to leave the military base.<sup>16</sup>

16 JAPH-HAM (17.07.2017): Niko Hisage



Image 3.6-11: Bruises on Niko Hisage's face after being tortured by military members (Source: JAPH-HAM)

► In late June 2017<sup>17</sup>, an officer of the local Police in Yapen Island named Mr. Amos Worembai, approached XX<sup>18</sup> during a shopping trip to the local market in Waniwon village. XX had witnessed the extra-judicial killing of Mr. Maikel Marani by police officers on 27 March 2017 in Kontinuai Village (see Chapter 3.5 on *Extra-judicial Killings*). The officer hit XX on the right cheek and the back of the head while asking if he had reported the officer's name to the police. Subsequently, the officer drew a revolver and pointed it at the eyewitness' head while stating "today I will kill you". Other villagers who saw the incident came and helped the eyewitness. However, the police officer threatened to track and murder him. XX decided to go into hiding and was afraid to return to his village.<sup>19</sup>

► On 1 August 2017, Mr. Yulianus Pigai was shot dead (see chapter 3.5 on *Extra-judicial Killings*) and ten other indigenous Papuans were seriously injured by bullets after members of a local mobile police brigade unit had opened fire at a crowd of villagers (see Table 3.6-3). The incident occurred in Oneibo, a small village located in the Tigi District of Deiyai Regency. Five of the injured victims were minors. Prior to the shooting, a villager named Mr. Kasianus Douw had almost

17 Local human rights organisations were not able to reconstruct the exact date of the incident



18 Name has been anonymized and substituted by XX for witness protection reasons.

19 ELSHAM Papua (11.07.2017): Anggota Polisi Ancam Bunuh Saksi Mata Penembakan Maikel Merani

drowned in the Oneibo River in the early morning hours. When three villagers asked a construction worker of PT. Dewa Krisna Company to bring the unconscious man with his car to the Uwibutu general hospital, the construction worker refused to help and Kasius died on the way to the hospital. Being angry about the construction worker's reluctant behaviour, a group of young villagers walked to the workers' camp and tore down their tents. Around 4.30 pm, a truck with fully armed mobile brigade police officers arrived at the location. When the villagers saw the armed





police officers, they began to throw rocks and sticks at them. Instead of dispersing the crowd with warning shots, the mobile brigade officers allegedly released indiscriminate shots at the crowd using live ammunition. Almost all victims had to be hospitalized in the Uwibutu General Hospital.<sup>20</sup> In September 2017 the perpetrators had to face a police-internal 'code of conduct' trial in which four officers were sentenced to publicly apologize and were transferred to a police unit in another district.<sup>21</sup>

**Table 3.6-3 of victims during the Shooting in Oneibo Village (Source: JPIC KINGMI Papua)**

Nr	Name	Age	Sustained injuries	Images
1	Delianus Pekey	20 years	was hit by eight bullets hitting the victim's spine, right cheek, arms, the hand and the left thigh and had to undergo surgery in Jayapura Dok 2 general hospital	
2	Yohanes Pakage	29 years	bullet pierced the victim's right knee	
3	Akubertus Mote	11 years	bullet pierced the victim's waist	

20 JPIC KINGMI Papua (5.08.2017): Brimob Republik Indonesia menembak mati 1 orang masyarakat sipil dan melukai 10 orang masyarakat sipil Desa Oneibo, Distrik Waghete, Kabupaten Deiyai, Papua

21 CNN Indonesia (31.08.2017): Penembakan di Deiyai, Empat Polisi Divonis Minta Maaf, available at: <https://www.cnnindonesia.com/nasional/20170831162855-12-238698/penembakan-di-deiyai-empat-polisi-divonis-minta-maaf/>

4	Esebius Pakage	14 years	bullet wound in both forearms	
5	Yunior Pakage	15 years	bullet wounds on the right ankle and left foot	
6	Amos Pakage	27 years	bullet wound on the right leg (no treatment at the hospital)	No Image available
7	Marius Dogopia	21 years	bullet wound in both buttocks	
8	Penias Pakage	14 years	bullet wound on the right fore arm	No image available
9	Titus Pekey	30 years	bullet wound on the calf (no treatment at the hospital)	No image available
10	Meky Pakage	14 years	bullet wound on the right hand	

► On 4 August 2017, a group of military members arbitrarily arrested Mr. Hendrik Bosayor (30 years) in Sowi I, Manokwari Regency. According to LP3BH the arrest was carried out by members of the military in relation to the alleged theft of a fire arm, which had been stolen from the military special unit (KOPASSUS). The military members tortured Hendrik Bosayor and forced him to confess his involvement in the theft of the weapon. He was then unlawfully detained for eight days and released on 11 August 2017.<sup>22</sup>

► On 9 August 2017, Chief Brigadier Yusuf Salasar –a member of the Wadan Intel II Korem 174 Timika military unit– killed Mr Theodoros Cekatem (*see Chapter 3.5 on Extra-judicial Killings*) and injured two other fishermen at the Poumako Port in Timika during a dispute over customary fishing grounds between local indigenous fisher folk and migrant fishermen from other parts of Indonesia. As a brawl between the two parties in occurred in front of the harbour security post, the perpetrator released several shots, aimed at the group of indigenous fishermen.<sup>23</sup> Mr. Rudolf Saran was hit by a bullet in the arm, while Mr. Gabriel Nawipo sustained a bullet injury to his left hand. In March 2018, the trial against the perpetrator was processed at the III-19 Military Court in Jayapura. Chief Brigadier Yusuf Salasar was sentenced to eight months imprisonment, to be reduced by the period of detention. The Association of Human Rights Lawyers for Papua (PAHAM Papua) assessed that the court ruling and the demanded sentence by the military prosecutor were disproportionate to the severity of the crime.<sup>24</sup>

► On 19 August 2017, approximately 2,000 workers who were on strike including their family members, gathered at Check Point 28 (CP 28), demanding that the management of PT Freeport Indonesia negotiate the furlough program and the layoffs with the workers' union. The workers were also performing religious activities. In the midst of the gathering, at least 100 security personnel of the police mobile brigade and military armed with water cannons, rattan batons and tear gas approached the location. The workers and their families were dispersed with rubber bullets and beaten while conducting religious activities. The priests were assaulted by the security forces. The operation was led directly by the Mimika Police Chief, Mr. Viktor Machboen, accompanied by the local military commander, Infantry Colonel Indarto. One of the victims called Mr. Pak Haji was tear gassed, hit by a rubber bullet on his hand, and received bullets in the palm of his left-hand, making him unable to move his left-hand fingers and causing muscle defects. Another victim, Mrs. Ansy Lumenta was pushed off her motorcycle and fell to the ground. She was beaten on the back of her head by a security force officer. Merino, one of the workers, was arrested and beaten. The police officers forcibly cut his hair after the arrest (*see table 3.6-4*).<sup>25</sup>

22 LP3BH Manokwari (12.08.2017): Penangkapan sewenang-wenang & penganiayaan

23 SKP Timika Diocese (02.09.2017): Poumako incident: lethal military violence against indigenous fisherfolk defending their livelihood, media information on the case available from <http://suarapapua.com/2017/08/31/ini-laporan-investigasi-skp-keuskupan-timika-dalam-kasus-poumako-berdarah>

24 PAHAM Papua (20.03.2018): Serka Yusuf Salasar, Terdakwa Kasus Penembakan di Pelabuhan Pomako-Timika Divons 8 Bulan Penjara Oleh Hakim

25 Lokataru (February 2018): "Freeport's Workers in Limbo": Report on the Conditions of the Strike Workers of PT Freeport Indonesia

**Table 3.6-4: Strike participants injured during crackdown on 19 August 2018 at Check Point 28 (Source: Lokataru)**

Nr	Name & sustained injury	Image
1	Name: Sapsuha Sahadil Injury: hit by rubber bullet on buttocks	
2	Name: John Yawang Injury: Shot on the left foot, 3 stitches	
3	Name: Yudas Injury: Shot with hot tin/ lead	
4	Name: Ansye Lumenta Injuries: Hit by Mobile Brigade Corps members and fell off	

► On 20 August 2017, Mr. Pilipus (47 years) was arrested at 12.00 pm at Mr. Sudiro's (the chairman of PUK SPSI) home. Philipus and five other people were sitting around when two police cars (trucks and patrol), one armed forces vehicle and one police car from the police unit Satpol PP came and forced the group to disperse. Three people left accordingly, but Pilipus and Bahrudin (50 years) stayed. Two police officers kicked them on the waist and buttocks. When Pilius asked the officers "what is our fault?" the policemen insulted them as pigs and dogs while they continued the beatings. Pilipus was threatened at gunpoint as he challenged the police officers to a fight. The officer subsequently kicked Pilipus. Bahrudin was kicked on the face by a Satpol PP police officer in front of Sudiro's.

On the same day, the police members from the public order unit 'Satpol PP' went to the office of PUK SPSI in Pendidikan Street and dispersed several union members gathering in front of the office. The police, the army and Satpol PP arbitrarily arrested at least nine people without a warrant. The Freeport employees Mr. John Yawang, Mr. Steven Edward Yawan and Mr. Arnon Mirino, were subjected to physical and psychological torture (see table 3.6.5. Most of them were forced to confess crimes that they did not commit, such as participating in the destruction and arson of properties, sedition and carrying sharp weapons.<sup>26</sup>

**Table 3.6-5: Three tortured employees during police operations on 20 August 2017 in Timika (Source: Lokataru)**

Nr	Name	Form of torture
1	John Yawang	Shot in left leg, received 3 stitches
2	Steven Edward Yawan	Form of torture detained in an isolation room with little access to lighting and air, subjected to beatings and intimidated by using snakes
3	Arnon Mirino	was beaten and subsequently forced to cut his hair

► On 5 September 2017, a senior high school student Mr. Bryan Kowi was allegedly beaten with a rattan stick by a police officer in Nabire Town because Bryan and his friend were driving a motorcycle without wearing helmets. When they passed the regent's office, a police officer hit Bryan twice with a rattan stick on the head and the back. As result of the ill-treatment, Bryan sustained bruises on his back and a bleeding cut

on his head (see image 3.6-12). He had to receive medical treatment at the public hospital. Bryan's parents reported the incident to the Nabire District police. However, the complaint was not processed by the police-internal investigative body PROPAM. A police representative met the parents and apologized for the misconduct instead of initiating an investigation against the perpetrator.<sup>27</sup>

<sup>26</sup> Ibid.

<sup>27</sup> JUBI (6.09.2017): Tidak pakai helm, siswa SMA dipukul polisi pakai rotan, available at: <http://www.tabloidjubi.com/artikel-9349-tidak-pakai-helm-siswa-sma-dipukul-polisi-pakai-rotan.html>



Image 3.6-12: Treated laceration on top of Bryan Kowi's head after being beaten by a police officer (Source: JUBI)

► On 4 October 2017, around 08.00 pm, four army officers unlawfully arrested two villagers named Mr. Nolbet and Mr. Zakheus in Moso Village of the Muara Tami District, Jayapura Municipality. The two young men, while under the influence of alcoholic drinks had allegedly disturbed other villagers. The officers also went to the house of teacher Mr. Thomas Manufandu, entered the house without showing a warrant and arbitrarily arrested his son Mr. Kostan Manudandu as he was sleeping in his room. Subsequently, the army officers brought Nolbet, Zakheus and Kostan to the military post in Moso. At 09.30 pm, Thomas Manufandu and his wife went to the military post to request the release of Nolbet, Zakheus and their son. Thomas witnessed that the military officers slapped and beat Nolbet, Zakheus and Kostan to the face and body before they were released.<sup>28</sup>

► On 5 October 2017, at 05.30 pm, six fully armed army officers stopped Mr. Alfred Mandowen in Moso Village as he was driving his motorcycle. One of the officers kicked Alfred to the back, hence he fell to the ground. Subsequently, another army officer put his rifle aside and punched Alfred Mandowen twice to the chest in an attempt to challenge him to a fist fight. The

army officers allowed Alfred to leave the location after he had refused the challenge.<sup>29</sup>

► On 5 November 2017, 'Pasific Pos' journalist Mr. Ridwan Cholid Abubakar was attacked by a member of the Kodim/1704 Wamena military unit in Jayapura as he was waiting for a friend at the Argapura Bawah Complex. The military member punched him repeatedly in the face causing bruises on the journalist's left cheek and the neck. According to Ridwan Cholid Abubakar, TK was acting under the influence of alcohol. (Image and additional information on the case available in Chapter 3.1.2 on Media Freedom).

► On 23 October 2017, Mr. Yan Ever Mengge, also known as Bowake, put in place a customary law blockade after PT Permata Putera Mandiri (PPM) did not keep the promise to compensate his clan for land and timber, which had been cleared by the company the previous day. Thereupon, three Brimob officers chased Bowake with their vehicle. Driving at top speed, the car pursued Bowake, trying to run him down, but he was able to jump to the side of the road to avoid the car. The officers opened the left-hand door of the car violently, slamming it into Bowake's body. The Brimob officers jumped out of the car and collectively punched Bowake until he fell to the ground. Thereupon, the officers used their rifle butts to strike him to his neck, back, waist and knees, while kicking him with jackboots in his stomach, sides and chest. One Brimob officer stated, 'We're going to kill you here, today' and threatened that they would bury him alive. Bowake sustained severe bruises to his body, the head, his arms and legs. He was unable to walk, so the Brimob officers lifted him into the car and drove him to the company's camp where they continued to kick him until Bowake collapsed. Being unable to walk back home, Bowake was looked after there for several days. A company

28 JPIC GKI-TP (09.11.2017): Anggota Tentara Nasional Indonesia/Militer Memukul Warga kampung Moso Mengintrogasi dan melakukan tindakan Kekerasan Kepada Petugas gereja Di Kampung Moso, Distrik Muara Tami, kota Jayapura

29 Ibid.

worker brought Bowake to the hospital in Teminabuan because he continued to suffer a severe pain in his back and backbone, his injuries didn't heal and he repeatedly vomited blood. Bowake's family demanded the payment of a penalty under customary law for the beatings and tortures carried out by the three police officers, which would come to 150 million Rupiah. However, the family did not receive any payment from PT Permata Putera Mandiri, leaving them without money to pay for Bowake's medical treatment.<sup>30</sup>

► On 11 November 2017, a group of at least six police officers of Mimika Police Office (Polres Mimika) ill-treated 'OKE Zone' journalist Mr. Saldi Hermanto as he was sitting in a public post near the police traffic control post. A group of at least six police officers approached Saldi and brought him inside the traffic control post, where they repeatedly punched him to the head and upper body. Saldi sustained bruises to the left temple and the right ribs, causing difficulties in breathing after the attack (*additional information on the case available in Chapter 3.1.2 on Media Freedom*).

► On 18 November 2017 around 11.00 am, three army personnel of Yonif 755/Yalet named First Sergeant La Dili Wance (Vice Commander of Military Post of Kimaam Satgas Pamrahwan), Mr. Abiatar Harri Katoar and Mr. Fredrik Pattiasina (personnel at the Kimaam Military Post Kimaam Satgas Pamrahwan) unlawfully arrested Mr. Isak Dewakyekua in his sister's house in Kimam District. The incident occurred after Isak allegedly drank alcohol, despite previously promising to stop drinking. The military members severely tortured Isak during arrest and subsequent detention at the Yonif 755/Yalet Military Post. They entered the house of Isak's sister, beat Isak and threw him into a pond near the house, where

the military members collectively beat Isak for almost one hour with a wooden beam. At 12.00 am, Isak was brought to Yonif 755/Yalet Military Post. A witness saw that the military members stuffed a 600 ml bottle into Isak's mouth to prevent him from shouting while beating and whipping him with a rubber hose outside the military post. Then they put a bucket on his head and collectively beat him for 30 minutes. Around 02.00 am, the military officers brought Isak Dewakyekua to the Kimam Sub-district police station. When his sister visited Isak Dewakyekua in the afternoon, she found him unconscious on the floor of his cell. His chest was swollen and his body was covered in bruises and blood. At 04.00 pm, Mr. Nelson Amirullah and a police officer named Nawir came to the family's house and asked where they wanted to bury the body. An investigation was launched by the Military Police of Merauke (POMDAM Merauke) in November 2017 (see Chapter 3.5 on Extra-judicial Killings).<sup>31</sup>

► Between 12 and 15 December 2017, joint security forces conducted a raid in the area around Daragma Airport in Mugi District of Nduga Regency, Papua Province. The raids appeared to be an act of revenge after violent clashes between the Papuan Liberation Army (TPN) and Indonesian Military (TNI) had caused the death of a construction worker. A military member sustained bullet injuries during the exchange of fire. Witnesses stated that the joint security force members allegedly used civil airplanes, from which they released shots in the direction of people and houses around the airport. The 'Coalition for Justice, Law and Human Rights of the Papuan Central Highlands' together with the 'Commission for the Disappeared and Victims of Violence' (KONTRAS) published a press release on 20 December 2017 in response to an alleged security force raid.<sup>32</sup> Joint security

30 PUSAKA (19.11.2017): Kronologis Kasus Kekerasan Aparat BRIMOB PT. PPM terhadap Masyarakat Pemilik Tanah Adat di Sorong Selatan, e-document available at: <https://awasmifee.potager.org/?p=1577>

31 KontraS (18.01.2018): Laporan Investigasi Penyiksaan Warga Kimaam oleh TNI

32 Coalition for Justice, Law and Human Rights of the Papuan Central Highlands & 'Commission for the Disappeared and Victims of Violence' (20.12.2018): Hetikan Penyisiran dan Penyerangan Terhadap Warga Sipil di Nduga, Papua



forces ill-treated four indigenous Papuans named Mr. Ringgenus Gwijangge (15 years), Rev. Enok Kogoya (58 years), Mr. Amos Kogoya (54 years) and Ms. Iruna Nirigi (27 years) and burned two houses to the ground. The senior high school student Risok Nepi Nirigi and Mr. Sabet Gwijangge (47 years) sustained bullet injuries to the right thigh respectively. Robeyam Nirigi was shot in the thigh, Mr. Rinepi Nirigi (21 years) sustained a bullet wound in the neck and senior high school student Benarupuk Kogoya was injured by a bullet to his left hand during the raid. After the raid, security forces monitored the road from Jayawijaya to Nduga Regency and only granted access to those who had received permission letters from the police.<sup>33</sup>

► On 3 January 2018 at 3:00 am, a group of 30 indigenous Papuans consisting of men, women and children were intercepted by military members at Kilo seven in Napua District under suspicion that some group members were carrying ammunition to the Nduga Regency. Military officers questioned all the group members including women and children until 5.00 am while beating some of them with empty hands and rifle butts during the interrogation. As the military allegedly found eight ammunition shells, the entire group was arrested and brought to the Jayawijaya district police station in Wamena. Women and children were released after seven hours around 4.00 pm, while the men remained in detention. The police officers isolated three students from the group and interrogated them separately. The students were tortured during their interrogation. Eleven of those arrested - namely Abualak Kogoya (28 years), Jefri Gwijangge (27 years), Sije Wandikbo (17 years), Siminggen Wasiangge (27 years), Maniol, Nimiangge (28 years), Karungganus Wasinaggen (17 years), lau Gwijangge (30 years), Sarian Wasinagge (28 years), Nariget Wasinagge

(19 years), Natanus Kogoya (12 years), Tandanus Tabuni (12 years) - sustained injuries after the torture. As the victims went to the emergency unit of Jayawijaya General Hospital after their release, military members allegedly followed and intimidated them preventing the injured group members from seeking medical treatment.<sup>34</sup>

► On 6 February 2018 at 8.00 am, Rev. Edison Giay went to the house of Jamsul Runtuk, the head of Yamor District, to discuss his testimonial report about a boat accident, which he intended to submit to the regent of Kaimana. The heated discussion quickly turned into a dispute when Jamsul Runtuk accused Rev. Giay of having made a false testimony. The head of the district became angry and punched the pastor on the left temple and the chest. Thereupon, Rev. Giay left Runtuk's house, went to the hospital for a medical check-up and later reported the ill-treatment to the local police.

On 12 February 2018, Rev. Giay together with Mr. Ronald Kirihiio went to the Kaimana district police station where he wanted to take a confirmation letter (STPL), as a formal requirement of the criminal complaint procedure in Indonesia. When they arrived at the police station, the vice chief of Kaimana district police asked Rev. Giay to talk in private about the dispute with Mr. Jamsul Runtuk, so Ronald Kirihiio decided to wait at the criminal investigation department until the meeting was over. Suddenly, a police officer approached Ronald Kirihiio and started to punch him. As Ronald Kirihiio defended himself, other police officers interfered, collectively beating and kicking him to the ground. Ronald sustained bruises to his right cheek and head (*see image 3.6-13*). He was then taken into custody and charged with violation of the Emergency Law, which is punishable with a maximum sentence of seven years imprisonment.<sup>35</sup>

33 JAPH-HAM (20.12.2017): Kronologis Kasus Nduga

34 Suara Papua (05.01.2018): Wene Tabuni: 11 Warga Nduga dianiaya di Wamena, available from <https://suarapapua.com/2018/01/05/wene-tabuni-tiga-puluh-warga-nduga-dianiaya-di-wamena/>

35 ELSHAM Papua (05.06. 2018): Kepala Distrik Yamor Aniaya Pendeta, Ronald Yang Ditahan, available from <http://elshampapua.org/2018/06/05/kepala-distrik-yamor-aniaya-pendeta-ronald-yang-ditahan/>



Image 3.6-13: Mr. Ronald Kiriho in his detention cell (Source: ELSHAM Papua)

► On 14 March 2018, a member of the police mobile brigade (Brimob) allegedly tortured Mr. Yuten Gurik in the public hospital of Karubaga Town, in the Papuan Regency of Tolikara. Yuten Gurik is suffering a mental disorder characterized by uncontrolled emotional outbursts. Around 12.00 pm, Yuten Gurik sustained an emotional outburst in front of the church congregation building Yerusalem Karubaga. Thereupon, family members brought him to Karubaga General Hospital. Shortly thereafter, a mobile brigade police officer entered the hospital and saw Yuten Gurik shouting. The officers perceived his behaviour as a disturbance of public order and handcuffed him. As Yuten loudly protested against the handcuffs, the police officer repeatedly struck him with a rubber baton. Yuten Gurik sustained severe bruises on his back and buttocks as a result of the torture and was transferred to a mental health facility in Jayapura (see image 3.6-14).<sup>36</sup>



Image 3.6-14: Mr. Yuten Gurik being transferred to the mental health facility in Jayapura (Source: Suara Papua)

► On 6 April 2018, at 7.00 pm, joint security force members came to Mauwa Village of Dogiyai Regency using two pickup trucks and released multiple shots at an unknown target inside the village and in the surrounding area. At 7.30 pm the villagers stopped the security force vehicles at the bridge near the village to ask, for whom they were looking. Instead of entering into communication with the villagers, one of the military officers released a warning shot. As the villagers continued to prevent the vehicles from passing, the security forces requested back-up at the Moanemani sub-district police station. Around 7.45 pm, police forces from the mobile police brigade (Brimob) special forces and the crowd control unit (DALMAS) arrived in Mauwa Village and instantly dispersed the villagers with

36 Suara Papua (21.03.2018) : Oknum Brimob di Tolikara aniaya pasien gangguan jiwa, available at: <https://suarapapua.com/2018/03/21/oknum-brimob-di-tolikara-aniaya-pasien-gangguan-jiwa/>

teargas and fire arms, using live ammunition. While the majority of the villagers remained unharmed during the dispersal, Rudi Auwe (16 years) sustained bullet wounds to the right thigh and the right wrist (see image 3.6.16). He was able to avoid arrest. Mr. Gerry Goo (18 years) was severely injured by two bullets to the right shoulder and sustained bruises on his back, arms and legs as police officers dragged him over the asphalt into the police vehicle. He was brought to Kamu sub-district police station where police officers tortured him. He sustained a head injury as a result of the torture (see image 3.6-15). Gerry Goo died on 09 May 2018 - the doctors decided not to remove the projectiles because Gerry's condition wasn't stable enough for the surgery (see chapter 3.5 on Extra-judicial Killings).<sup>37</sup>



Image 3.6-15/16: Mr. Gerry Goo after his admission to the hospital [top]; bullet injury on Rudi Auwe's right thigh [bottom] (Source: JPIC Kingmi Papua)

37 JPIC Kingmi Papua (16.04.2018): Aparat Gabungan TNI POLRI menembak dan melukai 2 orang Masyarakat Sipil di Jembatan kali Mauwa di Desa Mauwa Distrik Kamu Kabupaten Deiyai Papua

► On 4 April 2018, a military operation in Opitawak Village of Mimika Regency caused the death of at least one villager named Mr. Timotius Omabak. At least two other villagers –Mr. Ruben Kupugau (in his 30s) and 15-year-old Kapin Wamang– were injured by bullets and had to be hospitalized. The incident occurred at 10.15 am in the Tembaggapura District near the copper and gold mine of mining giant PT Freeport Indonesia. The military operation was confirmed by media sources and the Indonesian military (TNI). Infantry Colonel Muhammad Aidi of the XVII Cenderawasih military command stated in a public interview that members of the armed resistance movement (TPN) had allegedly burnt down villagers' houses after they were pushed back in a fire fight with the military.<sup>38</sup> However, a video testimony published online on 18 April 2018 describes a different version of the incident. The video shows a group of four indigenous women from Opitawak village. According to the video testimony, the villagers had raised Indonesian flags and gathered below the flags as the military forces approached and indiscriminately opened fire at them. Some villagers fled into the surrounding forest to seek shelter.<sup>39</sup>

► On 5 May 2018, Mr. Mando Mote, a 29-year-old civil servant from Deiyai regency, was beaten collectively by police officers as he tried to access the front yard of a guest house in Nabire, where the public election commission (KPU) had organised a political debate between politicians running for candidacy as regent of Deiyai Regency. The Papuan journalist Mr. Albert Youw (27) was attacked by several police officers in an attempt to prevent him from covering the ill-treatment (*additional information on the case available in Chapter 3.1.2 on Media Freedom*).

38 JUBI (05.04.2018): Korban sipil mulai berjatuh, gereja minta TNI dan TPN-PB tak berperang di wilayah pemukiman warga, available at: <http://tabloidjubi.com/artikel-15152-korban-sipil-mulai-berjatuh-gereja-minta-tni-dan-tpnpb-tidak-berperang-di-wilayah-pemukiman-warga.html>

39 Youtube Video "Killings of civilians in Opitawak village, Tembaggapura, West Papua by Indonesian military" available at: <https://www.youtube.com/watch?v=doVftB42rGs>

As Mando Mote entered the yard to watch the debate, Police officers jumped at him and slapped his head from behind. Subsequently, a dozen police officers surrounded Mando Mote, some of them trying to calm down the situation, while others attacked him with kicks and punches. Mando Mote sustained a bleeding injury on his left temple and bruises to his right knee as a result of the ill-treatment.<sup>40</sup>



Image 3.6-17/18: Mr. Mando Mote being attacked by police officers [top]; Mando Mote receiving medical treatment after the torture [bottom] (Source: JPIC Kingmi Papua)

► During the night between 9 and 10 June 2018, police forces arbitrarily arrested five indigenous Papuans at multiple locations in Timika City of Mimika Regency. Three of them, namely Mr. Titus Kwalik, Mr. Julianus Dekme and Mr. Alosius Ogolmagi were ill-treated during the arrest. On 9

June 2018 at around 09.00 pm, members of the Mimika Sub-district police unlawfully arrested Mr. Polce Tsugumol. Subsequently, the officers drove to Polce Tsugumol's stepmother Orpa Wanjomal, entered her house and threatened her at gunpoint to hand out documents and ammunition which the officers believed to be inside the house. On 10 June 2018 at around 03.00 am, police officers came to Titus Kwalik's house at SP Lima and forced their way into the building without showing a warrant. As Titus refused to follow the police officers to their vehicle, several officers dragged him outside, one of them forcefully pushing his rifle butt into Titus' back. Almost simultaneously, police officers broke the front door of Julianus Dekme's house open while he and Alosius Ogolmagi were sleeping. Without showing a warrant, police officers dragged both men outside, pushing and beating them with rifle butts on their backs.<sup>41</sup>

► On 13 June 2018, at 6.00 am, a member of the police mobile brigade (BRIMOB) special forces named Syarifudin and a military officer beat up the local fisherman Mr. Frans Kbarek (21 years) and released multiple shots at him. The shooting followed a dispute between five fishermen and the security force officers who had prevented the group from leaving the port with their canoes. According to Frans Kbarek, the officers asked him and his friends to pay Rp 300,000 (approximately 22 US\$) for each fishing canoe leaving the port. Frans Kbarek refused to pay the money, arguing that the officers are misusing their authority to make money. Thereupon, the police officer pointed his gun at Frans Kbarek's head while the military officer beat Frans' head and leg with his rifle butt. As Frans tried to resist, the BRIMOB officer released several shots. Frans Kbarek sustained a bullet wound to the stomach, a cut to his lip, as well as bruises on his right cheek and left knee. He had to be hospitalized at the Naval Hospital in Sorong.<sup>42</sup>

40 JPIC Kingmi Papua (06.05.2018): Aparat Brimob, Polisi Dalmas dan Propos pengerojokan terhadap seorang Pegawai Negeri Sipil (PNS) Deiya dan Wartawan Jubi di Halaman Guest House

41 PAHAM Papua (15.06.2018): Kronologi pendampingan Hukum Terhadap 5 Korban di Timika

42 Suara Papua (13.06.2018): Oknum Anggota Brimob Tembak



Image 3.6-19: Mr. Frans Kbarek recovering at the Naval Hospital in Sorong (Source: Suara Papua)

► On 6 July 2018, a group of students –most of them Papuans– gathered inside the Papuan student dormitory in Kalasan Road 10, Sub-district Tambaksari in Surabaya. Members of the Papuan Student Alliance (AMP) had organised a discussion for the commemoration of the 20<sup>th</sup> Anniversary of the Biak massacre. At 7.00 pm, more than 100 security force personnel consisting of officers from the police unit for the enforcement of public order (SATPOL PP), district police, military members and the head of Tambaksari subdistrict, Mr Ridwan Mubarun, gathered in front of the dormitory and intended to disperse the peaceful student assembly without a warrant. Around 8.30 pm, a group of Papuan students accompanied by the LBH lawyer, and Ms. Anindya Joediono, a law student of Narotama University and activist of the National Student Front (FMN), went outside to meet with Mr Mubarun. The situation escalated when a police officer rudely shouted at Anindya Joediono. Thereupon, the officers indecently

Seorang Nelayan di Sorong, available at: <https://suarapapua.com/2018/06/13/oknum-anggota-brimob-tembak-seorang-nelayan-di-sorong/>

touched Anindya’s breasts and pulled her shirt until one of the shirt buttons was ripped off. Meanwhile, several police officers attempted to drag Anindya to a police vehicle.<sup>43</sup>

► On 30 July 2018 in the early morning hours, three members of the Jayapura District police ill-treated Raimond Penggu (33 years) and Viki Yikwanak (33 years) in Sentani, Jayapura Regency, near the old market. Raimond Penggu and Viki Yikwanak had come to ‘Pasar Lama’ to eat in a nearby restaurant. On the way back to the car, three police officers intercepted them and beat them with their rifle butts suspecting them as the alleged perpetrators in a theft case. The ill-treatment resulted in a bleeding head injury to the temple as well as bruises and swellings to the victims’ faces and on their backs. Both victims had to be treated at the Yowari General Hospital in Sentani.<sup>44</sup>



Image 3.6-20: Mr. Raimond Penggu and Mr. Viki Yikwanak (Source: Suara Papua)

► On 27 August 2018, members of the Jayapura municipality police tortured Papuan student Mr. Asmel Yigibalom in the residential area of Perumnas 3 Waena of Jayapura Municipality. Yetron Kogoya sustained a bullet injury as the police forcefully dispersed a group of students.

43 LBH Surabaya (06.07.2018): Hentikan Tindakan Represif dan Intimidasi Mahasiswa Papua, available at: <https://www.gramediapost.com/2018/07/07/lbh-surabaya-hentikan-tindakan-represif-dan-intimidasi-terhadap-mahasiswa-papua/>

44 Suara Papua (30.07.2018): Okum anggota polisi di Sentani Aniaya dua supir, available at: <https://suarapapua.com/2018/07/30/oknum-anggota-polisi-di-sentani-aniaya-dua-supir/>

The shooting occurred around midnight, after a group of students –all living in the Lanny Jaya student dormitory– had gathered at the police post in Permunas 3 residential area in Waena, where the alleged perpetrator of a motorcycle theft sought shelter from the mob. When the police officers refused to surrender the alleged perpetrators, a heated argument between the police and the students began. The students claimed that police officers insulted them as ‘pigs’, ‘dogs’, and ‘being stupid’. During the argument the police officers arrested Asmel Yigibalom and dragged him inside the police post, where the officers repeatedly struck Asmel’s head. Around 01.00 am, the students dispersed, after fully armed members of the crowd control unit DALMAS arrived at the location and opened fire at the students. Mr. Yetron Kogoya was hit by a bullet in the right shoulder and received medical treatment at the Bhayangkara Police Hospital.<sup>45</sup>

► On 26 August 2018 at 10.00 am, police officers from the Manokwari sub-district municipality police (Polsek Manokwari Kota) shot Mr. Ferry Korwa (20 years) in front of the Fajar Roon Hotel in Trikora Wosi Street near the Wosi Market in Manokwari, Papua Barat Province. Ferry Korwa sustained a bullet injury to the right side of the upper back and had to be treated at the local Navy Hospital. According to the local police, Ferry Korwa allegedly stole a mobile phone from a junior high school student and tried to avoid arrest. The local police justified the use of fire arms, claiming that Ferry Korwa carried a sharp weapon and attacked the officers.<sup>46</sup> The police statement contradicts information collected by local human rights defenders –eyewitnesses who helped Ferry Korwa after the shooting stated he did not carry any weapon.<sup>47</sup>



Image 3.6-21: Mr. Yetron Kogoya, shortly after being admitted to the Bhayangkara Hospital (Source: independent HRD)



Image 3.6-22: Mr. Ferry Korwa during medical treatment at the hospital (Source: independent HRD)

45 Independent human rights defenders (29.08.2018): Kronologis penembakan terhadap mahasiswa Lanijaya

46 Oase Papua (27.08.2018): Polisi Manokwari Tembak Pelaku Pemalakan Dari Bahu Tembus Ke Dada, available at : <https://oasepapua.id/polisi-manokwari-tembak-pelaku-pemalakan-dari-bahu-tembus-ke-dada/>

47 Independent human rights defenders (30.08.2018): Laporan Kejadian Penting Periode April -Agustus 2018

► On 10 September 2018, six air force members tortured Mr. Sukay Alwan Suebu at the Sub-district police office near the Sentani Airport (Polsek KP3U Bandara Sentani) and the dormitory facility of the air force base (LANUD) in Sentani. Two Air force members intercepted Sukay Alan Suebu on his way home and brought him to the sub-district police station near the Sentani Airport (Polsek KP3U Bandara Sentani), where they punched Sukay repeatedly in the face. Shortly after, four air force members came to the KP3U police station. Around 10.00 am, the six soldiers –all members of the special air force unit PASKHAS LANUD– brought Sukay Suebu to the dormitory facility of the air force base. They tied Sukay’s hands to a flag pole and collectively punched and kicked his body. He sustained bruises all over his body as a result of the torture and had to undergo medical treatment at the Yowari General Hospital in Sentani for two days. The torture was meant as an act of revenge – Sukay Suebu allegedly slapped one of the air force member’s brother, because he had made fun of Sukay after being dismissed from his job.<sup>48</sup>



Image 3.6-23: Marks of the torture on Sukay Alwan Suebu’s back (Source: Suara Papua)

48 Suara Papua (26.09.2018): Seorang warga mengaku dianiaya enam anggota paskhas TNI LANUD Jayapura, available at: <https://suarapapua.com/2018/09/26/seorang-warga-mengaku-dianiaya-enam-anggota-paskhas-tni-lanud-jayapura/>

► On 13 September 2018, at 3.00 pm, Police Mobile Brigade officer Sihombing, Indonesian Navy officer Simon Oskar Merom and the Kimaam Police Resort officer Siampa forced their way into Mr. Yudas Gebze’s house in Wogikel Village, Ilawayap District. They arbitrarily arrested Yudas Gebze and collectively tortured him using a sharp item to cut off parts of Yudas’ ears and injure his forehead, hands and left foot. The security force officers repeatedly beat him on the back of the head, causing a blood injury. Yudas Gebze died the next day in the Merauke public hospital (see chapter 3.5 on Extra-judicial Killings).

► On the 24 September 2018, supporters of the ‘United Liberation Movement for West Papua’ (ULMWP) conducted peaceful protests in various parts of Jayapura municipality in support of Vanuatu and other Pacific countries, which had raised the West Papua issue during the 73rd General Assembly Session of the United Nations. Students had established a ‘free speech’ podium at the campus yard of the Jayapura University for Science and Technology (USTJ), where the students could express their aspirations and opinion. Members of the Jayapura Municipality police crowd control unit (DALMAS) entered the university campus with several police trucks around 11.00 am and dispersed the crowd. A police officer ill-treated Mr. Petrus Kosamah as the police forces prevented the students from talking at the podium.<sup>49</sup>

► On 13 October 2018, students organised a peaceful event in relation to the human rights situation in West Papua at the Papuan student dormitory in Lanto Dg. Pasewang street, Makassar, South Sulawesi Province. At 7.00 pm, the students began to present self-composed poems, orations as well as music and comedy performances, while approximately 20 uniformed police officers closely monitored the event in front of the dormitory premises.

49 JUBI (24.09.2018): Demo ULMWP; 67 mahasiswa ditangkap, satu dipukul polisi, available from <https://www.tabloidjubi.com/artikel-19741-demo-ulmwp-67-mahasiswa-ditangkap-satu-dipukul-polisi.html>

Four police intelligence members followed the performances inside the dormitory. After the event, members of the local police arbitrarily arrested and subsequently ill-treated three students and one activist who had participated in the peaceful event. A police officer pointed his gun at Mr. Amri's head and forced him at gunpoint to open his jacket and clothes. The officer subsequently beat Mr. Amri on the head and dragging him to the Police Patrol car. Police officers also forcibly dragged Mr. Wildan to the patrol car, while slapping him in the face. Mr. Fahri was arbitrarily arrested at the dormitory parking space. Police officers beat him on the head and forcibly dragged Mr. Fahri to the Police Patrol vehicle. Meanwhile, police officers arrested Mr. Imam inside the dormitory and dragged him to the patrol car. An officer punched him in the lower stomach. Mr. Imam felt a strong nauseousness as a result of the beating. The police ill-treated a participant named Mr. Atu because he recorded the unlawful police operation. An officer dragged Atu down and kicked him as he was lying on the floor. Students prevented the police officers to drag Mr. Atu away from the dormitory premises. All arrested participants were released at 0.10 am, on the following morning after they had been detained in police car.<sup>50</sup>

► On 24 November 2018, members of the Merauke district police severely ill-treated Mr. Bonivasius Buyopu, Mr. Anselmus Ero and Mr. Melkior Jebe during a crowd control operation in the Karang Indah district of Merauke town. Prior to the incident, a group of local residents armed with machetes, sticks and axes had searched the alleged perpetrator of an attempted child abduction. At around 6.00 pm, eight police officers came to Karang Indah to investigate

the case. Witnesses stated that the police told the group of approximately 40 residents to stop the search, to kneel down and follow the police instructions. Representing the view that they had not done anything wrong, the residents refused to sit down. Some residents allegedly stated that the police attempted to cover the perpetrator and asked the officers to leave, causing the situation to become more tense. The heated argument escalated when a police officer allegedly hit a community member in response to this statement. Bonivasius Buyopu sustained bruises to his back and a bleeding head injury after an officer hit him five times with the rifle butt on the head and twice on the back. Police officers beat Anselmus Ero three times on the head and twice on the back. As the crowd attacked, the police officers fired multiple shots at the residents. Melkior Jebe was beaten on the head and the back and sustained one bullet injury to the lower left side of his chest. Local human rights defenders claimed that the



Image 3.6-24: Mr. Melkior Jebe during medical treatment at the Merauke General Hospital after being shot during a crowd control operation in the Karang Indah District (Source: independent HRD)

50 Aliansi Mahasiswa Papua AMP (14.10.2018): Kronologi Represif Aparat dan Penangkapan Empat Mahasiswa di Asrama Papua Makassar, available from <http://www.ampnews.org/2018/10/kronologi-represif-aparat-dan.html>

&

Aliansi Rakyat Makassar Untuk Demokrasi (14.10.2018): Pernyataan Sikap "Mengecam Tindakan Kekerasan Aparat Kepolisian di Asrama Mahasiswa Papua di Makassar", available from <http://lbhmakassar.org/press-release/aliansi-rakyat-makassar-untuk-demokrasi-mengecam-tindakan-kekerasan-aparat-kepolisian-di-asrama-mahasiswa-papua-di-makassar/>



bullet pierced his upper body from the back to front, indicating that Melkior Jebe was trying to escape from the officers. He had to undergo surgery at the General Hospital in Merauke (see image 3.6-24).<sup>51</sup>

► On the 1 December 2018, police personnel of Jayapura municipality ill-treated five protesters<sup>52</sup> during arrest and tortured three bystanders, who attempted to record the ill-treatments with their mobile phone cameras (see Table 3.6-6). The police officers forcefully dispersed peaceful assemblies in multiple locations of Jayapura, which were organised in commemoration of the 1<sup>st</sup> December. At 11.15 am, Mr. Benyamin Lagowan (27 years) witnessed how police officers arrested protesters near the Abepura sub-district police station (Polsek Abepura). As Benyamin Lagowan took out his cell phone to record the incident, a mobile brigade officer

approached him from behind and snatched his phone. Subsequently, three officers began to collectively kick and punch Benyamin Lagowan. The officers also turned towards Mr. Laorens Kerebea (24 years) and repeatedly punched him, struck him with a rifle butt in the face and kicked him to the body. A few minutes after the arrest, several Brimob officers tortured Mr. Hendrik Madai (27 years) in front of Sumber Makhmur Store, at the Abepura roundabout, after they had seen that Hendrik had taken pictures of the ill-treatments. The officers forcefully seized his cell phone and repeatedly beat Hendrik Madai with a helmet on the head. The three bystanders were arrested and later interrogated. The police officers continued to punch Benyamin Lagowan, Hendrik Madai and Laorens Kerebea during custody and forced them to erase the video footage from their mobile phones.<sup>53</sup>

**Table 3.6-6: Table with names of protesters and bystanders subjected to police violence during 1st December commemorations in Jayapura (Source: JPIC GKI-TP)**

Nr	Name	Form of ill-treatment/torture	injuries sustained after ill-treatment/torture
1	Apniel Doo	stabbed with an iron flag pole on head	bleeding head injury
2	Marten Iyai	beaten with a rifle butt on the ribs.	bruises on the rib cage
3	Obaja Itlay	kicked three times on the left ribs and eight times in the right ribs, once on the back, two times on the forehead, and twice on his right ear.	-
4	Ferdinan Pekei	Police officers beat him with a wooden baton on the head and the ribs, kicked him four times and stomped with combat boots on his foot	-
5	Andi Tekege	Police officers kicked him twice on the left thigh and beat him with a rifle butt on the head	-
6	Benyamin Lagowan (Bystanders)	Brimob officer kicked on the right thigh, hit with a rifle butt on the shoulder and face, officer released a warning shot and collectively punched him after he tried to escape	bruises on the fore head and a bleeding injury on his left temple. His nose was bleeding and swollen, swellings on the lower jaw causing difficulties to chew food. Several teeth felt numb and were shaking

51 Independent human rights defenders (26.11.2018): Info dari Merauke, & Jubi (25.11.2018): Satu warga tertembak, 27 warga ditahan di Merauke, available at <https://tabloidjubi.com/artikel-21358-satu-warga-tertembak-27-warga-lainnya-ditahan-di-merauke.html>

52 Independent human rights defender (05.12.2018): Kronologi Tindakan Kekerasan dan Penganiayaan Brimob dan Polisi terhadap Benyamin Lagowan, Laorens Kerebea dan Hendrikus Madai Pada 01 Desember 2018 di Lingkaran Abepura

7	Hendikus Madai (Bystanders)	Brimob officeres repeatedly beat him with a helmet on the head	head injury
8	Laorens Kerebea (Bystanders)	Brimob officers repetedly punched him, stroke him with the rifle butt in the face and kicked his body	bleeding nose, multiple bruises on the body and in the face as well as a bleeding injury behind his right ear



Images 3.6-25-27: Mr. Laorens Kerebea (left), Mr. Apniel Doo (center) and Mr. Marten Iyai (right) during detention at the police station in Jayapura (Source: JPIC GKI-TP)

► An armed attack by members of the West Papua National Liberation Army the armed resistance on 2 December 2018 in the remote highland regency of Nduga caused the death of at least 17 construction workers. On 4 December 2018, joint security forces launched a military offensive in response to the massacre using ground troops and four military helicopters. Eyewitnesses claimed that one helicopter dropped explosives while the other three helicopters fired large calibre machine guns at various targets, including several villages. On 13 December 2018, a rescue team succeeded to evacuate the bodies of three

victims (see Chapter 3.5 Extrajudicial Killings) and speak with eyewitnesses in the districts of Mboa, Mbulmuyalma and Yigi. Between January and April 2019, the local health agency launched field visits to various other districts of the Nduga regency. At least three indigenous villagers were injured by bullets. In Mapenduma District, military members tortured Yuwes Gwijangge (20 years) resulting in a bleeding injury on the forehead (see Image 3.6-28). Military members hit him with a rifle butt to the head, subsequently tied a rope around his neck and dragged him over the airstrip (see Table 3.6-7).<sup>54</sup>

**Table 3.6-7: Victims being tortured or injured by bullets during the security force operation in Nduga Regency**

No	Name	Date of incident	Age	Gender	District of the incident	Description
1	Kumunus Lilbid	04/12/19	25 years	Male	Nitkuri	Sustained bullet wound in the right thigh
2	Sigiron Nimiangge	04/12/19	22 years	Male	Nitkuri	Sustained bullet wound on the right hand
3	Kanias Kogoya	19/12/19	23 years	Male	Kagayem	Sustained bullet wound in the stomach and the right thigh
4	Yuwes Gwijangge	19/12/19	20 years	Male	Mapnduma	Sustained bleeding injury on the forehead after Military member hit him with a rifle butt, subsequently military members tied a rope around his neck and dragged him over the airstrip

54 Tim Evakuasi Kemanusiaan Nduga (27.03.2019): Laporan Kasus Nduga; Yayasan Teratai Hati Papua (March 2019): Laporan Kasus Nduga; Independent human rights defenders (30 April 2019): Data Pengungsi Kabupaten Nduga Pada Bulan Desember 2018 S/D April 2019



Image 3.6-28: The wound on Yuwes Gwijangge's forehead which he sustained as a result of the torture by military members

► On 19 December 2018, indigenous Papuans and Pro-Papuan activists in multiple cities throughout Indonesia organised peaceful commemorations to remember the Trikora operation, a military offensive with the aim to seize and annex the former Dutch colonial territory of Netherlands New Guinea. Security forces in Jayapura responded with mass arrests and ill-treatments. In Jayapura, police officers forcefully dispersed the crowd and collectively punched the protesters Mr. Jefri Wenda, Ms. Sely Tebai and Mr. Arfi Asso during arrest. Ms. Sely Tebai sustained a bleeding head injury, while Arfi Asso suffered bruises and a swelling on the forehead as a result of the ill-treatment (see images 3.6-29 & 3.6.30).<sup>55</sup>

Images 3.6-29 & 3.6-30: Ms. Sely Tebai (top) and Mr. Arfi Asso (bottom), after being subjected to ill-treatment as police forces dispersed the crowd in Jayapura (Source: independent human rights defenders)



55 Independent human rights defenders (20.1202918): Kronologis Penangkapan 19 Desember 2018



## ICP recommends to the Government of Indonesia to:

- Include the crime of torture as defined in the UN 'Convention against Torture and Other Cruel, Inhuman or Degrading Treatment of Punishment' in the Indonesian criminal code (KUHP).
- Increase the efficiency of the national complaint mechanisms for victims of torture and maltreatment by strengthening the institutions' mandate, e.g. grant unlimited access for family members and human rights defenders to all military and police detention facilities and link complaint mechanisms with enforcement institutions. The mechanisms should ensure follow-up, independent investigations, the prosecution of perpetrators and provide adequate remedies to victims.
- Establish a human rights court in West Papua and extend its mandate to process all human rights cases, not only those meeting the criteria of systematic and widespread attacks against civilians.
- Support the National Human Rights Commission (Komnas HAM) to increase monitoring of places of detention across Papua, particularly prioritizing the central Papuan highlands.
- Issue policies that will end the arbitrary stigmatization of Papuans as separatists or terrorists.
- Develop independent and effective complaint mechanisms for victims which can ensure follow-up, independent investigations and prosecutions of perpetrators and provide adequate remedies to victims.



## Recommendations by states:

- Georgia, Kazakhstan, Mozambique, Denmark, Guatemala, Hungary, Montenegro, Portugal, Turkey, France, Bosnia and Herzegovina, Czechia recommend that the Government shall ratify the Optional Protocol to the Convention against Torture<sup>1</sup>



## Recommendations by international human rights mechanisms:

### *Multiple UN special procedure mandates*

- Recommend that law enforcement officials shall, as far as possible, apply non-violent means before resorting to the use of force and firearms. They may use force and firearms only if other means remain ineffective or without any promise of

<sup>1</sup> Human Rights Council (14.07.2017): 3rd cycle of the Universal Periodic Review of Indonesia, available at: [http://ap.ohchr.org/documents/dpage\\_e.aspx?si=A/HRC/36/7](http://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/36/7)

achieving the intended result. Force used must be proportionate to the legitimate objective to be achieved<sup>2</sup>

- Recommend that government authorities shall carry out expeditious, independent and transparent inquiries, with a view to taking all appropriate disciplinary and prosecutorial action, to ensuring accountability of any person guilty of the alleged violations, and to compensating the victim's family<sup>3</sup>
- "Urge the Government to take urgent measures to prevent the excessive use of force by police and military officials involved in law enforcement in Papua. This includes ensuring those, who have committed human rights violations against the indigenous population of Papua are held to account"<sup>4</sup>

### ***The UN Human Rights Committee (CCPR) recommends that***

- The Government "should ensure that law enforcement personnel receive training on prevention and investigation of torture and ill-treatment by integrating the Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Istanbul Protocol) into all their training programmes."<sup>5</sup>

### ***The UN Committee against Torture (CAT) recommends***

- That the Government "should take all necessary measures promptly to prevent security and police forces from using disproportionate force and/or torture during military operations, especially against children. The State party should implement effective measures promptly to ensure that all persons are afforded all fundamental legal safeguards during their detention. These include, in particular, training programmes for all military personnel on the absolute prohibition of torture. The State party should also ensure that all persons detained during military operations are always registered."<sup>6</sup>
- To the Government to "take immediate steps to address the urgent need for rehabilitation of the large number of victims of torture and ill-treatment in the country"<sup>7</sup>

2 Mandates of the Special Rapporteur on extrajudicial, summary or arbitrary executions and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment (17.03.2017): Communication in relation to the alleged torture and cruel, inhuman and degrading treatment of Mr. Edison Hesegeg by police officers of the Jayawijaya District Police, Papua that led to his death in custody, AL IDN 1/2017. p. 4, available at: <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gld=23024>

3 Ibid, p. 2

4 Special Rapporteur on the rights of indigenous peoples, Working Group on Arbitrary Detention, Special Rapporteur on the situation of human rights defenders, Special Rapporteur on torture and cruel, inhuman or degrading treatment or punishment, Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance (21.02.2019): Joint statement condemning racism and police violence against Papuans, available at: <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=24187&LangID=E>

5 UN Human Rights Committee CCPR (21.08.2013): Concluding observations on the initial report of Indonesia, CCPR/C/IDN/CO/1, p. 5, available at: <http://undocs.org/CCPR/C/IDN/CO/1>

6 UN Committee against Torture CAT (02.07.2008): Consideration of reports submitted by states parties under article 19 of the convention, Concluding observations of the Committee against Torture, Indonesia, CAT/C/IDN/CO/2, p. 3f, available at <http://undocs.org/CAT/C/IDN/CO/2>

7 UN Committee against Torture CAT (17.10.2002): Report of the Committee Against Torture, A/57/44(SUPP) paras. 36-46, p. 26, available at: [https://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=A%2F57%2F44\(SUPP\)&Lang=en](https://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=A%2F57%2F44(SUPP)&Lang=en)

## ***The UN Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment recommends that***

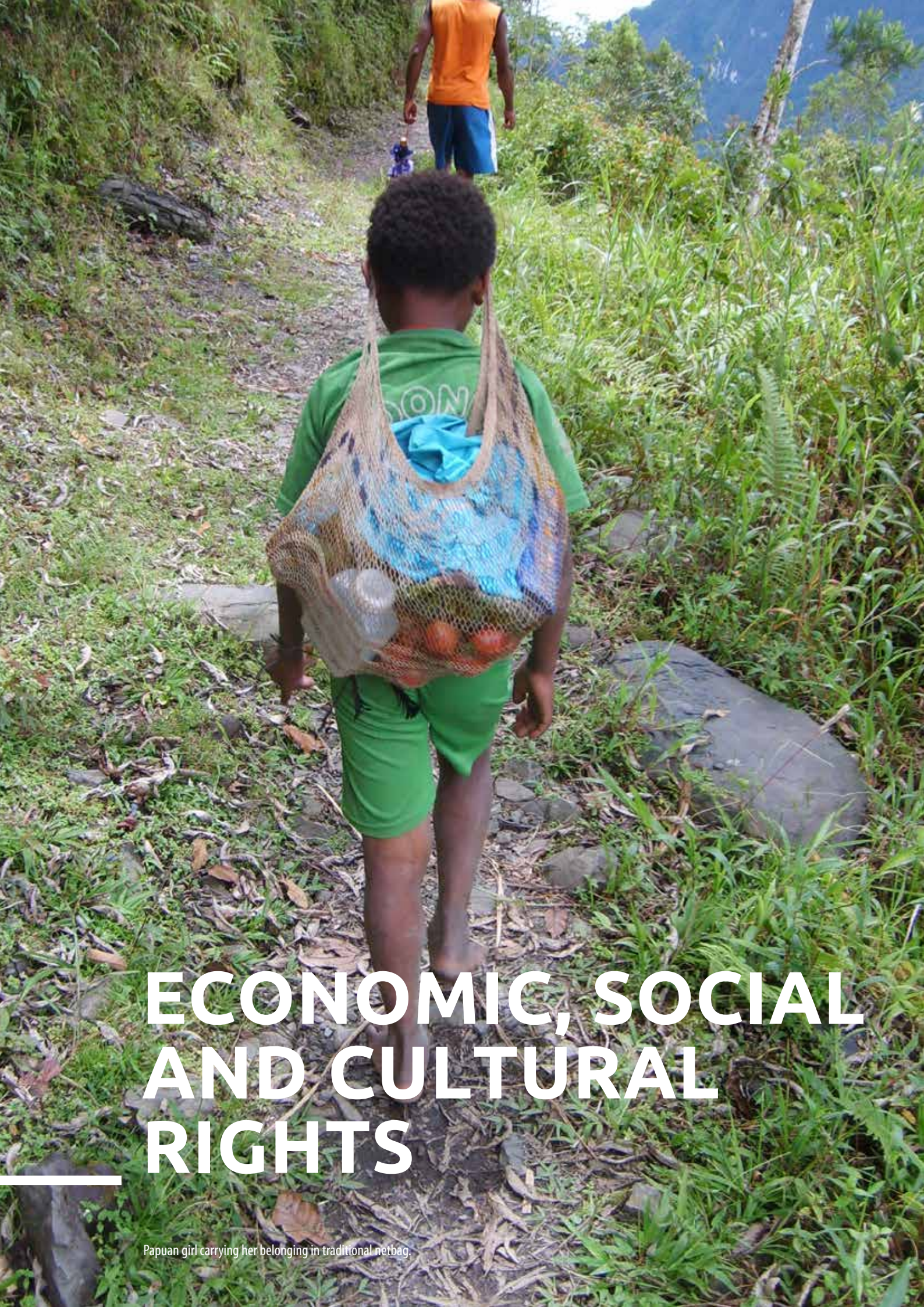
- “Officials at the highest level should condemn torture and announce a zero-tolerance policy vis-à-vis any ill-treatment by State officials. The Government should adopt an anti-torture action plan which foresees awareness-raising programmes and training for all stakeholders, including the National Human Rights Commission and civil society representatives, in order to lead them to live up to their human rights obligations and fulfil their specific task in the fight against torture.”<sup>8</sup>
- “All allegations of torture and ill-treatment should be promptly and thoroughly investigated ex-officio by an independent authority with no connection to the authority investigating or prosecuting the case against the alleged victim.”<sup>9</sup>
- “The Government of Indonesia should expediently accede to the Optional Protocol to the Convention against Torture, and establish a truly independent National Preventive Mechanism (NPM) to carry out unannounced visits to all places of detention.”<sup>10</sup>
- “the Government of Indonesia should take all steps necessary to stop the use of excessive violence during police and military operations, above all in conflict areas such as Papua.”<sup>11</sup>

8 UN Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment (10.03.2018): Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Manfred Nowak, Addendum Mission to Indonesia, A/HRC/7/3/Add.7, p. 25, available at: <http://daccess-ods.un.org/access.nsf/Get?Open&DS=A/HRC/7/3/Add.7&Lang=E>

9 Ibid. p. 25

10 Ibid. p. 26

11 Ibid. p. 26



# ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Papuan girl carrying her belonging in traditional netbag.

## SECTION 4

# Economic, Social and Cultural Rights

The central government in Jakarta allocates considerably large funds as part of the 'Special Autonomy Law' to the provincial governments of Papua and Papua Barat to improve infrastructure and prosperity in West Papua. While large scale infrastructure projects like the Trans-Papua highway are being implemented, the monetary aid has not brought about meaningful change in the field of economic, social and cultural rights for the indigenous population of West Papua. There is a strong imbalance in the fulfilment of minimum standards in terms of health, education, food and labour rights between the urban areas and the remote inland areas, where the majority of the local populations consists of indigenous Papuans.

Many areas in West Papua –especially in the central highlands and the Papuan hinterland– still lack important health infrastructure. Acceptable health standards are only to be found in the cities of West Papua. Many regencies do not have any hospitals, causing the healthcare system in these areas to rely on health centres (PUKSESMAS or PUSTU) which can only offer very basic health care services. In many remote areas, PUKSESMAS and PUSTU facilities are dysfunctional due to the absence of health workers or because of a lack of medicines. Multiple epidemic outbreaks in various remote areas of West Papua throughout 2017 and 2018 remained unrecognised for months due to the absence of functioning health care facilities. The government has introduced Papua health cards for indigenous Papuans to access health services free of charge. However, many indigenous Papuans do not know about the existence of this program and do not comprehend the importance and benefits of health insurance coverage. West Papua remains among the HIV/AIDS hotspots in Indonesia and ethnic Papuans are twice as likely to have HIV/AIDS, when compared to the rest of the population.

In the field of education, the government has achieved some progress through the employment of more teachers and building new schools. However, persistent core problems in the education system in West Papua appear to remain unaddressed. Government data suggests that the teacher-student-ratio in West Papua has constantly improved at all three levels of education and the literacy rate has been going down continuously over the past five years. Nevertheless, Papua province has the lowest literacy rate in Indonesia at 75.8% in 2017, far below the national average of 95.92%. The education and



skill level of teachers in West Papua is very low and teacher abstention rates are high. Similar to what is happening in the field of health, the quality of education in the remote areas of West Papua is much lower than in the large Papuan cities.

Violations of the right to food in West Papua are mainly related to agriculture and mining activities driven by government programs related to food security and economic growth. Palm oil plantations, especially are a growing threat to tropical rain forests which serve indigenous groups as a source of livelihood and cultural identity. The conversion of forest into plantations has led to the destruction of sago stocks and hunting grounds. If traditional food sources are no longer available, indigenous households develop a dependency on commercial food products like rice, instant noodles and bottled water. An alarming development is that of cases of malnutrition accompanied by outbreaks of transmittable diseases, which have been

reported repeatedly from many remote areas throughout 2017 and 2018.

Labour rights violations are often being overlooked in the context of the profound crisis in education and health services. Many companies follow discriminatory practices during the recruitment of new labourers due to prejudice against indigenous Papuans. Most cases of labour rights violations in West Papua occur in the extractive industry, where labour rights in support of workers prosperity are violated deliberately. The most prominent case of labour rights violations throughout 2017 and 2018 were committed by the mining company PT Freeport Indonesia. Approximately 12,000 permanent workers and 20,000 contract workers were laid off. Another 4,200 employees were fired for participating in a strike. The Ministry of Manpower and Transmigration has failed to reprimand PT Freeport Indonesia and hold the company accountable.

## 4.1 Right to Education

**Government data suggests that the teacher-student-ratio in West Papua has constantly improved in all three education levels during the past five years. Compared to the national average in Indonesia, the teacher-student-ratio in the primary education sector in West Papua is significantly higher, indicating less favourable learning conditions for students at the primary education level. In the secondary education level, the ratio in West Papua is only slightly higher than the national average. The government has succeeded to improve slightly the literacy rate. Nevertheless, Papua province has the lowest literacy rate in Indonesia at 75.8% in 2017, far below the national average of 95.92%. The education crisis in West Papua continues as the longstanding issues in the education system remain unresolved. The education and skill level of teachers in West Papua is very low. Teacher absence rates are high and there are no effective control mechanisms in place. the quality of education in the remote areas of West Papua – where the vast majority of indigenous Papuans reside – is much lower than in the large Papuan cities, which are mainly inhabited by migrants from other islands in Indonesia. Aside from the establishment of more educational facilities and the employment of more teachers, the government has introduced programs to improve education in West Papua. However, some government programs appear not to tackle the core issues in the education system.**

## Education statistics

Governments and development organisations often use multiple sets of statistical data as a reference to monitor the quality and effectiveness of an education system. Most of them are based on the development of numbers of students, school facilities and teachers over time. An important value that is commonly used as an education indicator is the teacher-pupil-ratio. This indicator is based on the assumption that a low ratio creates better learning conditions for the students. Education systems with low teacher-pupil-ratio allow the teachers to pay greater attention to the personal development of the individual students. Countries which are considered to have a well-developed education system, such as Sweden, Iceland or Poland have a teacher-pupil-ratio of ten students per teacher at the primary education level.<sup>1</sup>

Government data suggests that the teacher-student-ratio in West Papua has constantly improved in all three education levels during the past five years. In 2017, the teacher-student-

ratio in the region was 22 in the primary, 15 in the secondary and 12 in the tertiary education level (see Table 4.1-1). The figures show that the ratio in the province Papua Barat are slightly better than in the Province of Papua. According to data from the World bank for the year 2016, the average teacher-student-ratio for the primary education level in Indonesia was only 16<sup>2</sup>, for the secondary level 14.<sup>3</sup> In comparison to the national average in Indonesia, the teacher-student-ratio in the primary education sector in West Papua is significantly higher, indicating less favourable learning conditions for students in the primary education level. In the secondary education level, the ratio in West Papua is only slightly higher than the national average. The figures suggest that the government needs to develop programs which ensure a greater number of primary school teachers to decrease the student teacher ratio for this education level. Moreover, it is essential that the teachers are well trained prior to employment due to additional challenges which they might face in some parts of West Papua.

**Table 4.1-1: Overview of Government statistical data on teacher-student-ratio in primary, secondary and tertiary education level between 2013 and 2017. (Source: BPS Papua Province / PBS Papua Barat Province / Education Department of Papua Province)**

Pupil-Teacher Ratio	2013	2014	2015	2016	2017
<b>Papua Province</b>					
Primary	32,35	29,01	24,50	25,20	24,86
Junior High Schools (SMP)	21,04	14,30	15,73	16,11	15,69
Senior High Schools (SMA)	19,05	13,22	13,56	13,98	12,62
Vocational High School (SMK)	11,60	8,51	10,23	11,55	
<b>Papua Barat Province</b>					
Primary	21,80	20,64	17,63	17,20	19,40
Junior High Schools (SMP)	15,26	13,71	12,13	12,62	13,49
Senior High Schools (SMA)	11,17	13,14	10,97	11,67	12,27
Vocational High School (SMK)	9,19	10,78	9,17	10,47	10,80

1 World Atlas (25/04/2017): World facts. Countries With The Best Teacher-To-Student Ratios (Primary Education), available at <https://www.worldatlas.com/articles/countries-with-the-best-teacher-to-student-ratios-in-primary-education.html>

2 World Bank: Pupil-teacher ratio, primary, available at <https://data.worldbank.org/indicator/SE.PRIMARY.ENR.LC.ZS?locations=ID>

3 World Bank: Pupil-teacher ratio, secondary, available at <https://data.worldbank.org/indicator/SE.SECONDARY.ENR.LC.ZS?locations=ID>

West Papua					
Primary	27,08	24,83	21,07	21,20	22,13
Junior High Schools (SMP)	18,15	14,01	13,93	14,36	14,59
Senior High Schools (SMA)	15,11	13,18	12,27	12,82	12,35
Vocational High School (SMK)	10,40	9,65	9,70	11,01	

The Central Bureau of Statistics (Badan Pusat Statistik-BPS) of the Provinces Papua and Papua Barat have published data on numbers of students, school facilities and teachers over the past years. The data itself shows strong fluctuations on all education levels, which raises doubts regarding the accuracy and reliability of the data. While it is normal that the numbers of students and even teachers show significant fluctuations, a higher consistency is expected in the figures for school facilities. The fluctuations in the number of school facilities –particularly

between 2013 and 2015– are considerable, making the numbers less likely to be realistic. For example: According to combined statistical data from the BPS of both provinces, the government had abandoned 330 primary schools (about one in ten) from 2013 to 2014 and then again increased the number of new schools by 535 in 2015. An opening of 205 additional schools between 2013 and 2015 is highly unlikely given the overall situation of education in the provinces of Papua and Papua Barat (see Table 4.1-2).

**Table 4.1-2: Overview of statistic government data on students, teachers and school facilities in Primary, secondary and tertiary schools between 2013 and 2017 (Source: BPI Papua Province / PBI Papua Barat Province / Education Department of Papua Province)**

	2013	2014	2015	2016	2017
<b>Total Number of Students in West Papua</b>					
Primary Schools (SD)	522.324	446.905	544.164	445.243	590.656
Junior High Schools (SMP)	146.575	125.009	158.951	123.823	175.089
Senior High Schools (SMA/SMU) / Vocational High Schools (SMK)	104.166	90.578	114.147	92.270	132.557
<b>Total Number of Teachers in West Papua</b>					
Primary Schools (SD)	17.984	16.307	24.310	25.181	25.302
Junior High Schools (SMP)	7.688	8.811	10.929	11.265	11.655
Senior High Schools (SMA/SMU) / Vocational High Schools (SMK)	7.472	8.040	9.830	10.426	10.733
<b>Total Number of School Facilities in West Papua</b>					
Primary Schools (SD)	3.180	2.850	3.385	3.253	3.359
Junior High Schools (SMP)	796	705	false figures	887	914
Senior High Schools (SMA/SMU) / Vocational High Schools (SMK)	438	362	489	513	536

The quantitative government data on educational facilities, teachers and students shows a continuous improvement in all educational levels. More students are enrolled in schools, while schools in West Papua employ a growing number of teachers. At the same time, the government has built new school facilities. While these quantitative improvements promise some improvements in the education system, they leave other key deficiencies related to the management, cultural adequacy and quality of the education system completely unaddressed.

The government has succeeded to improve slightly the literacy rate<sup>4</sup> in West Papua during the past years. This is particularly obvious in the province of Papua, which has the lowest literacy rate in the country, far below the national average of 95.92%. Government statistics suggest that significant progress was made in 2017, when the literacy rate in the Papua Province went from 71.02% in 2016 to 75.8% in 2017. Literacy, in this region still varies greatly between rural and urban areas as well as between men and women. While 80.3% of the male population in the Province of Papua was literate in 2017, only 70.7% of female residents could read or write. The situation in the province of Papua Barat is much better, with an average literacy rate of 97.38% in 2017.<sup>5</sup>

### Persistent problems in the education system

The education crisis in West Papua continues as the longstanding issues in the education system remain unresolved. The education and skill level of teachers in West Papua is very low, teacher absence rates are high and there are no effective control mechanisms in place to ensure that teachers stay at their assigned

workplace and fulfil their duties. The local government has introduced teacher incentive programs –however the programs were poorly implemented, leading to teacher strikes as it was reported from the Mimika Regency in August 2018. The alleged reason for the unpaid incentives and allowances was an unresolved internal dispute of funds between the local and provincial education departments.<sup>6</sup>

Teachers in the cities live a much more convenient life than teachers working in rural areas, where they have to deal with the absence of health care facilities, lack of access to basic commodities and have no possibilities to receive their salaries. The majority of students in remote areas speak only their own indigenous local language. Teaching the children Indonesian is an additional challenge for primary school teachers in the highlands and hinterland areas of West Papua. Accordingly, the education quality in remote areas of West Papua –where the vast majority of indigenous Papuans reside– is much lower than in the large Papuan cities like Jayapura, Manokwari and Sorong, which are mainly inhabited by migrants from other islands in Indonesia. This has led to conditions in which indigenous Papuans become increasingly disadvantaged in the education system.<sup>7</sup>

Teachers and local government education agencies in West Papua are not able to apply the national standard of education, because of the considerable education gap between education in West Papua and the national average in Indonesia. The teachers allow students to pass exams and continue to the next education level even if, in fact they do not pass the exams or meet the required standard to continue to a higher education level. In the Regency

4 Percentage of population aged 15 years and over who can both read and write, while understanding a short simple statement on his/her everyday life. Generally, 'literacy' also encompasses 'numeracy', the ability to make simple arithmetic calculations.

5 Badan Pusat Statistik Indonesia (27.03.2018): Persentase Penduduk Berumur 15 Tahun Ke Atas yang Melek Huruf menurut Provinsi, Daerah Tempat Tinggal, dan Jenis Kelamin, 2009-2017, available at <https://www.bps.go.id/statictable/2012/04/20/1609/persentase-penduduk-berumur-15-tahun-ke-atas-yang-melek-huruf-menurut-provinsi-daerah-tempat-tinggal-dan-jenis-kelamin-2009-2015.html>

6 Independent human rights defender (14.08.2018): Aksi demo guru SMA dan SMK Kabupaten Mimika

7 Jakarta Globe (12.10.2016): Papua Still Faces Massive Education Backlog, available at <https://jakartaglobe.id/news/papua-still-faces-massive-education-backlog/>

of Yahukimo, allegedly not a single student failed the national senior high school exams in 2018, making this an unlikely graduation rate considering the education conditions in the remote highlands Regency.<sup>8</sup> The same was reported from the highland Regency of Paniai, where all 534 students had allegedly passed the national senior high school exam.<sup>9</sup>

## New government approaches

In the past two years, the Indonesian Government has tried to tackle the education problem in the provinces of Papua and Papua Barat through new approaches. In 2018, the Indonesian American Society of Academics (IASA) launched a joint pilot project with several Indonesian ministries and the National Development Planning Agency (Bappenas) with the goal of improving the education quality in the Papua provinces. The project had been launched in two senior high schools in Jayapura and Nabire. Seventy-five teachers will be trained in a new teaching methodology. The program is supposed to be attended by indigenous Papuans who will live in dormitories under the supervision of teachers. According to the project planning, the schools offer special academic programs and will be equipped with modern technology, a science park and electronic teaching devices. If the pilot project shows positive results, more schools of this format are planned to be built in other parts of Papua.<sup>10</sup> While these programs will bring benefits to a small number of indigenous Papuans, it is questionable how the program shall tackle the major persisting issues and education disparities in West Papua. Both schools are located in cities and will in the best case lead to the formation of a small elite of students and teachers, while the

devastating education conditions in the non-urban areas remain unaddressed by the project.

The government has launched in 2015 the front-line teachers (Guru Garis Depan or GGD) program, which is supposed to be implemented for ten years in the target areas. According to government figures, as many as 798 teachers were seconded to 28 Regencies in four provinces, including the provinces Papua and Papua Barat. In 2017, a total of 6,296 GGD teachers were sent to 93 Regencies in all over Indonesia. While the average distribution throughout 2016 was 28 GGD teachers per regency, the number increased significantly to 67 educators per regency in 2017. All teachers need to pass a special training course (SM3T –Sarjana Mendidik di Daerah Terluar, Terdepan, Tertinggal) which shall prepare the teachers for their future work in remote villages of Indonesia.<sup>11</sup> Some regencies in West Papua like the Manokwari regency rejected the program, stating that the GGD teachers were brought in from outside while a sufficient number of local graduate teachers would wait to be employed. According to the head of the Manokwari culture and education department, a second reason for the rejection was the lack of funds to pay the frontline teachers' salaries.<sup>12</sup> The minister for cultural and education affairs, Mr Muhadjir Effendy, stated in 2017 that the program will be overhauled after various local governments protested against the program. The program adjustments were necessary to ensure that sufficient funds for the program will be allocated to the local governments. Effendy explained that the teachers' origin will be considered in the placement of the teachers.<sup>13</sup>

8 Suara Papua (07.05.2018): Siswa dan Siswi di Kabupaten Yahukimo Dinyatakan Lulus Semua, available at <https://suarapapua.com/2018/05/07/siswa-dan-siswi-di-kabupaten-yahukimo-dinyatakan-lulus-semua/>

9 Suara Papua (10.05.2018): Siswa SMA dan SMK di Paniai Lulus Seratus Persen, available at <https://suarapapua.com/2018/05/10/siswa-sma-dan-smk-di-paniai-lulus-seratus-persen/>

10 Jubi (13.07.2018): Pola baru menangani pendidikan di Papua, available at <https://tabloidjubi.com/artikel-17663-pola-baru-menangani-pendidikan-di-papua.html>

11 Koran Sindo (21.11.2016): Kontrak Guru Garis Depan Harus Jelas, available at [http://koran-sindo.com/page/news/2016-11-21/0/17/Kontrak\\_Guru\\_Garis\\_Depan\\_Harus\\_Jelas](http://koran-sindo.com/page/news/2016-11-21/0/17/Kontrak_Guru_Garis_Depan_Harus_Jelas)

12 Pasific Post (23.05.2018): Kadis Pendidikan Tolak Program Guru Garis Depan, available at <https://www.pasificpos.com/item/25914-kadis-pendidikan-tolak-program-guru-garis-depan>

13 Kompas (30.08.2017): Program Guru Garis Depan akan Dirombak, available at <https://edukasi.kompas.com/read/2017/08/30/21203061/program-guru-garis-depan-akan-dirombak>

# Recommendations



## ICP recommends to the Government of Indonesia to:

- Reduce absenteeism of teachers through improvements in personnel management (e.g. by introducing mandatory attendance books for teachers), and enforce applicable sanctions for teachers who do not fulfil their duties. Respective government agencies should increase attention to the needs of teachers and introduce incentives in appreciation of good practice amongst teachers.
- Introduce, implement and monitor a teacher incentive scheme for teachers working outside the urban areas of West Papua.
- Provide incentives and support to schools in rural and remote areas, for the employment of contract teachers and higher remuneration to cover travel expenses of teachers and the improvement of housing facilities for teachers.
- Monitor and evaluate the implementation of article 36(2) of the Papuan Special Autonomy Law No.21/2001, stating that 30% of special autonomy money should be allocated for education.
- Develop and implement a specific educational system for West Papua. The system should be oriented towards Papuan culture, in particular preservation of endangered indigenous languages.
- Strengthen teacher recruitment guidelines to ensure a minimum standard for the quality of education, as well as teacher promotion systems.



## Recommendations by states:

- Singapore recommends that the Government shall “implement policies to ensure the availability and affordability of education to all Indonesians, in particular those in the remote regions and those with special needs”<sup>1</sup>



## Recommendations by international human rights mechanisms:

### *The UN Committee for Economic, Social and Cultural Rights*

- Recommends that the Government of Indonesia shall “accelerate the delivery of quality public services in remote islands and areas in Papua and other parts of the country, by allocating the necessary human and financial resources, by monitoring that they reach the intended beneficiaries, and by clearly defining the responsibilities of the various levels of Government.”<sup>2</sup>
- “Urges the State party [Indonesian Government] to ensure quality and culturally adequate education, especially in remote areas, including by ensuring that resources invested and programmes such as the operational assistance for

schools lead to effective enjoyment of the right to education. The Committee also recommends that the State party ensure that primary education is free of charge and that it take measures, including awareness-raising, to address school dropout among girls. Moreover, the Committee recommends that the State party introduce, in consultation with local communities, education in local languages where appropriate. The Committee refers the State party to its general comment No. 11 (1999) on plans of action for primary education.”<sup>3</sup>

- “Recommends that the State party [Indonesian Government] pursue efforts aimed at the preservation of endangered languages, including by promoting their use and by documenting them. In this regard, the Committee recommends that the State party invest resources for the effective implementation of Ministry of Education and Culture Regulation No. 81/A of 2013 on the inclusion of the teaching of local languages in the primary school curricula, especially as it pertains to endangered languages.”<sup>4</sup>

### ***The Committee for the Rights of the Child urges the Indonesian Government to***

- “Vigorously address all forms of de jure and de facto discrimination and to [...] Take all necessary measures, in particular improving the relevant infrastructure, to provide equal access to public services for children belonging to indigenous communities.”<sup>5</sup>
- “Take prompt measures to ensure that quality education is accessible by all children in the State party. It further urges the State party to: [...]
  - (b) Increase funding for education, with particular focus on families living in the poorest and most remote districts, and take concrete action to effectively address the reasons for failure to complete schooling;
  - (c) Ensure that married adolescents, pregnant teenagers and adolescent mothers are supported and assisted in continuing their education in mainstream schools and that they can combine child rearing and completing education;
  - (d) Increase the number of teachers, provided adequate training for them and ensure that they present themselves for work.”<sup>6</sup>

1 Human Rights Council (14.07.2017): 3rd cycle of the Universal Periodic Review of Indonesia, available at: [http://ap.ohchr.org/documents/dpage\\_e.aspx?si=A/HRC/36/7](http://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/36/7)

2 UN Committee for Economic, Social and Cultural Rights CESCR (19.06.2014): Concluding Observations on the initial report of Indonesia, E/C.12/IDN/CO/1, p. 4, available at: <http://undocs.org/E/C.12/IDN/CO/1>

3 Ibid. p. 12f

4 Ibid. p. 14

5 UN Committee on the Rights of the Child (10.07.2014): Concluding observations on the combined third and fourth periodic reports of Indonesia, CRC/C/IDN/CO/3-4, p. 5, available at: <http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2fPPRiCAqhKb7yhsojFE9Wic32tm02CjRcUBTBmKpabAgZ7li0nMYRDpozvwgO6Kk9ldi5sHE7D%2fJLQlgxERzDXfrxFiMsl3xiAtLDGNp2JPP1cG8C97NBLgEsa>

6 Ibid. p. 14

## 4.2 Right to Health

Many areas in West Papua –especially in the central highlands and in the Papuan hinterland– still lack important health infrastructure. Many regencies do not have any hospitals, so the entire healthcare system in these areas relies on health centres (PUKSESMAS or PUSTU) which can only offer very basic health care services. In many remote areas, PUKSESMAS and PUSTU facilities are dysfunctional due to the absence of health workers or because of a lack of medicines. Some hospitals in West Papua only employ general doctors and only have one or sometimes two medical specialists in the entire regency. The absence of proper functioning health care facilities has been evident in multiple epidemic outbreaks in various remote areas of West Papua throughout 2017 and 2018. Acceptable health standards can only be found in the cities of West Papua. Human rights activists criticise the central government, arguing that most special autonomy health funds flow to the urban centres of Papua, where mainly migrants from other parts of Indonesia benefit from the development projects. The government has introduced Papua health cards which enables indigenous Papuans to enjoy health services free of charge. However, many indigenous Papuans do not know about the existence of this program or do not comprehend the importance and benefits of health insurance. Moreover, cultural practices and behaviour among indigenous Papuans continue to be a challenge for local doctors and health workers. The provinces of Papua and Papua Barat remain among the HIV/AIDS hotspots in Indonesia. Two-point-four per cent of the general population in Papua Province are living with HIV. The special rapporteur on health concluded in his 2018 report that ethnic Papuans are currently twice as likely to have HIV/AIDS when compared to the rest of the population.

### Health statistics

Statistical data from 2017 compiled by the centre for statistics of Papua Barat Province suggests a total number of 14 hospitals for twelve regencies and one municipality. Four regencies do not have any hospital at all, namely the regencies of Tambrau, Maybrat, Manokwari Selatan and Pegunungan Arfak.<sup>1</sup> A total number of 370 doctors serve in the Province of Papua

Barat, consisting of 131 medical specialists, 205 general doctors and 34 dentists. All regencies have at least one fully qualified doctor. Medical specialists are only to be found in regencies with a hospital. According to the statistics, there is only one medical specialist available in the regency of Kaimana, although the regency has a general hospital. A similar observation applies to the Teluk Wondama Regency, with only two medical specialists in the entire regency.<sup>2</sup>

1 Badan Pusat Statistik Provinsi Papua Barat (16.08.2018):Provinsi Papua Barat Dalam Angka 2018 , p. 91, available at: <https://papuabarat.bps.go.id/publication/download.html?nrbfvefe=Mjk0N2NINjE5NGVhMGI3ODMwODI4NWQ2&xzmn=aHR0cHM6Ly9wYXB1YWJhcmF0LmJwcy5nby5pZC9wdWJsaWNhdGlvbi8yMDE4LzA4LzE2LzI5NDdjZTYxOTRlYTBiNzgzMDgyODVkdVkiNi9wcm92aW5zaS1wYXB1YS1iYXJhdC1kYWxhbS1hbmdrYS0yMDE4Lmhb0bWw%3D&twoadfnofarfeauf=MjAxOS0wNC0zMCAwOT01Nzo1OQ%3D%3D>

2 Ibid., p 93



According to the 2016 statistical data published by the Papuan provincial center for statistics, 36 hospitals exist in the province, consisting of 28 regencies and one municipality. Eight regencies in the Province do not have a public hospital, namely the regencies of Waropen, Nduga, Mamberamo Tengah, Yalimo, Puncak, Dogiyai, Intan Jaya and Deiyai<sup>3</sup>. A total number of 1,129 doctors serve in the Province of Papua. This number includes 251 medical specialists, 774 general practitioners and 101 dentists. In contrast to the province of Papua Barat, the statistical data shows that hospitals in some regencies do not employ any medical specialists at all on a permanent basis. The Puncak Jaya Regency for instance has two hospitals but the statistical data does not list any specialist working in the regency. The same observation applies to Boven Digoel, Yahukimo, Pegunungan Bintang, Tolikara and Sarmi. The hospitals in the regencies of Mappi and Keerom employ permanently only a single medical specialist, the hospital in Asmat has two medical specialists<sup>4</sup>.

### Challenges and shortcomings inherent in the health care system

The provincial and local governments continue to struggle with persistent challenges in West Papua's health-care system. Various epidemic outbreaks in multiple remote areas of West Papua throughout 2017 and 2018 elucidate the lack of infrastructure and geographic conditions resulting in limited accessibility and dysfunctionality of health care services for the rural population and a delayed government response to urgent health crises. The remote areas in the Papuan hinterland and the central highlands are almost exclusively inhabited by indigenous Papuans while hospitals and other

active health care facilities exist near the urban centres of Papua. Human rights activists criticise the central government for its development approach, arguing that most special autonomy funds flow to the urban centres of Papua, where mainly migrants from other parts of Indonesia benefit from the development projects.

The Indonesian Government has introduced a Government health insurance scheme BPJS Kesehatan ('Badan Penyelenggara Jaminan Sosial Kesehatan' or Health coverage of Social Security Organizing Agency) that provides basic health coverage to all citizens in Indonesia for a very low monthly fee. For poor citizens the coverage is free of charge. In West Papua, the government has introduced 'Papuan health cards' ('Kartu Papua Sehat') which enable indigenous Papuans to access basic health services for free in Health centres.<sup>5</sup> However, the majority of Papuans do not know that this government provision exists, particularly those living in remote areas of West Papua. Health workers observed that the majority of indigenous Papuans neither comprehend the importance of health insurance, nor do they know about the 'Papuan health cards' and its benefits.<sup>6</sup>

Persistent cultural practices and concepts of sickness and therapy methods constitute a major obstacle for doctors and health care workers in West Papua. Many indigenous Papuans prioritise traditional medicines and/or healers instead of going to a public hospital and consulting a doctor, because many have lost trust in the healthcare system or they do not trust non-Papuan doctors and medical staff at the general hospitals. An epidemic outbreak of measles in Asmat, which only affected local indigenous Papuans from Asmat Regency, has

3 Badan Pusat Statistik Provinsi Papua (16.08.2018): Provinsi Papua Dalam Angka 2018, p. 233, available at: <https://papua.bps.go.id/publication/download.html?nrbvfeve=M2ZhOWQ5MWEwZDYxYTIiNDRkZmYyM2Nk&xzmn=aHR0cHM6Ly9wYXB1Y55icHMuZ28uaWQvcHVibGJjYXRpb24vMjAxOC8wOC8xNi8zMjE5ZDkxYTlkNjFhOWI0NGRmZjZlZ2QvcHJvdmluc2ktcGFwdWEtZGFsYW0tYW5na2EtMjAxOC5odG1s&twoadfnarfeauf=MjAxOS0wNC0zMCAxMDoyNzoyNA%3D%3D>

4 Ibid. p, 237

5 Jubi (25.09.2016): UP2KP survei kartu Papua Sehat dan dana Otsus Kesehatan, available at: <https://tabloidjubi.com/artikel-345-up2kp-survei-kartu-papua-sehat-dan-dana-otsus-kesehatan.html>

6 ICP (April 2019): Questionnaire for health workers on the right to health in West Papua

shown that the nomadic life style of some tribes have prevented their children from accessing vaccination programs. Non-Papuan children and indigenous Papuan children from other tribes living in the Asmat regency had received vaccination shots and were not affected by the measles epidemic.<sup>7</sup>

## HIV/AIDS

UN AIDS Data from 2016 suggests that Indonesia has a relatively low HIV/Aids prevalence of approximately 0.4 per cent among the population in the 15–45 age bracket.<sup>8</sup> A deeper analysis of the government figures shows that the geographical hotspots are located in the provinces of Jakarta, Papua and Papua Barat. According to these figures, 2.4 per cent of the general population in Papua Province is living with HIV. There is an increased HIV prevalence among young persons aged 15–209. The cities of Jayapura, Nabire and Timika were estimated to have the highest infection rates in the province of Papua.<sup>10</sup> The UN Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health visited Indonesia from 22 March to 3 April 2017 and expressed concerns regarding the HIV/AIDS situation in the province of Papua. He concluded that “Ethnic Papuans are currently twice as likely to have HIV/AIDS compared to the rest of the population, and rates of infection are on the rise in this part of the country. The situation in Wamena, Timika and Nabire Regencies shows that the epidemic is moving from coastal areas to the highlands, where most ethnic Papuans live, often in remote areas.”<sup>11</sup>

Health workers in West Papua observed that people living with HIV/AIDS are often excluded from their family members. The family and community members fear that their presence will cause the disease to spread quickly. The rejection of relatives has also been reported by non-Papuans living with HIV/AIDS, particularly those working as prostitutes in bars or massage salons in West Papua. Many prostitutes stated that their relatives would ask them to leave their homes if they return to their families in other islands of Indonesia.<sup>12</sup>

Once people living with HIV/AIDS receive ARV treatment they are often forced to stay in the cities where they can get steady access to the drugs. Health centres in non-urban areas do not have the ARV medication available or are often dysfunctional due to the lack of medical personnel. Many indigenous Papuans still lack understanding regarding HIV and the necessity to follow a life-long treatment through the regular intake of medication. They tend often to discontinue the medicines once they recover from concomitant illnesses like skin diseases, tuberculosis and diarrhea. Doctors in West Papua observed similar behaviour among indigenous patients with other sicknesses which require a long-term treatment, such as for diabetes or hypertension.<sup>13</sup>

Apart from the provision of ARV medication and Voluntary Consultation and Testing (VCT) programs, government health agencies in West Papua have launched campaigns raising awareness on HIV/AIDS. Although these programs were to a certain extent successful, they

7 Ibid.

8 Data compiled by UN AIDS, available at: [www.unaids.org/en/regionscountries/countries/indonesia](http://www.unaids.org/en/regionscountries/countries/indonesia)

9 Human Rights Council (05.04.2018): Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health on his mission to Indonesia, A/HRC/38/36/Add.1, p. 17, available at: <http://daccess-ods.un.org/access.nsf/Get?Open&DS=A/HRC/38/36/Add.1&Lang=E>

10 ICP (April 2019): Questionnaire for health workers on the right to health in West Papua

11 Human Rights Council (05.04.2018): Report of the Special Rapporteur on the right of everyone to the enjoyment of the

highest attainable standard of physical and mental health on his mission to Indonesia, A/HRC/38/36/Add.1, p.18

12 ICP (April 2019): Questionnaire for health workers on the right to health in West Papua

13 Ibid.

do not automatically lead to a change in attitude and practice.<sup>14</sup>

### Case studies:

► Local media outlets reported the deaths of 37 villagers between 1 January 2017 and 25 April 2017 in the Awena District of Lanny Jaya Regency, Papua Province. The alleged reason for the deaths was a diarrhea epidemic outbreak in the villages of Tinggira, Nambume, Eyumi, Urugabur, Yugimia and Indawa. At least four villagers had to be hospitalised in Tiom General Hospital, where they received medical treatment. The government institutions had not taken notice of the epidemic outbreak until April 2017. According to the secretary of the Lanny Jaya health department, Mrs Dolly Kogoya, the villagers had consumed water from a water reservoir which was contaminated with human and animal excreta. The local health department responded by distributing pans to boil water and temporarily seconded two doctors and five nurses to the affected areas.<sup>15</sup> A health crisis affected seven villages in the Tigi district of Deiyai Regency as well as villages in the valleys of Kamuu and Mapia of Dogiyai Regency. Civil society reports on the health situation in the affected area indicate that the local governments failed to provide basic health services and to take preventative measures such as vaccinations in the affected villages. Multiple sicknesses caused the deaths of at least 93 villagers –most of them children below the age of ten. Human rights defenders collecting data on the ground estimated that the actual number of deceased children was even higher. The collected data indicates that the epidemic outbreak began already in February 2017. Local health agencies in Deiyai had not taken notice of the epidemic before April 2017 because health care facilities in the areas were dysfunctional. Villagers stated that some health posts (PUSTU)

in the area were closed for more than three years and the last vaccination program had been carried out four years ago. On 11 July 2017 a team of medics carried out a survey to identify the cause of the deaths and provided acute treatment. The survey team concluded that the deaths were caused by multiple infectious diseases like acute respiratory tract infections, measles, diarrhea, and dysentery. According to the doctors, malnutrition had weakened the villagers' immune system. A second survey by church workers in cooperation with doctors concluded that most deaths were caused by measles, which could have been prevented by vaccinations.<sup>16</sup>

**Table 4.1-1: Total number of deaths in Tigi District segregated by villages (Source: JPIC KINGMI Papua)**

No	Villages	No of Deaths
1	Ayatei	6
2	Piyake Dimi	17
3	Jinidoba	14
4	Digikotu	7
5	Epanai	5
6	Wagomani	12
7	Demago	32
<b>TOTAL</b>		<b>93</b>

**Table 4.1-2: Total number of deaths in Tigi District segregated by age groups (Source: JPIC KINGMI Papua)**

No	Age Groups	No of Deaths
1	0 months -1 year	52
2	1 – 3 years	28
3	3 -5 years	5
4	5 - 10 years	-
5	10 years and older	8
<b>TOTAL</b>		<b>93</b>

14 Ibid.

15 Jubi (30.04.2017): 37 warga disebut meninggal akibat diare, Legislator: harus dibuktikan, available at: <http://tabloidjubi.com/artikel-5885-37-warga-disebut-meninggal-akibat-diare-legislator-harus-dibuktikan.html>

16 JPIC KINGMI Papua (03.08.2017): 93 Anak-anak dan Dewasa meninggal dunia akibat wabah serampah di 7 Desa Distrik Tigi Barat Kabupaten Deiyai, Karena tidak ada perhatian Pemerintah Indonesia

► A case of alleged health negligence occurred in the districts of Samenage and Werima of Yahukimo Regency in the central highlands of Papua Province. Between May and August 2017, 38 villagers –consisting of 22 males and 16 females– died of multiple sicknesses due to the absence of health services in these districts. The villagers stated that the victims showed symptoms, such as coughing, flu, diarrhea, high fever and back ache. According to the head of the Papuan Provincial Government Health Agency, Mr Aloysius Giyai, the victims died of Bronchopneumonia, Tuberculosis and other bronchial infections, as well as diarrhea, malaria and HIV/AIDS.<sup>17</sup> The absence of functioning health care facilities had forced the villagers to walk several days to the nearest hospital in the city of Wamena. The local health post in the village of Wesagelap had stopped operating four years prior to the incident.<sup>18</sup>

**Table 4.1-3: Total number of deaths in the districts Samenage and Werima segregated by villages (Source JPIC KINGMI Papua)**

No	Villages	No of Deaths
1	Samenage Village	10
2	Ison Village	6
3	Asopo Village	3
4	Hugilokon Village	6
5	Muke Village	3
6	Haleroma Village	3
7	Notnare Village	5
8	Hirin Village	2
<b>TOTAL</b>		<b>38</b>

17 Jubi (28.09.2017): Kadinkes Aloysius benarkan informasi 38 warga Samenage meninggal, available at: <http://www.tabloidjubi.com/artikel-10070-kadinkes-aloysius-benarkan-informasi-38-warga-samenage-meninggal.html>

18 Jubi (29.09.2017): Data kematian 38 warga Semenage ditelusuri UP2KP, available at: <http://www.tabloidjubi.com/artikel-10075-data-kematian-38-warga-semenage-ditelusuri-up2kp.html>

**Table 4.1-4: Total number of deaths in districts Samenage and Werima segregated by age groups (Source JPIC KINGMI Papua)**

No	Age Groups	No of Deaths
1	0 – 5 years	7
2	6 – 16 years	3
3	16 – 25 years	6
4	26 – 60 years	22
<b>TOTAL</b>		<b>38</b>

► At least 73 villagers died in the Asmat regency due to malnutrition and a measles outbreak between September 2017 and January 2018. The large majority of the affected population are indigenous Papuan children below the age of five. Out of the more than 550 people infected, at least 175 had to be hospitalised. Even though the first warnings and reports of low immunization coverage and malnutrition reached the Health Ministry in September 2017,<sup>19</sup> the central, provincial or local government did not take affirmative actions before January 2018, leading to a high number of deaths and the quick spread of measles among the malnourished indigenous population in Asmat regency. This situation strongly indicates, that neither the central government, nor the local government in Papua province and Asmat regency have been able to develop an effective early warning and response system to prevent a further measles outbreak as well as to overcome chronic food insecurity. Moreover, in the regency's largest city of Agats, the health care facilities are in a poor condition. The public hospital was not equipped to deal with all the patients of measles and malnutrition.<sup>20</sup> Until February 2017 the situation had not significantly improved.<sup>21</sup>

19 Satu Harapan (15.01.2018): Pemkab Asmat Bentuk Tim Tangani Wabah Campak-Gizi Buruk, available at: <http://www.satuharapan.com/read-detail/read/pemkab-asmat-bentuk-tim-tangani-wabah-campak-gizi-buruk>

20 Jakarta Post (19.01.2018): EDITORIAL: The death of Papuans, available at: <http://www.thejakartapost.com/academia/2018/01/19/editorial-the-death-of-papuans.html>

21 ACT Care for Humanity available at: <https://act.id/en/news/detail/71-children-died-from-malnutrition-in-asmat>

► A further health crisis happened in Pedam Village in the Okbab district of Pegunungan Bintang Regency in the central highlands of West Papua. According to data compiled by a health survey team, 25 villagers died between October and January 2018 due to measles,

diarrhea and malnutrition, 23 of them children under the age of five. The health agency became aware of the situation after a group of university students from Okbab had gathered data about the growing number of deaths among children in Pedam Village.<sup>22</sup>

## Recommendations



### The ICP recommends to the Government of Indonesia to:

- Immediately enter into communication with the appropriate state institutions at the provincial and district level in order to launch effective health-based aid programs in remote regencies of West Papua. These programs should include the provision of food supplements and staple food as well as appropriate medication, medical personnel and medical equipment for local treatment on the spot.
- Ensure that provincial health authorities compile and publish disaggregated data on health service statistics in West Papua, in order to show existing health inequalities and form a basis for a specific provincial health strategy.
- Take measures for the prevention of such outbreaks in the future, e.g. through vaccination programs and sustainable, contextually appropriate, nutritional programs to counter chronic malnutrition. These measures should include a program for the building of health service centres (PUSKESMAS), as well as a food and nutritional strategy for the indigenous highland communities as they are disproportionately affected by the environmental effects of climate change.
- Allow international humanitarian & health organizations to operate freely in West Papua.
- Immediately stop the engagement of military personnel in the implementation of health care programs, particularly in conflict-affected areas in West Papua.
- Create a health policy forum in cooperation with local authorities at provincial and district level, where participatory policy making can be made with direct input from the concerned communities so that their grievances, expectations, and solutions can be sought for any future education and health strategies.
- Establish culturally sensitive health care services and hospitals in West Papua, with a professional focus on communicable diseases, particularly for HIV/AIDS, tuberculosis, leprosy, as well as mother and child health care, and ensure their functionality with adequate human resources and medical facilities

22 Jubi (22.01.2018): Dinkes: 25 orang meninggal di Pedam karena diare, campak dan gizi buruk, available at: <http://www.tabloidjubi.com/artikel-13157-dinkes-25-orang-meninggal-di-pedam-karena-diare-campak-dan-gizi-buruk.html>



## Recommend by states:

- Angola recommends to the Government to “strengthen prevention and monitoring measures in the health sector”<sup>23</sup>
- Maldives recommends to the Government to “improve access to healthcare services by funding programmes that improve the quality of health services in rural villages.”<sup>24</sup>
- Germany recommends that the Government shall “immediately grant access to the delegates of ICRC to the Papua provinces in order for them to fulfil their mandate.”<sup>25</sup>



## Recommendations by international human rights mechanisms:

### *The Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health recommends*

- that the Government of “Indonesia must effectively address high maternal, infant and under-5 mortality and morbidity rates, inequalities, poverty and significant disparities between urban and rural areas. It is essential in this regard to improve integrated data management, institutional coordination and the availability and quality of health-related data.”<sup>26</sup>
- that national healthcare institutions develop specific programs to “address maternal and under-5 mortality, including by referring to the WHO Global Strategy for Women’s, Children’s and Adolescents’ Health (2016–2030) and the technical guidance on the application of a human rights-based approach to the implementation of policies and programmes to reduce and eliminate preventable maternal and under-5 mortality and morbidity (A/HRC/21/22 and Corrs. 1–2 and A/HRC/27/31);”<sup>27</sup>
- that “the authorities should continue to improve access to good-quality health care and to build the capacity of health structures in remote regions. Members of Adat (customary) communities, including indigenous Papuans, should have full access to public health facilities, goods and services, as well as to facilities, goods and services relating to the underlying determinants of health, such as safe and potable water and adequate food and sanitation”.<sup>28</sup>

23 Human Rights Council (14.07.2017): 3rd cycle of the Universal Periodic Review of Indonesia, available at: [http://ap.ohchr.org/documents/dpage\\_e.aspx?si=A/HRC/36/7](http://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/36/7)

24 Ibid.

25 Human Rights Council (14.07.2017): 2nd cycle of the Universal Periodic Review of Indonesia, available at: <http://undocs.org/A/HRC/21/7>

26 Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health (05.04.2018): Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health on his mission to Indonesia, A/HRC/38/36/Add.1, p. 4, available at: <https://undocs.org/A/HRC/38/36/Add.1>

27 Ibid. p. 21

28 Ibid. p. 9

- that local health authorities shall ensure “culturally appropriate health-promotion tools and information should be developed and disseminated to prevent communicable and non-communicable diseases, particularly in remote areas”. Members of Adat communities, including ethnic Papuans, should be trained as health-care workers, accredited as medical practitioners and integrated into the health-care system at all levels. Health-care curricula should include the training of health-care workers to deliver culturally appropriate services.”<sup>29</sup>
- that the Government shall “strengthen the health-care system and guarantee adequate, equitable and sustainable financing by increasing national budget allocations for health, and continue improving the availability and accessibility of health services in remote regions, with particular focus on primary care, the role of general practitioners, and the situation of Adat communities, including ethnic Papuans;”<sup>30</sup>
- to “(l) Remove all legal provisions criminalizing and stigmatizing persons living with HIV/AIDS, including those that criminalise homosexuality, sex work, and HIV/AIDS non-disclosure, exposure and transmission;”<sup>31</sup>
- that healthcare authorities shall “guarantee non-discrimination against persons living with HIV/AIDS in the health-care sector by ensuring that health services, materials and information are available, accessible, acceptable and of good quality for all key populations, and that health workers are properly trained and equipped;”<sup>32</sup>
- that healthcare authorities shall “address without delay the HIV/AIDS situation in Papua by guaranteeing access to testing, treatment and culturally sensitive health-related services, particularly for young persons and women, and build trust among service providers and users;”<sup>33</sup>

### ***The UN Committee for Economic, Social and Cultural Rights (CESC)***

- Recommends that the Government shall “accelerate the delivery of quality public services in remote islands and areas in Papua and other parts of the country, by allocating the necessary human and financial resources, by monitoring that they reach the intended beneficiaries, and by clearly defining the responsibilities of the various levels of Government”<sup>34</sup>
- “Urges the State party [Indonesian Government] to increase its health budget and expand access to primary health-care services across all provinces. It should ensure that those services are accessible and affordable for populations in both urban and rural areas, independent of their economic background and in particular:
  - (a) Ensure the provision of primary health-care services for all pregnant women, including access to antenatal care, safe delivery care, emergency obstetric care as

29 Ibid. p. 9

30 Ibid. p. 20f

31 Ibid. p.21

32 Ibid. p. 21

33 Ibid. p. 21

34 UN Committee for Economic, Social and Cultural Rights CESC (19.06.2014): Concluding Observations on the initial report of Indonesia, E/C.12/IDN/CO/1, p. 4, available at: <http://undocs.org/E/C.12/IDN/CO/1>

well as postnatal care, as well as for children, focusing on interventions to reduce preventable and other diseases, particularly diarrhoea, acute respiratory infections and undernutrition, and promote good feeding practices for infants and young children;

(b) Strengthen and expand access to preventive health care and therapeutic services for all pregnant women and children, particularly infants and children under the age of 5, including universal immunization services, oral rehydration therapy and treatment for acute respiratory infections;

(c) Provide sufficient free professional assistance before and during childbirth, including in remote and rural areas, and make all necessary efforts, including emergency obstetric intervention, to reduce maternal mortality;

(d) Recruit, train and monitor more health-care providers, improve health-care infrastructure and ensure that health-care services include access to sanitation and clean drinking water.”<sup>35</sup>

### ***The Committee on the Rights of the Child***

- “Urges the State party [Indonesian Government] to develop and strengthen policies and programmes to prevent the spread of HIV/AIDS and to provide care and support for children infected or affected by HIV/AIDS”<sup>36</sup>

35 UN Committee on the Rights of the Child (10.07.2014): Concluding observations on the combined third and fourth periodic reports of Indonesia, CRC /C/IDN/CO/3-4, p. 11f, available at: <http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2fPPRICAqhKb7yhsojFE9Wic32tm02CjRcUBTBmKpabAgZ7i0nMYRDpozvwwgO6Kk9Idi5sHE7D%2fJLQlgxERzDXfrxFiMsl3xlAtLDGNp2JPP1cG8C97NBLgEsa>

36 Ibid. p. 12



## 4.3 The Right to Food

Violations of the right to food in West Papua are mainly related to large scale agriculture and mining activities driven by government programs related to food security and economic growth. Palm oil plantations, especially are a growing threat to tropical rain forests which indirectly provide local indigenous communities with livestock. The conversion of forest into plantations has led to the destruction of sago stocks and hunting grounds. Palm oil plantations and mining operations reportedly caused pollution or desiccation of drinking water resources in various places. In areas where traditional food sources are no longer available and the quality of water is not adequate for consumption, indigenous communities are forced to change their food habits. Affected indigenous households develop dependencies on commercial food products like rice, instant noodles and bottled water instead of preserving traditional sustainable ways of local food production. Spontaneous migration from other Indonesian islands to West Papua increases the pressure on indigenous communities' customary land and fishing grounds, leading to horizontal and vertical conflicts. Another alarming development are cases of malnutrition accompanied by outbreaks of transmittable diseases, which have been repeatedly reported from multiple remote areas throughout the past three years. The provinces of Papua and Papua Barat remain particularly vulnerable to such cases due to the challenging geographic conditions, scarcity of functioning health facilities and the deliberate isolation fuelled by the central government. The United Nations Special Rapporteur on the right to food visited Indonesia in April 2018 and was concerned about the malnutrition cases and the impact of large-scale agricultural projects on indigenous peoples right to food in West Papua.

### Government food security programs and negative impact on indigenous communities

The Indonesian government has introduced a national long-term and large-scale economic development policy named "the master plan for the acceleration and expansion of Indonesian economic development" (MP3EI). The MP3EI suggests a partition of Indonesia into six economic corridors –one of them is the economic corridor Papua-Maluku. This area is

supposed to become a production centre for food, fishery, energy and national mining. The province of Papua should be developed for the production of a national food reserve.<sup>1</sup> The food and agriculture activity is realised in the form of MIFEE (Merauke Integrated Food and Energy Estate, later called MIREE for Merauke Integrated Rice and Energy Estate) development program which has caused the depletion of forests and the destruction of sago stocks, which are local indigenous Papuans' staple food source.

1 Sekretariat Kabinet Republik Indonesia (20.09.2014): MP3EI dan Ketahanan Pangan, available at: <http://setkab.go.id/mp3ei-dan-ketahanan-pangan-2/>



Image 4.3-1: Children watching women opening the cooking pit as the traditional way of cooking tubers, greens pork and pandanus in the central Papuan highlands (Source: Mr. George Kashou)

Instead of protecting traditional staple food sources of local communities, the government's food security program is strongly focused on rice production. So far, the government has not introduced any policy regarding the diversification of local foods in the provinces of Papua and Papua Barat. This situation has led to the impression among Papuan civil society that the Government of Indonesia –either deliberately or unintentionally– ignores Papuan staple food customs or creates dependencies amongst indigenous Papuan people to eat rice instead of traditional staple foods like sago, taro, sweet potatoes and cassava. Today a growing number of indigenous peoples in West Papua are consuming rice instead of traditional staple foods. This phenomenon is aggravated by the government's food aid program named Rice for the Poor (Raskin: Fusion of the Indonesian expression 'beras miskin'). The rice for the RASKIN food aid program is imported from outside of Indonesia. The central and provincial governments freely distribute the low-quality

rice to the provinces of Papua and Papua Barat. Since the government has started to introduce subsidised rice in indigenous villages, a growing number of Papuans in various areas have abandoned their gardens. Such cases have been reported from several highland areas, where the traditional foods are consumed as "food of second choice", if rice and instant noodles are not available or affordable.<sup>2</sup>

### Visit by the Special Rapporteur on the Right to Food

The United Nations Special Rapporteur on the right to food, Ms. Hilal Elver, visited Indonesia between 9 and 18 April 2018. Although the special rapporteur did not visit West Papua, she met with civil society activists and victims from the provinces of Papua and Papua Barat. On 18 April, the Special Rapporteur gave a press conference in which she shared preliminary observations and seven recommendations. Some observations, in particular referred to the right to food situation in West Papua.



Caption: Image 4.3-2: Special Rapporteur on the Right to Food, Ms. Hilal Elver (Source: UN Human Rights Office)

2 Marjin News (19.03.2018): Kedaulatan Pangan Lokal Ribuan Tahun Warga Papua Tergerus Karena Raskin, available at: <http://www.marjinnews.com/2018/03/kedaulatan-pangan-lokal-ribuan-tahun.html>

In the statement, the Special Rapporteur expressed her concern regarding various national policies for food production, which are overly focused on the production of rice and need to be sensitive to cultural attitudes. She named the 'Merauke Integrated Food and Energy Estate' (MIFEE) as an example of such policies. She also mentioned the deaths of 72 children in the Asmat Regency of Papua Province as a case of particular concern. Sixty-six children died of measles and six children died of malnutrition due to multiple factors including chronic food insecurity issues and a lack of access to proper health services. The special rapporteur concluded that the children's deaths were preventable and expressed her deepest condolences to the parents who lost children in the epidemic outbreak.

During the press conference, Ms. Hilal Elver also spoke about a number of challenges which continue to interfere with the realization of the right to food. She named large scale land acquisitions as one of the most critical threats, explaining that such cases are often accompanied by forceful evictions and criminal charges against community members. Numerous threats to food security in many provinces of Indonesia including the provinces of Papua and Papua Barat are related to business activities, especially businesses relating to palm oil, mining and other plantations. The special rapporteur stressed that the presence of large-scale businesses and industries have a considerable impact on the right to food. And in addition, deforestation,

soil degradation, conflicts as well as the use of toxic substances have an influence on the right to food. There have been numerous conflicts over mining and plantation concessions - some resolved but many still on-going.

In addition, climate change and extreme weather conditions were mentioned by the Special Rapporteur. She concluded that "extreme weather events induced by climate change have affected the country claiming lives of people and damaging livelihoods including food production. For instance, the prolonged Niño drought in 2015 and 2016, disrupted farming, increased diseases and reduced crop production. Climate change could have more devastating effects on human rights especially the right to food if proper measures are not taken including mitigation and adaptation.<sup>3</sup>

## Right to Food and Landgrabbing

For most lowland Papuan cultures, sago is the major staple food.<sup>4</sup> The trees grow in groves, swamps and humid areas in the forest, and although they occur naturally, the groves are maintained and tended by humans over many generations, to ensure a continuing source of food. This link with ancestors means that sago groves are also regarded as sacred places by many Papuan peoples. The cultural and spiritual importance of sago groves as well as their vital role in subsistence means that their destruction has a major impact on local communities.<sup>5</sup>

3 United Nations Human Rights Office of the High Commissioner (18.04.2018): Preliminary Observations of the Special Rapporteur on the Right to Food, Hilal Elver, on her mission to Indonesia 9-18 April 2018, available at: <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=22949&LangID=E>

4 Sago is the major staple food in the lowland areas while sweet potatoes is the most important staple food in the highlands of West Papua

5 JUBI (15.03.2018): Palm Oil Plantation Invades Sacred Sago Forest, Customary Leader Says, available at: <http://tabloidjubi.com/eng/palm-oil-plantation-invades-sacred-sago-forest-customary-leader-says/>



Image 4.3-3: Papuan family harvesting sago (Source: JUBI)

In several cases, plantation companies have promised to set aside sago groves from plantation development, but have later gone on to clear them, or have failed to leave a buffer zone to protect the sago trees. Testimonies from local people indicate that sago stocks and other sources of food are becoming increasingly scarce near plantations. Accounts of difficulties in finding animals to hunt are common. Populations of fish species in rivers are also reportedly decreasing. Indigenous women are particularly affected by the presence of large-scale plantations. According to the customary division of labour, women are in charge of taking care of the gardens, harvest food and collect firewood, organic materials and traditional medicine from the forest. Loss of land rights forces women to walk longer distances to the gardens and forests to supply their families with food. A number of Mining activities pose multiple health risks to indigenous peoples due to toxification of rivers and soil, which indigenous communities use as a food source (see chapter 6.3 on Deforestation, Landgrabbing and Natural Resource Exploitation).

### Spontaneous migration and its effects on the 'Right to Food'

Spontaneous migration from other parts of Indonesia to the provinces of Papua and Papua Barat increases the pressure on indigenous communities' customary land and fishing grounds. The consequences of these new findings are profound. The Papuan people living in regencies such as Sorong, Merauke, Jayapura City, Keerom and Mimika are already a minority and are set to become further marginalised as non-Papuan migrants continue to arrive to work in extractive industries, in agriculture and to pursue other economic opportunities. Non-Papuan migrants clash with the Papuan population due to the loss of customary lands, competition for available resources and discrimination in employment, health and education services. This is set to continue and grow as more non-Papuan migrants arrive, fuelling ethnic tensions and laying the ground for violent horizontal and vertical conflicts (see Chapter 6.1 Transmigration and Democracy).

## Case Study:

► On 9 August 2017, a dispute over customary fishing grounds between indigenous local fisher folk and migrant fishermen from other parts of Indonesia escalated at the Poumako Port in Timika, after indigenous fishermen had tried to prevent the migrant fishermen from catching fish in their customary fishing grounds. The indigenous community felt their livelihood was threatened by the better equipped migrant fishermen whose advanced catching methods had resulted in a decrease of the fish population in the area. A brawl between two parties resulted in the death of indigenous fisherman Mr Theodorus Cekatem, while two other men, Mr Rudolf Saran and Mr Gabriel Nawipo were severely injured by bullets (see Chapters 3.5 on Extra-judicial Killings and Chapter 3.6 on Torture and Ill-treatment). The affected indigenous communities had discussed their concerns with the migrant fisherman in several meetings, which took place throughout June and July 2017. On 7 August 2017, the Head of the Mimika Marine and Fisheries Agency, Ms Leentje A.A. Siwabessy, held a closed meeting with several officials in which the agency officially approved the migrants' fishing operations. However, the local fishing communities, the Kamoro People's Customary Institution (Lemasko - Lembaga Masyarakat Adat Suku Kamoro) and other stakeholders were not invited to the meeting.<sup>6</sup>

## The Right to food and health situation

Drought, crop failure and hunger have occurred at regular intervals, every seven years, in the central

highlands of New Guinea Island as a consequence of the El Niño climate phenomenon. Nevertheless, the frequency and intensity of these events have increased during the past years. The central highlands face a reduced crop output and more land becoming inhabitable due to climate change and land conversion while population growth exerts increasing pressure on available food resources<sup>7,8</sup>. It is mainly the indigenous population, particularly children under the age of five, as well as the elderly and pregnant women that carry the burden of these stresses.

This situation requires close monitoring, not only to understand the trends, pathways and severity of these malnutrition and related infectious disease 'epidemics', but also to learn from indigenous customary practices and sustainable and circular forms of agriculture being more in balance with nature and human pressure.<sup>9</sup> The health and food security situation at the national level has improved but West Papua remains vulnerable due to its challenging geographic conditions, a scarcity of functioning health facilities, land conversions and deliberate isolation maintained by the central government. International humanitarian organisations like the International Committee of the Red Cross (ICRC) continue to be banned from working in West Papua, which elucidates the continued neglect and marginalisation of the indigenous population.

The case studies relating to malnutrition have considerable health impact and have been listed in Chapter 4.2 on the Right to Health. Those case studies provide an overview of epidemics and mortality documented in West Papua

6 Secretariat for Justice and Peace of the Timika Diocese (31.08.2018): Laporan Investigasi Penembakan di Pelabuhan Poumako, Mimika, media article available at <http://suarapapua.com/2017/08/31/ini-laporan-investigasi-skp-keuskupan-timika-dalam-kasus-poumako-berdarah/>

7 The population growth in many areas of West Papua throughout the past 50 years – particularly in the highlands – has multiple reasons, among those the decline of tribal warfare and the abolition of cultural post-partum contraceptive practices in relation to the Christianisation of indigenous communities.

8 UNOCHA. Asia-Pacific Region: El Niño Snapshot (as of January 2016), available at <http://reliefweb.int/report/world/asia-pacific-region-el-ni-o-snapshot-january-2016>

9 ACAPS. 2016, El Niño Impact on Indonesia: Scenarios. Possible developments in Indonesia over the next 10 months (to end 2016), available at <http://reliefweb.int/sites/reliefweb.int/files/resources/el-niño-la-niña-impact-on-indonesia-scenarios.pdf>

throughout 2017 and 2018. The case studies are not just events in themselves but must be regarded as driven by a chronic, worsening, food security and sovereignty situation which leaves the Papuan people vulnerable to malnutrition. This leads consecutively to a weaker immune system, especially in children, and an increased risk of mortality due to preventable infec-

tious diseases such as Measles, Pertussis, Pneumonia, Malaria, Acute Diarrhea and other food and waterborne infectious pathogens. The cases indicate a pattern of preventable infectious diseases and malnutrition leading to preventable, considerable and chronic mortality in the Papuan population.

## Recommendations



### The ICP recommends to the Government of Indonesia to:

- Develop local food potentials in each of the different customary areas of West Papua in accordance with the culture and lifestyle of indigenous Papuans and use these potentials to diversify the national food security strategy by creating programs for the diversification of local foods.
- Introduce and enforce strict legal punishment for companies that destroy or contaminate any source of local food of indigenous Papuans including fresh water.
- Immediately stop the expansion of plantations to prevent pollution and the destruction of customary forests and waters which indigenous communities use as sources of livelihood.
- Stop the approval of business licenses for megaprojects in West Papua.



### Recommendations made by international human rights mechanisms:

#### *The UN Special Rapporteur on the Right to food recommends that:*

- The Government shall “diversify its current policies, which focus predominantly on rice and other staples, so as to support the production of more diverse and nutritious foods, including fruits and vegetables”. The new policies shall “take into account the cultural traditions and food preferences of various populations while promoting access to healthy food”<sup>10</sup>
- “For any future concession on land or in water, the Government should ensure that the rights of the affected communities are fully respected. Those affected should be adequately informed of the anticipated impacts in a timely manner, they should be provided with opportunities to participate in decision-making processes and they should be given adequate remedies if their rights are violated”<sup>11</sup>

10 UN Special Rapporteur on the Right to food (28.12.2018): Visit to Indonesia, Report of the Special Rapporteur on the right to food, A/HRC/40/56/Add.2, p.21, available at: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G18/447/88/PDF/G1844788.pdf?OpenElement>

11 Ibid. p. 16

- Government authorities should *“take appropriate measures to provide small-holder farmers, fisherfolk indigenous peoples, pastoralists, women and girls with access to and control over land, water and other natural resources necessary to produce their own food to feed themselves or to support their livelihoods”*<sup>12</sup>
- *“The Government should review the existing policies and practices [...] and ensure that these business practices are in line with international human rights laws and standards, including the Guiding Principles on Business and Human Rights”*<sup>13</sup>
- The Government should *“implement a land registration programme to protect local populations against large-scale land acquisitions by companies seeking to log, mine and grow palm oil”*<sup>14</sup>
- Government authorities should *“ensure that the rights of communities affected by land or water concessions are fully respected and carry out infrastructure development projects in a manner that does not interfere with the enjoyment of human rights, thus undermining the right to food, particularly of populations living in proximity to the development”*<sup>15</sup>
- Government authorities should *“ensure that business practices are in line with international human rights laws and standards, including the Guiding Principles on Business and Human Rights;”*<sup>16</sup>
- *“The Government should take urgent actions to reduce malnutrition. It should also eradicate root causes for hunger and malnutrition such as poverty, unemployment and lack of social welfare services.”*<sup>17</sup>

12 Ibid. p. 21

13 Ibid. p. 19

14 Ibid. p. 21

15 Ibid. p. 21

16 Ibid. p. 21

17 Special Rapporteur on the right to Food (18.04.2018): End of mission statement of the Special Rapporteur on the Right to Food on her mission to Indonesia, available at: <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=22949&LangID=E%27>

## 4.4 Labour Rights

The most serious cases of labour rights violations in West Papua occur in the extractive industry. Many companies still follow discriminative practices during recruitment of new labourers due to prejudice against indigenous Papuans. Migrants have a better chance of getting selected than indigenous candidates if they apply for jobs. Multiple companies in West Papua have deliberately violated labour rights that are in support of workers prosperity as guaranteed by national law, while the government is not taking sufficient affirmative steps to prevent or penalise such violations. The most prominent case of labour rights violations during the reporting period was committed by the mining company PT Freeport Indonesia. Approximately 12,000 permanent workers and 20,000 contract workers were laid off. Another 4,200 employees were fired for participating in a strike. The government –through its Ministry of Manpower and Transmigration– has failed to reprimand PT Freeport Indonesia and hold the company accountable. Another point of concern is the lack of proper working conditions, which exist as a result of the absence of policies and control mechanisms to force companies to uphold minimum standards and contractual obligations for the prosperity of their employees.

Cases of labour rights violations are common in the extractive industry sector particularly in relation to mining, logging and palm oil production –this begins with a disregard for principles of non-discrimination during recruitment processes. Whilst companies usually commit themselves to minimum employment rates for local indigenous Papuans, such rates are often not upheld. Many companies in West Papua are still reluctant to employ indigenous Papuans, preferably recruiting migrants from other parts of Indonesia for various reasons. On the one hand, it may sometimes be difficult for companies to find indigenous Papuans for positions which require a specific skill set. The quality in all educational levels in West Papua – including academic institutions– still fall behind national standards, making it difficult for many Papuan graduates to compete with competitors from other islands of Indonesia. On the other

hand, this is also related to prejudices that are widespread among non-Papuan civil society in Indonesia –indigenous Papuans are often viewed as primitive, lazy or rebellious.

In May 2015, the Papua Barat Province parliament member Mr. Robert Kardinal stated that most companies in the province employ mostly migrants instead of indigenous Papuans. As an example, he named the PB Tangguh Migas Project in Teluk Bintuni. He stated that BP preferably employs migrants and expats although many indigenous Papuans meet the required qualifications for the jobs.<sup>1</sup>

While the statement oversimplifies the situation, the BP Tangguh Migas Project in Teluk Bintuni Regency is indeed a good example for the situation in many big companies in West Papua. As of July 2017, 52.2 % of the employees in the project were indigenous Papuans, while 47.2 %

1 RMOL (15.05.2018): Banyak Perusahaan Di Papua Ogah Pakai Tenaga Kerja Lokal, available at <https://politik.rmol.co/read/2018/05/15/339893/Banyak-Perusahaan-Di-Papua-Ogah-Pakai-Tenaga-Kerja-Lokal->



were expatriates or migrants from other parts of Indonesia. However, the figures in the table below illustrate that most indigenous Papuans are only employed in positions where unskilled, low skilled or semi-skilled workers are needed. Indigenous Papuans in these categories make up the vast majority. In contrast to these figures, only about one third of the management/supervisory positions or positions which require skilled laborers have been filled with indigenous

Papuans (see Table 4.4.1).<sup>2</sup> According to the original environmental assessment document, BP committed itself to recruit, train and promote indigenous Papuans so that in 2029, ethnic Papuans will comprise 85% of the workforce, of which 78% will work as skilled workers and 33% as supervisors. By 2011, 54% of all recruited employees were ethnic Papuans, but in 2017 the percentage dropped slightly to 52.2%.<sup>3</sup>

**Table 4.4-1: Employment figures at the BP Tangguh Gas Project in Teluk Bintuni Regency as of July 2017 (Source: TIAP Report 2017)**

Skill Level	Papuan	National/Expatriot	Total Empolyees	% Papuan by level
Unskilled	19	2	21	90%
Low skilled	195	15	210	93%
Semi skilled	278	64	342	81%
Skilled	225	479	704	32%
Managerial/ Supervisor	64	156	220	28%
<b>TOTAL</b>	<b>781</b>	<b>716</b>	<b>1497</b>	<b>52,20%</b>

**The situation of Labour rights at palm oil plantations**

Indonesia is the world’s market leader for the production and the export of palm oil. Palm oil plantations exist and in almost all large islands of Indonesia, including West Papua.<sup>4</sup> Being under pressure to produce palm oil at the lowest possible cost to be competitive and achieve high profits on the world market, palm oil companies struggle to provide dignified working conditions and uphold labour rights for their employees.

Accordingly, there are a number of labour rights violations that may be found in palm oil plantations in Sumatra as well in as West Papua.

Among these issues is the problem of invisible workers –day laborers that are hired on a daily basis to work with insurance coverage or sufficient protection equipment. Day laborers can either be hired by the company itself (*Buruh Harian Lepas* or BHL) or by the permanently employed laborers (Kernet), to be able to meet their targets set by the company. The targets are usually so high that workers have to hire day laborers or are forced to request family members –including women and children– to work at the plantation without payment. Almost all laborers at palm oil plantations have to work unpaid extra hours in order to meet the company’s targets.<sup>5</sup> Women are especially disadvantaged in the current

2 TIAP (December 2017): Tangguh Independent Advisory Panel Report on Operations and Tangguh Expansion Project, Appendix p. 3  
 3 Ibid. p. 30 f  
 4 Indonesia Investments (26.06.2017): Palm Oil, available at: <https://www.indonesia-investments.com/business/commodities/palm-oil/item166?>

5 Koalisi Buruh Sawit (06.03.2018): Lembar Fakta Perlindungan Buruh Sawit di Indonesia. p. 4f, available from <http://www.turc.or.id/wp-content/uploads/2018/07/Lembar-Fakta-Koalisi-Buruh-Sawit-Indonesia-2018.pdf>

labour concept of palm oil plantation industry. Most palm oil companies employ women as 'second class laborers' in the plant care section, where they have to work with pesticides and have to face high risk of snake bites.<sup>6</sup> Moreover, most of the laborers in the maintenance of the plantation are not hired as permanent laborers. The Indonesian NGO Sawit Watch estimates that in most Indonesian palm oil plantations 70% of the workers are day laborers.<sup>7</sup>

In West Papua, the daily income of workers at most palm oil plantations is lower than the minimum wage set by local governments. A fact sheet by the Indonesian Civil Society Coalition for Palm Oil listed the example of a pay slip from a palm oil company in Sorong, Papua Barat Regency. While the provincial minimum wage was Rp. 96.672,- the workers only received a daily wage of Rp. 61.295.<sup>8</sup> The remoteness of most palm oil plantations and low standards in health care institutions in West Papua poses an additional threat to the workers. The health centres in remote areas are poorly equipped if accidents occur. As a result, labourers who get bitten by poisonous snakes may die before they reach a hospital or a health centre that is sufficiently equipped with antidote<sup>9</sup>.

## Case studies:

### Mass lay-offs by PT Freeport Indonesia

On 26 February 2017, PT Freeport Indonesia (PT FI), the Indonesian subsidiary of the transnational Mining Company Freeport McMoRan, introduced

a furlough program, releasing its workers from their obligations. The Workers were given letters stating that they had two days to pack before being returned to their place of origin. These letters offer an unpaid furlough to workers with no possibilities for appeal. The company claimed that the program was a response to its declining profits during ongoing tax negotiations with the Indonesian Government, although it never provided tangible proof of its financial situation to support this claim. Approximately 12,000 permanent workers and 20,000 contract workers were laid off as a result, reducing the total number of employees by 10%, without prior notification to the employees or entering into negotiations between the workers' union representatives (PUK SPSI – Worker's Chief Representative of the Indonesian Workers Union) and the Freeport management. Employees who were chosen to enter furlough were not given any avenues for appeal.<sup>10</sup>

Following the strikes against the program by the workers in early 2017, PT FI is reported to have fired around 4,200 workers participating in the strikes. PT FI forcibly evicted workers from homes and denied them access to corporate hospitals and schools.<sup>11</sup> The Indonesian human rights organisation LOKATARU documented at least 33 cases where workers could not afford to pay rent and some of them were evicted as a result (see Table 4.4-1). The termination of salary payments and the workers' other rights also negatively impacted the right to education of the workers' families. There were at least 33 reports involving expulsions and threats of expulsion of the workers' relatives from schools and universities (see Table 4.4-2).<sup>12</sup>

6 Kerja Layak (30.08.2018): Rubrik: OPINI, "Memperjuangkan Hak-hak Buruh Sawit Perempuan", available at: <https://www.turc.or.id/hak-buruh-sawit-perempuan/>

7 The Pam Scribe (07.02.2018): Perbudakan di perkebunan kelapa sawit: antara aturan dan kenyataan, available at: <https://thepalmscribe.id/id/perbudakan-di-perkebunan-kelapa-sawit-antara-aturan-dan-kenyataan/>

8 Koalisi Buruh Sawit (06.03.2018): Lembar Fakta Perlindungan Buruh Sawit di Indonesia. p. 5, available at: <http://www.turc.or.id/wp-content/uploads/2018/07/Lembar-Fakta-Koalisi-Buruh-Sawit-Indonesia-2018.pdf>

9 Pasific Pos (14.01.2018): Dipatuk Ular, Karyawan Perkebunan Kelapa Sawit Tewas, available at: <https://www.pacificpos.com/item/22254-dipatuk-ular-karyawan-perkebunan-kelapa-sawit-tewas>

10 LOKATARU (February 2018): "Freeport's workers in Limbo": Report on the Condition of the Strike Workers of PT. Freeport Indonesia, p. 10

11 IndustriALL Union (11.08.2018): Statement of IndustriALL solidarity Mission to Indonesia concerning mass firings of strikers by PT Freeport and PT Smelting, p.1, available from [http://www.industrial-union.org/sites/default/files/uploads/documents/2017/INDONESIA/industrial\\_indonesia\\_mission\\_statement\\_11-08-2017.pdf](http://www.industrial-union.org/sites/default/files/uploads/documents/2017/INDONESIA/industrial_indonesia_mission_statement_11-08-2017.pdf)

12 LOKATARU (February 2018): "Freeport's workers in Limbo": Report on the Condition of the Strike Workers of PT. Freeport Indonesia, p. 49

**Table 4.4-2: Cases in which termination of salaries by PT FI affected the right to adequate housing**  
(Source: LOKATARU)

No.	Name	ID	Note
1	Rokim Sudaryatmoko	908160	Evicted from his shared apartment and had to stay with a friend. Repayment of credit card mortgage rejected and is in need of repayment (Bank BTN).
2	Franglin Monim	888423	BTN Kamoro Indah Housing Block H7-No. 6 Under suspension from BTN until April 2018.
3	Alex Wona	891381	Evicted from lease Contract difficulties withdrawn credit
4	Reinhard Sokoy	905734	Left rented house as he was unable to pay and had to move to a friend's house.
5	Yan Kurni	895100	Evicted Currently living with family
6	Petrus Mamani	900415	Evicted/unable to pay rent
7	Dolfinur Rumabar	884008	
8	Albert Pekey	876937	Evicted for not being able to pay
9	Oktopianus Bunai	878184	Evicted for not being able to pay
10	Yarius Inggibal	844307	Evicted for not being able to pay, had to move to his family
11	Robert Dimpau	892315	Evicted for not being able to pay
12	Matius Kurni	259388	Evicted/ in debt
13	Silas Rumayoni	906447	Evicted/ in debt
14	Markus Edowai	881583	Evicted/ in debt
15	Anjel B. Gebze	877593	Evicted/ in debt
16	Israel V. Wenas	901777	In debt since May 2017
17	Marthimis Runaweri	894462	Evicted/Had to move to his family
18	Irwanzah J. D.	893481	Cannot afford to pay, had to move to his family
19	Billmar Yarisetou	904870	Evicted twice
20	Piet Dimara	905516	Evicted from a shared apartment, had to move to his family
21	Achmad K.	882369	
22	Puji Setiono	503060	Unable to make home payment
23	ABD Rahim	846327	Unable to make home repayments due to the strike
24	Boy T.	849875	No payments made in the last 10 months
25	Pekey Selpius	885494	Owing 10 months of rent, had to move to his family
26	Pien Hein Waromi	892711	Left shared apartment due to inability to pay 8 months of rent
27	Dedi Ramli	906146	Has not paid 7 months of rent due to lack of wages by PT. Freeport Indonesia
28	Salomo Raysumbre	882516	Has not paid 7 months of rent due to lack of wages by PT. Freeport Indonesia
29	Boby Rumbewas	894159	Has not paid 7 months of rent due to lack of wages by PT. Freeport Indonesia
30	Carl Numberi	905716	Evicted for not paying rent in the last 5 months
31	Derek Ronsubibre	8974911	Has not paid 9 months of rent
32	Moses Amsamsyum	887809	Has not paid 6 months of rent
33	Pitur Kawer	904803	Has not paid 8 months of rent

**Table 4.4-3: Cases in which termination of salaries by PT FI affected the right to education**  
(Source: LOKATARU)

No.	Name	ID	Note
1	Puji Setiono	503060	Unable to pay college tuition fee from May 2017 to January 2018.
2	Musa Pigai	879637	Dropped out of school - could not pay tuition fee from March 2017 until February 2018.
3	Abdul Rahim	846327	Could not pay school tuition fees.
4	Pekey Selpius	885494	Dropped out of school because he could not pay tuition fees since May 2017 - due to strike.
5	Agusthinus Yamko	891301	Could not send his two children to school from May 2017 to January 2018 because his basic salary was not paid during the strike.
6	Albert Pekey	876937	As a result of not being able to pay his children's school fees, two of them dropped out of school for 7 months (high school and middle school).
7	Sentorius Rumrewas	887816	Wife's graduation was cancelled.
8	Max Ronal Orisu	820834	Three children dropped out of school because they could not pay school fees.
9	Albertus Kuwai	892451	Semester and monthly tuition fee for 6 months have not been paid.
10	I Ongep Palimay	902203	Has not paid school registration fee.
11	J. Duwiri	819734	Could not take home the report card as development and tuition fees had not been paid.
12	Salomo Ransumme	882516	Could not pay tuition fees for two children in elementary school and one child in middle school.
13	Daneiel Aruan	853074	His children are schooled in Kalam Kudus, 2 of which are in elementary and 1 in pre-school, their report card cannot be taken home as 5 months tuition fees have not been paid yet.
14	Agustinus Pakage	901028	Could not pay tuition fees and children cannot go to school, three children (High school, elementary and pre-school).
15	Sahat Simanjuntak	845001	A child studies at a university in Bandung, constrains on living expenses and tuition fees, is on the verge of not being able to continue studies.
16	Frangklin Monim	8333423	Could not afford to pay tuition fees, therefore cannot go to school.
17	Boy Takasihacug	849875	The first child did not do his thesis defence as the parents could not pay the fee.
18	Denny Dimara E.	909112	The first child cannot continue his study in university.
19	Marselus Pakage	876607	Could not pay school fees of the three children (Elementary, Middle and High School). If the fee is not paid in the near future, they will be forced to drop out of school.
20	Martinus Iyai	885515	Since June 2017 could not pay tuition fees, in danger of dropping out of school.
21	Oktopianus Bunai	878184	Since August 2017 could not afford the tuition fees in SMAN 1 Timika, the child is going to drop out of school if the fees are not paid.
22	Billmar Yari – Setoo	904870	Since October 2017 could not afford the tuition fees of his two children in Yosua Elementary School and are going to drop out soon.
23	Andreas Mote	892518	Since September 2017 could not pay tuition fees of 1 child di SMK Pertanian Kab. Dogiyai, 1 child in Yosua Elementary school. The sanction from the school is that they cannot attend the final test.
24	Yari Nonggent	884774	Could not afford to pay tuition fees / high school exams so were not allowed to take exams and were temporarily suspended.
25	Andarias Rahawanarin	894310	The child takes a Law degree at Pattimura University in Ambon. Could not afford to pay the tuition fees and was forced to take a semester leave.
26	Yulianus Adil	883863	His child was in the final year of high school in Purworejo. Since June 2017 until February 2018, he was unable to pay the tuition and dormitory fees and eventually dropped out of school.
27	Agustinus Wakum	818906	Vocational school in Timika (SMK Hermon) SMP 7 di Timika. Unable to pay tuition fees so the children could not go to school and there was a break waiting for certainty of strike.
28	Petrus Mamani	900415	Since June 2017 have not paid tuition fees and cannot afford to buy school uniforms Child in pre-school has dropped out.
29	Vensky Kailola	8787858	Second child studies in Ma Chung Malang University. Unable to pay tuition fees for the 4 <sup>th</sup> semester, the daughter is at home taking semester breaks (Daughter = Irene J. Kailola).

30	Manpres Katouki	897474	Child studies in SMPN 7; Unable to pay tuition fees from August 2017 until February 2018; Child in SDN 9, unable to buy stationaries and uniforms.
31	Zakarias B. Hay	833464	4 children are in school; One in Manokwari High school, could not pay tuition and boarding house fees since June 2017; 2 children are in middle school (Sda); 1 child in elementary school (Sda). The school asked for payment.
32	Merpan Douw	884870	Tuition and uniform fee in Yosua Elementary; Yosua Pre-school. The family has not paid the tuition fees, the school asked for immediate payment.
33	Honi Edowai	893670	School payments have not been paid from May 2017 until February 2018

On 24 May 2017, the workers' membership in the Government Health Insurance 'BPJS Kesehatan'<sup>13</sup> were discontinued by PT FI, as the workers who participated in the strikes were considered to have voluntarily resigned. This contradicts Article 21 (1) of Act No. 40 of 2004, of the National Social Security System which provides that the health insurance's membership shall remain valid for at least six months after the termination of employment. The union representatives reported that at least 15 workers died because they were denied medical care at Freeport-owned hospitals (see Table 4.4-3). There are at least four other cases where the denial of access to the health insurance coverage affected the employees' family members during medical treatment, including the death of a new born child.<sup>14</sup>

**Table 4.4-4: PT FI workers who died after health benefits were cut due to participation in the strike. (Source: LOKATARU)**

Nr	Name	Date of death	Department
1	Mr. Abrianto Rombe	29/06/17	Department Underground / Maintenance
2	Mr. Zeth Makisanti	21/09/17	Department Grasberg Operation
3	Mr. Nicolas Kabes	07/10/17	Department Underground Construction
4	Mr. Karolus Kasamol	15/10/17	Department Grasberg Operation
5	Mr. Sattu Saung	17/10/17	Department Underground Construction
6	Mr. Marcel Sualang	03/11/17	Department Grasberg Electric Shovel and Drill
7	Mr. Irwan Dahlan	16/11/17	Department Tram Maintenance
8	Mr. Selpia Pigai	25/11/17	PT. KPI rebuild shop maintenance Mile 32
9	Mr. Edwin Kirioma	14/12/17	Department Warehouse KKPR
10	Mr. Yansen Alberto Yapen	24/12/17	PT. KPI Department Leeve Operation
11	Mr. Denny Wowor	27/12/17	Department Mill Construction
12	Mr. Piet Mambai	17/01/18	UG Maintenance
13	Mr. Frits Awom	04/02/18	Department Grasberg Operation
14	Mr. Hanok Emanratu	28/01/18	Department Fire Maintenance
15	Mr. Javet Ulo	31/01/18	Department Grasberg Operation

<sup>13</sup> The BPJS (Badan Penyelenggaraan Jaminan Sosial) is the Indonesian Government's organizing body for the implementation of a social security system. The body has introduced a government health insurance scheme which is referred to as 'BPJS Kesehatan'

<sup>14</sup> Ibid., p. 46 ff

The National Social Security Council, responsible for the external oversight of BPJS, wrote to the Director of BPJS requesting that the workers' membership of the health insurance be reactivated by no later than 30 September 2017. However, the request was left unaddressed and the workers' health insurance remains disabled.<sup>15</sup>

Former workers reported that PT FI also passed the names of the laid-off workers to local banks, making it difficult for them to access credit. Several banks blocked access to Freeport workers, including Bank Papua, Bank Niaga, BRI BNI and Bank Mandiri. PT FI requested banks in Timika to block the accounts of all workers involved in the strike and the banks agreed to this.<sup>16</sup>

PT FI claimed that the workers' strikes were illegal and thus the strikers were considered to have 'voluntarily resigned'. Freeport continues to deny the legality of the strikes, by firing the workers, inducing them to resign, and ending their wages and benefits. In a statement on 28 August 2017, Freeport- McMoRan denied the allegations and stated that the company recognises, respects and promotes human rights. It claimed that all actions taken by PT FI were in accordance with the Indonesian Labour Code, the applicable Collective Labour Agreement (CLA) and the 2015-2017 Industry Guidelines (IRG).<sup>17</sup>

Following the receipt of a complaint regarding violations of labour rights, the National Human Rights Commission (Komnas HAM) conducted a series of meetings with the workers' representative, PT FI, and the Ministry of Manpower and Transmigration. Komnas HAM concluded that there have been breaches of the workers' rights and recommended that PT FI re-employ all the workers affected by its furlough program and compensate them.<sup>18</sup>

15 Ibid., p. 46

16 Ibid., p. 48 f

17 Freeport-McMoRan (28.08.2017): Response Letter.

18 Koran Perdjoengan (31.10.2017): PHK Ribuan Orang di Freeport, Komnas HAM: Itu Pelanggaran Hak Asasi Manusia, available at: <https://www.koranperdjoengan.com/phk-ribuan-orang-di-freeport-komnas-ham-itu-pelanggaran-hak-asasi-manusia/>

The workers also reported these issues to the Ministry of Manpower and Transmigration and its local office in Mimika. While the government agencies initially took some actions that appeared to be in favour of the workers, including setting up a special taskforce to monitor the employment issues at PT FI, it was reported that the taskforce facilitated an unlawful mutual agreement between PT FI and a union allegedly controlled by the company which undermines the workers' rights and interests.<sup>19</sup>

On 28 August, hundreds of Freeport labourers gathered at H.R Rasuna Said Street in central Jakarta, in front of the PT Freeport Indonesia (PT FI) head office. Security forces repeatedly tried in vain to disperse the peaceful demonstration. The labourers continued the protest overnight, sleeping in front of the building (see image on the left).<sup>20</sup> Two days later, on 30 August 2018, the workers, with the support of the Jakarta-based human rights organisation LOKATARU, reported the Minister for Employment Mr. Hanif Dhakiri to the Ombudsman's national office in Jakarta. The complaint was filed on the grounds of maladministration. The minister had allegedly not taken a neutral position in the conflict between the workers and PT FI. The workers had repeatedly attempted to meet with Minister Dhakiri but had never received any response. On 7 August 2018, Freeport workers decided to gather in front of the employment ministry for three days. Instead of meeting with the workers, members of the ministry posted a video on the social media platform 'Instagram' on 16 August 2018, in which they claimed that the protestors had allegedly committed criminal offences. Mr. Haris Azhar called the video a lie and a distortion of the facts.<sup>21</sup>

19 LOKATARU (February 2018): "Freeport's workers in Limbo": Report on the Condition of the Strike Workers of PT. Freeport Indonesia, p. 43 f

20 Seputar Papua (29.08.2018): Korban PHK 'Sepihak' Minta Bertemu Langsung Dua Petinggi Freeport, available at: [https://seputarpapua.com/view/4113-korban\\_phk\\_sepihak\\_minta\\_bertemu\\_langsung\\_dua\\_petinggi\\_freeport.html](https://seputarpapua.com/view/4113-korban_phk_sepihak_minta_bertemu_langsung_dua_petinggi_freeport.html)

21 KATADATA (30.08.2018): Karyawan Freeport Adukan Menteri Hanif atas Dugaan Maladministrasi, available at: <https://amp.katadata.co.id/berita/2018/08/30/karyawan-freeport-adukan-menteri-hanif-atas-dugaan-maladministrasi>



Image 4.4-1: PT FI workers sleeping on the road to participate in a series of peaceful labor demonstrations in Jakarta throughout August 2018. (Source: LOKATARU)

### PT Victori Cemerlang terminates services and salaries to employees

PT Victori Cemerlang (PTVC) is one of the logging companies operating in Regencies Kaimana, Jayapura (Districts Nimbontong and Waena) and Keerom. The PT VC branch in Nimbontong, which employed 164 workers, slowly decreased its timber production throughout 2015 and 2016. The decline of timber processing had a direct impact on the welfare of the company's employees. In 2016, the company began to reduce the number of staff while payment of salaries was repeatedly delayed.

Between July and December 2016, PTVC stopped the payment of the Indonesian labor social security insurance JAMSOSTEK (Jaminan Sosial

Tenaga Kerja) and the health insurance (BPJS Kesehatan) for the employees. According to the work contract, the social and health insurance coverage of employees was deducted from their monthly salaries. As a result, employees experienced difficulties as they sought to receive medical treatment, because their health insurance cards were rejected by the hospitals. Starting from December 2016 the company did not pay salaries to their staff for three months. The termination of salaries had severe consequences for many employees, particularly for those who had taken bank loans. The employees also reported that the transportation services of the employees' children to school were reduced, so primary school and kindergarten children had to wait for the junior and senior high school students because the company bus operated only twice a day.<sup>22</sup>

22 JPIC-GKI (03.03.2017): Employees of PT Victori Cemerlang in Nimbontong complain about unpaid salaries

Facing difficulties to cover daily expenses for their families, the employees organised two demonstrations in January 2017. In response, the company threatened to involve the police if employees continued claiming their rights. Regardless of the threats, the employees reported the labor rights violations to the Department of Manpower and Transmigration (DISNAKERTRANS) in Jayapura. However, DISNAKERTRANS only organised a meeting between company representatives and workers, when the workers had brought the case to the attention of the Protestant Church (GKI-TP) and the Indonesian Ombudsman representative office in Jayapura.<sup>23</sup> A meeting mediated by DISNAKERTRANS representative Mr. Yudi Harsono Susanto on the 28 February 2017 did not lead to an agreement between the PT VC management and the workers.

On 3 March 2017 the company officially dismissed all workers, stating that the decision had been approved by DISNAKERTRANS. The workers later found out that Mr. Yudi Harsono Susanto had met with the PTVC management privately, while excluding the employees on 2 March 2017. Although, the workers did not agree with the company's decision many accepted a severance payment from the company on the grounds that the workers were in urgent need of money and concluded that DISNAKERTRANS was acting in support of the company instead of representing the labourers' interests. A later lawsuit attempt against the company failed –the judges argued that the termination of work relations was in accordance with the law because the workers had accepted the severance payments.<sup>24</sup>

## Recommendations



### The ICP recommends to the Government of Indonesia to:

- Take firm steps against companies using exploitative practices and disregard labour rights and freedoms, particularly the right to strike and the freedom of association.
- Adopt, implement and monitor local policies and legislation that oblige private companies and government agencies in West Papua to employ a minimum percentage of indigenous Papuan workers in low, middle and leading levels of employment, carry out transparent and non-discriminatory recruitment procedures and protect the rights and freedoms of workers and their families.
- Take steps to strengthen the independence and mandate of workers' unions in Indonesia.



### Recommendations by states:

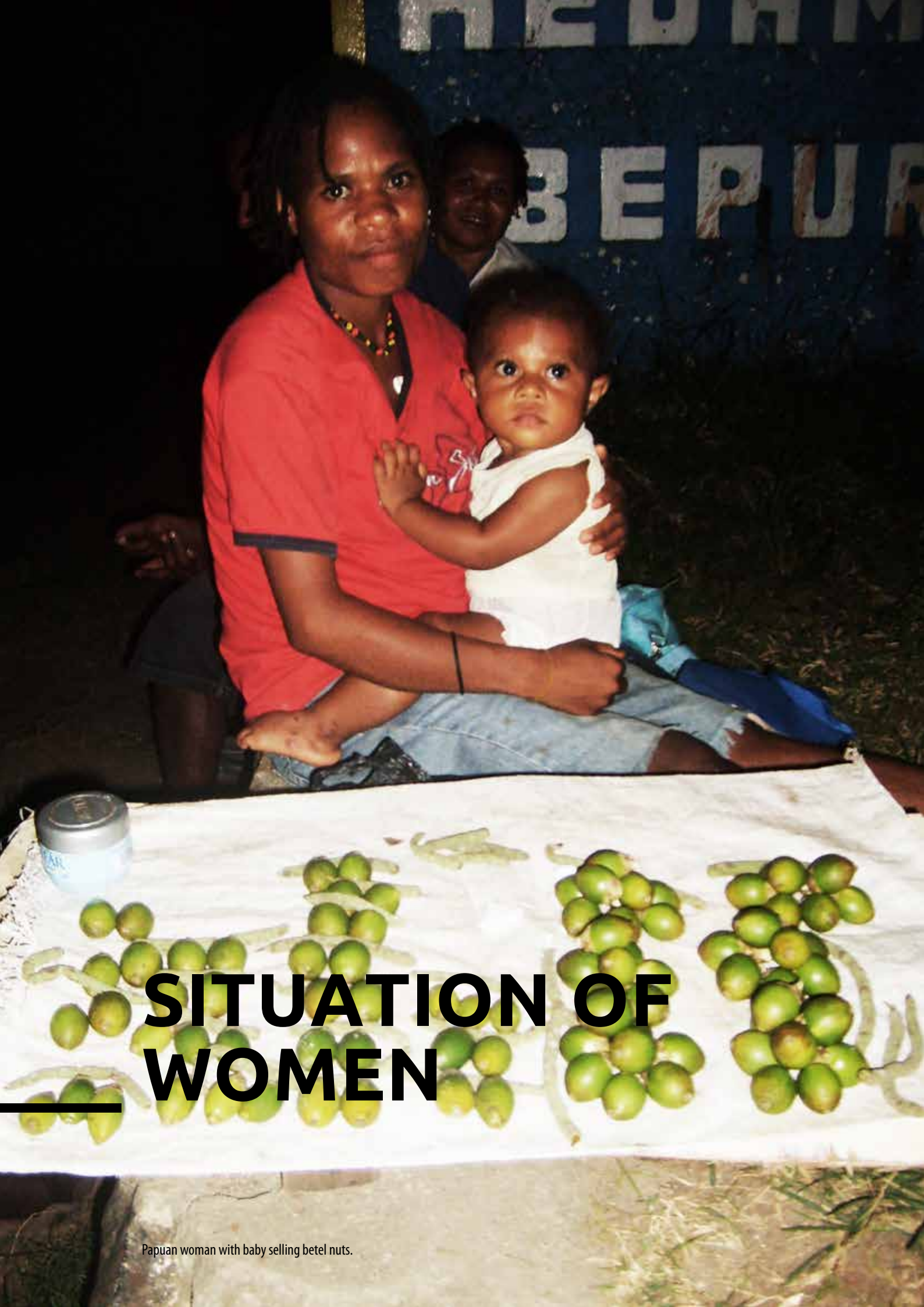
- Guatemala recommends to the Government to "ratify as soon as possible the ILO Indigenous and Tribal Peoples Convention, 1989 (No.169)"<sup>25</sup>

23 Ibid.

24 Letter from PT. CV Workers to the provincial parliament (March 2017): Surat Tuntutan Para Pekerja Perusahaan PT Victory Cemerlang Indonesia Wodd Industri Unit III Nimbontong

25 Human Rights Council (14.07.2017): 3rd cycle of the Universal Periodic Review of Indonesia, available at: [http://ap.ohchr.org/documents/dpage\\_e.aspx?si=A/HRC/36/7](http://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/36/7)





# SITUATION OF WOMEN

Papuan woman with baby selling betel nuts.

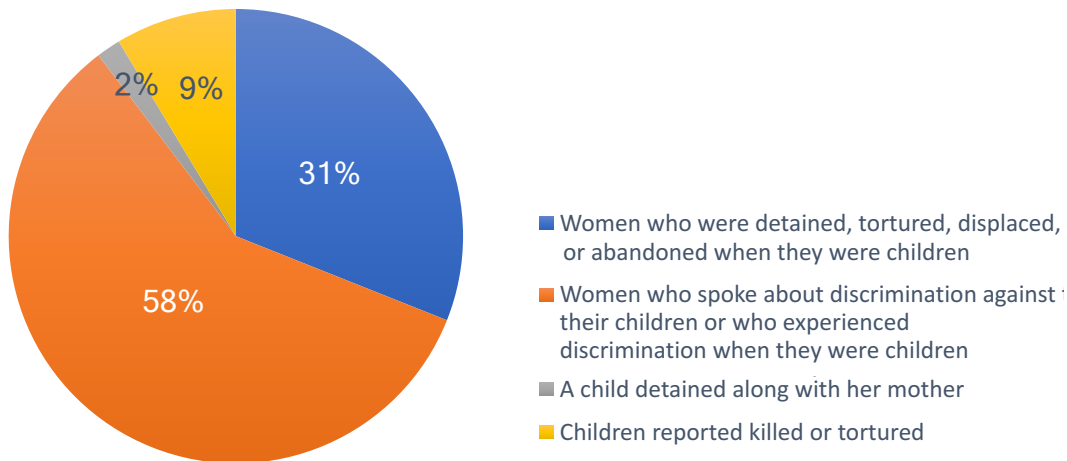
## SECTION 5

# Situation of Women

Papuan women face multiple challenges in their daily lives: traditional gender concepts, danger of impoverishment and poor health leave many women in positions where they have limited space for equal participation in society and access to basic rights. Many women experience multiple patterns of violations in their lives among which domestic violence, state violence in relation to political conflict and discrimination are the most common forms. Political stigma related to being a supporter of separatism continues to have a strong impact on the lives of Papuan women and their children, preventing them from accessing government programs, social services and justice (see Graphic 5.1 below)

Denial, gender-based discrimination and stigmatisation are major factors leaving Papuan women vulnerable to poor health, poverty and social exclusion. Particularly those who have been stigmatised or criminalised as separatists stated that they have been marginalised in their communities and face difficulties in accessing government support. The government and non-state actors have implemented programs for women in West Papua. However, their exclusion from decision making processes and consultations prevents indigenous women - particularly in rural areas – from receiving information on the existence of such programs and accessing these services.

The participation of women in politics and governance is still low. In 2017, 6.7 percent of law makers in the provincial parliament of Papua Barat were women, while the percentage was more than twice as high for the province of Papua, with 14.5 percent. However, this is still less than half of the quota of 30 % for participation of women in politics, as set by the Indonesian government. The representation of women in government administration in the provinces of Papua and Papua Barat strongly varies among civil servant ranks. In the lowest civil servant rank (Rank I or Golongan I), women made up 12.7 percent of the civil servants in West Papua, while in higher ranks women participation ranged between 37.2 and 44.2 percent. It's still very rare that women are promoted into leading government positions. Only the Agency for Social Affairs in the Province of Papua is led by an indigenous Papuan woman.



Graphic 5.1: Various forms of violations and discrimination against indigenous children (Source: AJAR 2019, I am here)

## 5.1 Violence against Women

**Many women experience multiple patterns of violations in their lives among which domestic violence, state violence in relation to political conflict and discrimination are the most common forms. Political stigma related to being a supporter of separatism continues to have a strong impact on the lives of Papuan women and their children, preventing them from accessing government programs, social services and justice. There is a lack of government services available to female victims of violence, leaving traumatised women without support. A research on the situation of indigenous Papuan women by the Indonesian NGO AJAR indicates that the most common forms of state violence were loss and destruction of property. Female victims of domestic violence reported of difficulties in accessing justice. Attempts to initiate a legal process against the perpetrators was hampered due to lack of official documents or if perpetrators hold important positions.**

Between 2013 and 2018, 'Asia Justice and Rights' (AJAR), an Indonesia-based NGO, conducted a participatory action research on the situation of indigenous Papuan women, inviting 249 female participants from various parts of West Papua

to share their life stories and speak about the violations that they experienced. The research identified domestic violence and various forms of state violence in relation to political conflict as the most common patterns of violence against Papuan indigenous women.<sup>1</sup>

<sup>1</sup> AJAR (01.03.2019): I am here, Voices of Papuan Women in the Face of Unrelenting Violence, p. 21, available at: <https://asia-ajar.org/wp-content/uploads/2019/04/I-am-Here-Voices-of-Papuan-Women-2019.pdf>

## State Violence

Sixty-five of 249 women experienced state violence. In none of these cases did the state address the human rights violations, neither through prosecution of the perpetrators nor by compensation of victims. Female survivors of state violence tried to push authorities for a legal process of their cases. However, law enforcement officers reportedly ignored the victims' claims or have tried to convince them to stop advocating for justice in order to 'avoid problems'. The research came to the result that women survivors in West Papua expressed disappointment over the justice system in Indonesia. Most women believed that a restoration of justice shall not only include the punishment of perpetrators, but also compensation and restitution of the victims. This was frequently mentioned, particularly in relation to land taken from internally displaced indigenous families.<sup>2</sup>

Women from various areas of West Papua reported that the political stigma as separatist or OPM<sup>3</sup> supporter had an intergenerational impact on the lives of their children. The children reportedly faced discrimination in accessing education and finding employment. Such discrimination increases the likelihood of impoverishment. Of all testimonies mentioning violations of human rights against children, discrimination during childhood or against their children was the most common form of violation, with almost 60%. In 31% of the testimonies, women mentioned violations during their childhood like torture, displacement, arbitrary detention or being abandoned.<sup>4</sup>

There is a lack of government services available to female victims of violence. Social programmes and services for women who have been traumatised in relation to political violence do not exist at all.<sup>5</sup> AJAR asked local government officials in West Papua about support programs for women. Most officials responded with resistance and suspicion. Some officials reportedly argued that they could only provide such information at a hearing in parliament.<sup>6</sup>

Graphic 5.1-1 below provides an overview of state violations segregated into various types of violations. The most common forms of state violence were loss and destruction of property (36%), followed by loss of indigenous lands (23%) and the enforced disappearances of relatives (19%). Other forms of violations made up percentages of less than 10 percent. The majority of violations occurred during military operations against the 'Free West Papua Movement' (Organisasi Papua Merdeka or 'OPM') in the Central Highlands covering three periods, namely 1977–78, 2005 and 2007. The victim testimonies revealed that cases of sexual violence perpetrated by state actors mainly took place in the 1970s and 1980s. One of the hotspots of sexual violence was the town of Wamena in the central Papuan highlands, where the presence of Papuan resistance groups had resulted in the deployment of many military personnel. Some women became pregnant and live with the burden of raising children born out of wedlock, without receiving any support from the father or the employing government institution. In addition, these women face social stigma in traditional communities.<sup>7</sup>

2 Ibid. p.31

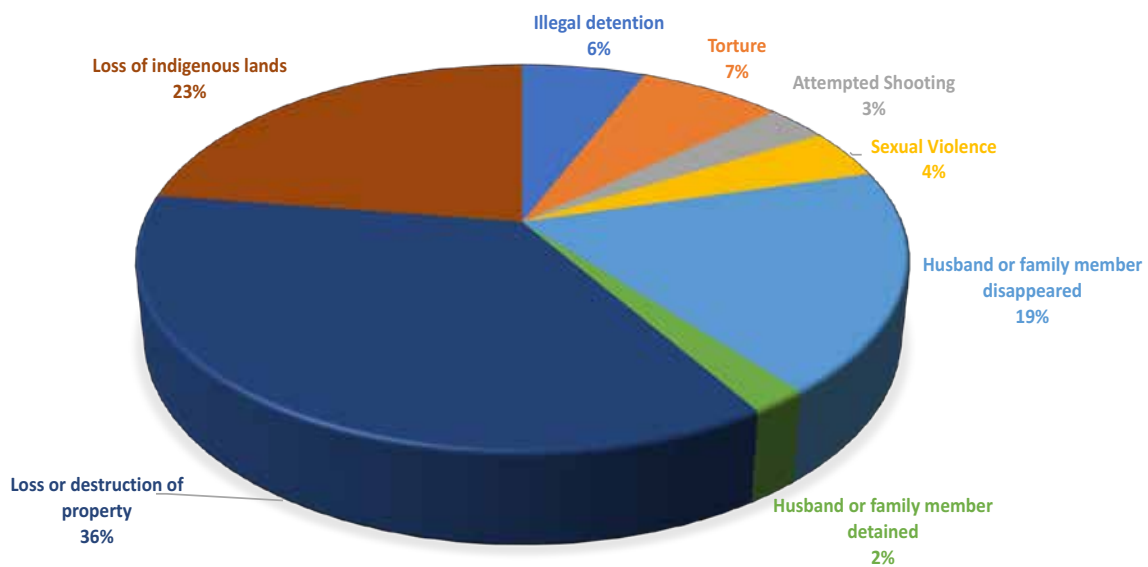
3 Operasi Papua Merdeka, Free West Papua Movement

4 Ibid. p.32

5 Ibid. p.52

6 Ibid. p. 55f

7 Ibid. p. 21f



Graphic 5.1-1: State violations segregated by types of violations against indigenous Papuan women (Source: AJAR 2019, I am here)

## Domestic Violence

37 out of 249 women stated that they experienced domestic violence, equalling a rate of almost 15 %. The effects of domestic violence vary, ranging from infertility, heart problems, eye problems to frequent illness and long-term post-traumatic stress disorder. Many women observed that gender-based violence closely correlates with alcohol consumption among males. Especially women from Sorong and Merauke mentioned that the increase of violence against women and other forms of horizontal violence were aggravated by alcohol consumption. These developments also had a strong impact on women’s freedom of movement. Many women had to adjust their daily routines because they feared being bothered by men under the influence of alcohol.

Female victims of domestic violence face difficulties in accessing justice and when they initiate a legal process against perpetrators. Procedural barriers may occur if perpetrators

hold powerful positions in the community. Moreover, women from various parts of West Papua reported that the police requested official documents as requirement to take action against the perpetrators of domestic violence. Especially in rural areas of West Papua, many indigenous peoples do not possess marriage certificates or other official documents, preventing women and their children from accessing important rights. Women reported that the police rejected their complaints against perpetrators of domestic violence because they did not have ID cards or marriage certificates<sup>8,9</sup>.

The majority of female victims of violence in West Papua have no other opportunity but to rely on their personal resources. Most women expressed the need for long-term support to overcome their psychological and physical traumas. The impacts suffered by women are diverse, ranging from permanent disabilities, sleeping difficulties, chronic pain, and illness. Women also reported experiencing depression,

8 Ibid. p. 52  
9 Ibid. p. 29f

anxiety, and shame.<sup>10</sup> Women from Wamena reported that there is no functioning emergency shelter for women, and the 'Integrated Service Centre for Women and Children Empowerment' –a government initiative meant to provide services to women and child victims of violence– fails to function. Women from Keerom stated that the programme exists in their regency, but was only introduced in May 2016.<sup>11</sup>

Although Special Autonomy provides the financial means for the implementation of social programs in West Papua, many women fail to receive benefits from the government programs. Information on the existence of financial and social support programs is passed on to the community level in rare cases only. Moreover, many of these resources are utilised for administrative purposes in higher levels of society and the government.<sup>12</sup>

## Case studies

### ***Testimony of NM – Tortured and sexually abused by soldiers.***

In 1983, soldiers came to NM's house and forced her with her two-month-old daughter to enter a truck. The soldiers interrogated her about the whereabouts of her husband, who had been hiding in the forest after being tortured at the military post in Besum Village. The soldiers forced NM to lead the soldiers to her husband's shelter in the forest. She was tortured inside the truck until she fainted. NM was detained at an army post for five hours, where soldiers tortured her, using electric-shocks and beatings. Five soldiers tied her up and gang-raped her inside the military post. NM had to seek urgent medical treatment the next day due to the severe wounds which she sustained as a result of the torture and sexual abuse. Military special force members brought her to Jayapura, where she

was again interrogated and tortured. After being released, NM and her husband fled into the forest, where they lived in difficult circumstances with their children until 1986 before returning to their village.<sup>13</sup>

### ***Testimony of HB – Active role in Church to overcome long-term effects of torture.***

HB was repeatedly detained at the military post in her village and other detention facilities, where soldiers tortured her seven times between 1981 and 1982. Security force members suspected her of supporting the OPM. Soldiers forced the barrel of a rifle into her mouth while being electrocuted. This method of torture was repeatedly applied – detention periods lasted up to two weeks. HP is disappointed because none of the perpetrators have been prosecuted for the crimes they committed. She experienced further injustice as her son passed away. HB believes that members of the military abducted and subsequently killed him. The military denied any involvement in the killing, arguing that the son died in a traffic accident. Training and activity programs by the church and NGOs slowly helped HP to transform the past experience and the feelings of hatred for the government.<sup>14</sup>

### ***Testimony of IS – Traumatized after forced disappearance of her relatives.***

IS witnessed the 'Bloody Biak' massacre in July 1998, when some pro-independence activists peacefully raised the 'Morning Star' flag on top of a water tower. Approximately 100 people were gathered at the harbour and subjected to torture. While the women were allowed to leave, the male arrestees were detained at the local police station. Many were killed during detention. It was the last day that IS saw some

10 Ibid. P.34 f

11 Ibid. p.52

12 Ibid. p. 54

13 Ibid. p. 23

14 Ibid. p. 25

of her male relatives. Until today, she does not know where the security force members dumped their bodies. The massacre in Biak has

never been investigated and the perpetrators remain unpunished, leaving IS with a strong feeling of injustice and powerlessness.<sup>15</sup>

## Recommendations



### The ICP recommends to the Government of Indonesia to:

- Provide specialised security and social services support for indigenous Papuan women who experience violence and abuse.
- Provide awareness-raising programmes and human rights training to women at village level, and provide shelters and other specialised services to women suffering from all forms of gender-based violence.
- Encourage responsible state agencies to implement a zero-tolerance policy on domestic violence and increases the number of female police officers.
- Ensure the full implementation of local regulations in the Papuan provinces, particularly those protecting female victims of human rights violations.



### Recommendations by states:

- New Zealand recommends to the Government of Indonesia to “ensure human rights obligations in Papua are upheld, respected and promoted, including freedom of assembly, freedom of the press and the rights of women and minorities.”<sup>16</sup>



### Recommendations by international human rights mechanisms:

***The UN Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health recommends to the Indonesian Government to***

- “Ensure comprehensive protection for women against all forms of gender-based violence by addressing, without delay, the remaining gaps in legislation and in

<sup>15</sup> Ibid. p. 26

<sup>16</sup> Human Rights Council (14.07.2017): 3rd cycle of the Universal Periodic Review of Indonesia, available at: [http://ap.ohchr.org/documents/dpage\\_e.aspx?si=A/HRC/36/7](http://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/36/7)

practice, in order to ensure substantive equality and women's enjoyment of the right to health and related rights;"<sup>17</sup>

## ***The UN Committee on the Elimination of Discrimination against Women***

- **Recommends that the State party [Indonesian Government]:**
  - (a) Collect data on the relationship between the victim and the perpetrator and disaggregated data on the number of complaints, prosecutions, convictions and sentences in relation to sexual and gender-based violence, rape and domestic violence, and include such data in its subsequent report;
  - (b) Encourage women and girls to report acts of violence to the competent authorities by raising awareness of the criminal nature of violence against women, de-stigmatising victims and training the judiciary, including judges of religious courts, prosecutors, lawyers and law enforcement and medical personnel on standardised and gender-sensitive procedures for dealing with victims and effectively investigating their complaints;
  - (c) Prosecute all acts of domestic and sexual violence against women and girls, punish perpetrators and adequately compensate victims, and consider establishing a monitoring mechanism to ensure the enforcement of Law No. 23/2004, on domestic violence;
  - (d) Consider amending the Criminal Code and Law No. 23/2004, on domestic violence, to define and criminalise marital rape, in line with the Convention and general recommendation No. 19 (1992) of the Committee, on violence against women."<sup>18</sup>
- **Urges the State party [Indonesian Government]:**
  - (a) To promptly investigate, prosecute and punish all acts of violence against women, including acts of sexual violence, perpetrated by private actors and by the security and defence forces, the police and militant groups, ensuring that inquiries are conducted exhaustively, impartially and transparently;
  - (b) To provide full and effective reparation, including restitution, compensation, rehabilitation, satisfaction and guarantees of non-repetition, to all victims of human rights violations committed during the conflicts;
  - (c) To take comprehensive measures to provide medical and psychological support to women victims of violence, including sexual violence, committed during the conflicts, and to establish counselling centres for women to overcome their traumatic experiences;

17 Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health (05.04.2018): Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health on his mission to Indonesia, A/HRC/38/36/Add.1, p. 21, available at: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G18/084/20/PDF/G1808420.pdf?OpenElement>

18 UN Committee on the Elimination of Discrimination against Women (07.08.2012): Concluding Observations of the Committee on the Elimination of Discrimination against Women, Indonesia, CEDAW/C/IDN/CO/6-7, p. 4, available at: <http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2fPPRiCAqhKb7yhsgA84bcFRy75ulvS2cmS%2f%2bgtV1TKy1sgagnPGLZ5h45zpQrtbdYq5O5eaoPQg50QAbXdcx%2fDVyOjKh2pk1ih8gbteu3s6qZj8zuykDO9iMcq>



- (d) To adopt the new draft law providing for the establishment of a national truth and reconciliation commission and to ensure that the commission has broad powers to receive complaints and investigate grave human rights violations;
- (e) To ensure the security of internally displaced women and to allocate adequate resources to meet their needs, in particular their access to a livelihood, water and education for themselves and their children;
- (f) To include women in the post-conflict reconstruction and peacebuilding process;
- (g) To consider ratifying the Rome Statute of the International Criminal Court.”<sup>19</sup>

## 5.2 Economic, Social and Cultural Marginalisation

Many indigenous Papuan women do not have a stable income to pay for medical treatment or face difficulties in accessing health services due to lack of ID cards, which are a mandatory requirement to arrange for government health insurance BPJS or member cards for the government’s health support program in Papua. The arrangement of official documents is particularly difficult for women in remote areas, who often can’t speak Indonesian language or/and are illiterate. Some Female victims stated that local government officials stigmatise widows of former OPM members, preventing them from receiving ID cards. The lives of many Papuan women are determined by the efforts to overcome the daily challenges of ‘surviving’. Indigenous women feel increasingly marginalised in local markets. At the same time many reported of shrinking access to natural resources and land, gardens and forests, which are essential for the livelihood of their families, preservation of their culture and as a source of income. Although, women have far-reaching responsibilities in the maintenance of gardens, planting and harvesting, their right to landownership is not recognised in traditional land tenure rights. They are therefore often left out, in decision-making processes related to land tenure.

### Access to healthcare

In view of high maternal mortality rates, alarmingly high rates of HIV/AIDs and sexual and reproductive health issues, the sufficient accessibility and availability of adequate health services is crucial for the wellbeing of indigenous Papuan women. Functioning health care facilities

in West Papua mainly exist in urban centres and their surrounding areas, leaving women seeking treatment for sexual and reproductive health with few opportunities.<sup>1</sup>

They often do not have a stable income to pay for transportation to the hospital, and can’t afford the treatment or face difficulties in

19 Ibid. p. 4

1 AJAR (01.03.2019): I am here, Voices of Papuan Women in the Face of Unrelenting Violence, p. 31, available at: <https://asia-ajar.org/wp-content/uploads/2019/04/I-am-Here-Voices-of-Papuan-Women-2019.pdf>

accessing health services because they do not have ID cards to arrange for government health insurance BPJS ('Badan Penyelenggara Jaminan Sosial' or Social Security Implementation Body) or cards for the government's health support program in Papua ('Kartu Papua Sehat' or Papuan Health Cards).<sup>2</sup>

A high percentage of women reported health issues related to impacts of violence, impoverishment and heavy physical work in their daily lives. Stigmatised women find themselves in a harmful cycle. Indigenous women working in gardens on a daily basis, listed various health issues –mainly pain in their shoulders, back and head– as a result of frequently carrying heavy loads, such as fire wood, garden crops and children for long distances. The heavy work load of household, taking care of the children and gardening leaves women very little time to rest or recover from injuries.<sup>3</sup> The women often chose to use traditional forms of treatment and medicine once they face difficulties in accessing medical treatment in health facilities.<sup>4</sup>

According to AJAR, 17 widows in Wamena who lost their husbands between 1977-1988 were living in isolation due to the stigma of being the wife of a former OPM supporter. Local government officials continue to stigmatise widows of former OPM members, deliberately preventing them from receiving ID cards. The ID card is a requirement to access government services such as Papua Health Cards, rice for the poor (Raskin) and housing assistance. None of the 17 widows had ID cards. Women who are illiterate or do not speak Indonesian are another vulnerable group facing difficulties to arrange the paperwork to get health insurance and other government documents in order to apply for government support programs<sup>5,6</sup>

## Economic marginalisation

Women in various places reported a shrinking of access to natural resources and land, gardens and forests which play a central role as a source of livelihood for them and their families. The loss of access to land occurred as a result of violent conflict, state land use policies, detrimental social norms experienced by women after incidents of violence, or by a combination of these. Papuan women considered that access to land and resources was also a major pre-condition for their health and the preservation of their culture. Conversions of customary forest to plantations reportedly had a severe impact on the social conditions in affected indigenous communities.<sup>7</sup> The materials for making traditional bags, clothes and other commodities as well as plants for the production of traditional medicines which used to be taken from the forest have become difficult to access or may no longer be available at all.<sup>8</sup>

Many women testified that the destruction of property, the lack of access to land and livelihoods had a direct negative impact on their wellbeing. Many Papuan families have a rather unstable and small income –they plant crops in their gardens which are consumed by the family or sold in local markets. The lives of many Papuan women are determined by the efforts to overcome the daily challenges of 'surviving'. School fees were frequently mentioned as a heavy financial burden, particularly if children had been enrolled to secondary or tertiary schools.<sup>9</sup> The burden of daily struggle for their family reduces many female victims' endeavour to seek access to justice and healing from the traumas they have experienced.<sup>10</sup>

Indigenous Papuan women feel increasingly marginalised in local markets because they can't compete with non-Papuan traders. Migrant traders have easier access to capital. They can

2 Ibid. p. 55f

3 Ibid. p. 46f

4 Ibid. p. 52

5 Ibid. p. 49

6 Ibid. p. 31

7 Ibid. p. 35

8 Ibid. p. 37

9 Ibid. p. 59

10 Ibid. p. 30f

rent small stores in more lucrative places at the local markets while indigenous traders are pushed to places where they have to sell their crops on the floor. Traditional goods such as betel nuts, sweet potato, taro and sago which used to be the domain of indigenous Papuans are now, also sold by traders from outside of West Papua, hence competition for indigenous traders has become more difficult. There are no policies and very few initiatives in place to address the economic marginalisation of indigenous traders.<sup>11</sup>

Indigenous women all over West Papua stated that they have difficulties accessing capital and credit. Banks request financial securities such as land certificates and other requirements before granting loans. Private loan sharks do not request securities but their interests are much higher than those of banks.<sup>12</sup>

## Marginalisation through cultural traditions

The traditional concept of labour division in West Papua is based on gender, assigning women with a variety of responsibilities in their daily lives. They have to manage households, raise children, maintain gardens, harvest the crops and collect fire wood. In addition, many women sell garden crops at the market to provide additional income for their families.

Papuan men often do not sufficiently support the women in their families, holding on to traditional forms of gender roles in Papuan indigenous societies.<sup>13</sup>

Although, women have far-reaching responsibilities in the maintenance of gardens, planting and harvesting, their right to landownership is not recognised in traditional land tenure rights. Women are therefore often left out, in the decision-making processes, e.g. when customary land is sold.<sup>14</sup> Moreover, village leaders do not use government funds for women support programs.<sup>15</sup> Women who have tried to convince village leaders to open up decision making processes, planning meetings, consultations by third parties for women, were reportedly ignored or even intimidated. As a result, financial resources at village level are not used for the benefit of women and information on government and NGO support programs do not reach women in the villages.<sup>16</sup>

AJAR's research elucidates that single mothers and widows are among those facing extraordinarily high risks of being discriminated and excluded in their communities. Some widows reported that the husband's family forced them to leave the house after their husband had passed way. Once widows lose their home and are stripped off their inheritance rights, they no longer have a place of residence and can't access necessary social services. This leaves them at high risk of impoverishment.<sup>17</sup>

11 Ibid. p. 57

12 Ibid. p. 58f

13 Ibid. p. 47

14 Ibid. P. 39

15 Ibid. 56

16 Ibid. p. 55

17 Ibid. p. 31

# Recommendations



## The ICP Recommends that:

- Local health agencies introduce effective and culturally sensitive programs for hiv prevention, testing and treatment, which particularly target young Papuan women in remote areas of West Papua.
- Local health agencies ensure that women in West Papua have maximum access to health care services without being discriminated against during hiv/aids examinations.
- Local governments guarantee the adequate and full implementation of all national laws and policies on women's rights in the provinces of papua and papua barat, particularly the right to receive id cards and birth certificates.
- Local governments ensure that all persons in West Papua, regardless of their political views, gender or racial affiliation, have access to government support programs
- Government agencies introduce micro-credit programs for indigenous female entrepreneurs. The programs should be accompanied by economic consultants assisting indigenous women with budget utilisation and capacity building in the field of small-scale economics.
- Encourage indigenous communities to include women in decision-making processes through joint awareness raising programs in cooperation with the Papuan Customary Council. (Dewan Adat Papua)



## Recommendations by international human rights mechanisms:

### *The UN Committee on the Rights of the Child*

- "Urges the State party [Indonesian Government] to sustain the measures in place to prevent mother-to-child transmission of HIV/AIDS, provide for counselling and improve follow-up treatment for HIV/AIDS- infected mothers and their infants so as to ensure early diagnosis and initiation of treatment."<sup>18</sup>

### *The UN Committee on the Elimination of Discrimination against Women*

- "Calls upon the State party [Indonesian Government] to:  
(a) Ensure that adequate funding is allocated to health, and establish a system for monitoring the effective and transparent delivery of health-care services;

<sup>18</sup> UN Committee on the Rights of the Child (10.07.2014): Concluding observations on the combined third and fourth periodic reports of Indonesia, CRC/C/IDN/CO/3-4, p. 12, available at: <http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d9%2fPPRICAqhKb7yhsojFE9Wic32tm02CjRcUBTBmKPabAgZ7li0nMYRDpozvwgO6Kk9ldi5sHE7D%2fJLQlgxERzDXfrxFiMsl3xlAtLDGNp2JPP1cG8C97NBLEsa>

(b) Strengthen its efforts to reduce the incidence and eliminate the causes of maternal mortality;

(c) Widely undertake education on sexual and reproductive health and rights, including to unmarried women and women domestic workers, by undertaking large-scale awareness-raising campaigns for the population in general, with special attention to early pregnancy and the importance of using contraceptives for family planning and for the prevention of sexually transmitted diseases, including HIV/AIDS; and ensure that, in practice, women can access contraception without requesting the consent of their husband; [...]

(f) Take holistic measures to combat the HIV/AIDS pandemic and ensure that women and girls infected with HIV/AIDS are not discriminated against and are given appropriate assistance.”<sup>19</sup>

- “Urges the State party [Indonesian Government] to:
  - (a) Pay special attention to the needs of rural women to ensure that they have access to health, education, clean water, sanitation services and income-generating projects; and eliminate discrimination in women’s ownership and inheritance of land”<sup>20</sup>
- “Urges the State party [Indonesian Government] to take legislative and practical steps to ensure that births can easily be registered and birth certificates obtained free of charge. It also recommends that the State party implement public awareness-raising campaigns and take concrete measures to ensure that poor and rural women are aware of the requirements relating to birth registrations and certificates and are able to fully access the birth certificate and registration services provided by the Government.”<sup>21</sup>

19 UN Committee on the Elimination of Discrimination against Women (07.08.2012): Concluding Observations of the Committee on the Elimination of Discrimination against Women, Indonesia, CEDAW/C/IDN/CO/6-7, p. 7, available at: <http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2fPPRiCAqhKb7yhsgA84bcFRy75ulvS2cmS%2f%2bgtV1TKy1sgqgnPGLZ5h45zpQrtbdYq505eaoPQg50QAbXdcx%2fdVyoJkKh2pk1ih8gbteu3s6qZj8zuykDO9iMcq>

20 Ibid. p. 8

21 Committee on the Elimination of Discrimination against Women (15.08.2007): Concluding comments of the Committee on the Elimination of Discrimination against Women: Indonesia, CEDAW/C/IDN/CO/05, p. 8f, available at <http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2fPPRiCAqhKb7yhsgA84bcFRy75ulvS2cmS%2f%2bimhfv%2f%2bEPTekrL4zN9pQaotLRO%2fv9udiTzL%2bDKhRFk9exxEhtPjifvayal59%2baKn8IYJGMEIKmSkuX20HizsG>

## 5.3 Participation in Politics and Governance

The participation of women in politics and governance in West Papua is still low. In 2017, 6.7 percent of law makers in the provincial parliament of Papua Barat were women, while the percentage was more than twice as high for the province of Papua, with 14.5 percent. However, this is still less than half of the quota of 30 % for participation of women in politics, as set by the Indonesian government. The representation of women in government administration in the provinces of Papua and Papua Barat strongly varies among civil service ranks. In the lowest civil service rank (Rank I or Golongan I), women made up 12.7 percent of the civil servants in West Papua, while in higher ranks women participation ranged from 37.2 to 44.2 percent. It's still extremely rare that women are promoted into leading government positions. There is only a single ministerial agency, namely the Agency for Social Affairs in the Province of Papua, which is led by an indigenous Papuan woman.

The marginalisation of women in West Papua has manifested itself in the low participation of women in politics and government administration in the provinces of Papua and Papua Barat. The government of Indonesia has adopted national laws supporting the representation of women in politics. For instance, article 53 of Law No 10/2008 on General Elections of Members of the House of Representatives and Regional Representatives requires political parties to ensure that women must make up 30% of the party's legislative candidates. However, parties often fail in meeting this requirement. In 2017, only three out of eleven elected parties had a female member in the provincial parliament of Papua Barat.<sup>1</sup>

In the neighbouring Province of Papua, five out of eleven parties had elected female members to parliament. The Indonesian Democratic Party of Struggle (PDI-P) had the highest number of female members in the Papuan provincial parliament –four out of seven seats were occupied by women<sup>2</sup>.

Statistical data for the period 2015 to 2017 indicates that the percentage of female parliamentary members has been slowly but steadily rising in West Papua by approximately one percent every year, from 9 percent in 2015 to 11 percent in 2017. While the percentage for this time frame varied between 5.4 and 6.7 percent for the province of Papua Barat, the female participation in Papua Province was approximately twice as high, varying between 12.7 and 14.5 percent (see Table 5.3-1 below).

1 Center for Statistics of Papua Barat Province (August 2018): Provinsi Papua Barat dalam Angka, Papua Barat Province in figures, 2018, p. 24

2 Center for Statistics of Papua Province (August 2018): Provinsi Papua dalam Angka, Papua Province in figures, 2018, p. 65

**Table 5.3-1: Participation of women in politics between 2015 and 2017 (Sources: Provinsi Papua dalam Angka & Provinsi Papua Barat dalam Angka.)**

<b>Members of Parliament (MPs) - Province of Papua Barat.</b>			
	<b>2015</b>	<b>2016</b>	<b>2017</b>
Male MPs	53	41	42
Female MPs	3	3	3
Total number of MPs	56	44	45
<b>Percentage of female MPs</b>	<b>5,4%</b>	<b>6,8%</b>	<b>6,7%</b>
<b>Members of Parliament (MPs) - Province of Papua.</b>			
Male MPs	48	48	47
Female MPs	7	7	8
Total number of MPs	55	55	55
<b>Percentage of female MPs</b>	<b>12,7%</b>	<b>12,7%</b>	<b>14,5%</b>
<b>Members of Parliament (MPs) - West Papua.</b>			
Male MPs	101	89	89
Female MPs	10	10	11
Total number of MPs	111	99	100
<b>Percentage of female MPs</b>	<b>9,0%</b>	<b>10,1%</b>	<b>11,0%</b>

The participation of women in government administration at a provincial level appears to be much higher than in politics. The percentage of female civil servants in 2016 varied among civil service ranks, with little difference between the provinces of Papua and Papua Barat. In the lowest civil service rank (Rank I or Golongan I) women made up only 14.6 percent of the civil servants at a provincial level in Papua Barat Province, and 11.8 percent in the province of Papua, respectively. The representation of females in Ranks II and

III (Golongan II and III) is much higher, ranging from 40.1 to 48.9 percent in both provinces. The representation of female civil servants is slightly lower for the highest Rank IV, with 36 percent in the Province of Papua and 39.5 % in Papua Barat Province (see Table 5.3-2 below). However, the numbers provide no insight regarding the representation of indigenous Papuan women in the government administration on a provincial level.

**Table 5.3-2: Percentage of female civil servants segregated by ranks (Golongan I - IV) in West Papua throughout 2016 (Sources: Provinsi Papua dalam Angka & Provinsi Papua Barat dalam Angka)**

<b>Civil servants (CS) in Papua Barat Province in 2016</b>				
	<b>Rank I</b>	<b>Rank II</b>	<b>Rank III</b>	<b>Rank IV</b>
Male CS	1529	6770	9722	2714
Female CS	262	5063	9290	1775
Total number of CS	1791	11833	19012	4489
<b>Percentage of female</b>	<b>14,6%</b>	<b>42,8%</b>	<b>48,9%</b>	<b>39,5%</b>
<b>Civil servants in Papua Province in 2016</b>				
Male CS	3105	20142	23192	5340
Female CS	414	13465	16800	2999
Total number of CS	3519	33607	39992	8339
<b>Percentage of female</b>	<b>11,8%</b>	<b>40,1%</b>	<b>42,0%</b>	<b>36,0%</b>
<b>Civil servants in West Papua in 2016</b>				
Male CS	4634	26912	32914	8054
Female CS	676	18528	26090	4774
Total number of CS	5310	45440	59004	12828
<b>Percentage of female</b>	<b>12,7%</b>	<b>40,8%</b>	<b>44,2%</b>	<b>37,2%</b>

The afore-mentioned figures suggest that women are also promoted to high civil service ranks, although their representation has not yet reached 50% as a bench mark for gender equality. However, it is still very rare that women are promoted into leading government positions in the provinces of Papua and Papua Barat. Only a few government agencies acting as sub-institutions of ministries (in Bahasa Indonesia

DINAS) at a provincial level are led by women. Table 5.3-3 lists all the ministerial agencies in the provinces of Papua and Papua Barat. Only four out of 48 DINAS are led by women. There is only one ministerial agency, namely the Agency for Social Affairs in the Province of Papua, which is led by an indigenous Papuan woman (see Table 5.3-3 below).

**Table 5.3-3: Women, leading a government agency (DINAS) on provincial level throughout 2018 (Sources: news articles and websites of government agencies)**

<b>No</b>	<b>Name of provincial agency in English</b>	<b>Leadership (Papua Province)</b>	<b>Leadership (Papua Barat Province)</b>
1	Tourism	male (non-Papuan)	male (Papuan)
2	Forestry and conservation	male (Papuan)	male (Papuan)
3	Labour, Transmigration	male (Papuan)	female (non-Papuan)
4	Health	male (Papuan)	male (non-Papuan)
5	Housing, Settlement and Land Areas	male (Papuan)	male (Papuan)
6	Public works and spacial planning	male (Papuan)	male (Papuan)



7	Education	male (Papuan)	female (non-Papuan)
8	Transportation	male (Papuan)	male (Papuan)
9	Marine affairs and fishing	male (Papuan)	male (Papuan)
10	Plantation	male (non-Papuan)	male (Papuan)
11	Energy and mineral resources	male (non-Papuan)	male (non-Papuan)
12	Food crops and horticulture	male (non-Papuan)	male (Papuan)
13	Industries and trade	male (Papuan)	male (Papuan)
14	Cooperatives and small and middle size businesses	male (Papuan)	male (non-Papuan)
15	Communication and informatics	female (non-Papuan)	male (non-Papuan)
16	Animal husbandry and animal health	male (non-Papuan)	male (Papuan)
17	Sports and youth	male (Papuan)	male (non-Papuan)
18	Food security	male (non-Papuan)	male (Papuan)
19	Environmental management	male (Papuan)	male (Papuan)
20	Empowerment of village communities	male (Papuan)	male (Papuan)
21	Capital Investment	male (Papuan)	male (non-Papuan)
22	Regional Library and Archives	male (Papuan)	male (Papuan)
23	Social affairs	female (Papuan)	male (Papuan)
24	Culture	male (Papuan)	male (Papuan)

## Recommendations



### The ICP recommends to the Government of Indonesia to:

- Apply sanctions for political parties whose female legislative candidates make up less than 30%, as it is required under article 53 of law no 10/2008 on general elections of members of the house of representatives and regional representatives.
- Adopt, implement and monitor local policies and legislation that oblige private companies and government agencies in West Papua to employ a minimum percentage of female workers in low, middle and leading levels of employment, through transparent, gender-sensitive and non-discriminative recruitment processes.



### Recommendations by international human rights mechanisms:

- *The UN Committee on the Elimination of Discrimination against Women* “encourages the State party [Indonesian Government] to develop measures aimed at the diversification of women’s academic and professional choices, including in non-

traditional fields, and to closely monitor the career development of women to the highest levels of the educational system in order to ensure equal access of women and men and prevent and eliminate hidden or indirect discrimination faced by women.”<sup>3</sup>

- “Urges the State party [Indonesian Government] to pay special attention to the needs of rural women, ensuring that they participate in decision-making processes and have full access to legal aid, education, health services and credit facilities.”<sup>4</sup>

3 Committee on the Elimination of Discrimination against Women (15.08.2007): Concluding comments of the Committee on the Elimination of Discrimination against Women: Indonesia, CEDAW/C/IDN/CO/05, p. 7, available at <http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2fPPRiCAqhKb7yhsgA84bcFRy75ulvS2cmS%2f%2bimhf%2f%2bEPTeKl4zN9pQaotLRO%2fv9udiTzL%2bDKhRFk9exXEHtPjifvayal59%2baKn8IYJGMEIKmSkuX2OHizsG>

4 Ibid. p. 9



# INDIGENOUS PEOPLES' RIGHTS

Papuan highland man wearing t-shirt of the PDI Perjuangan political party.

## SECTION 6

# Indigenous Peoples' Rights

All ethnic Papuans are considered as indigenous peoples –every Papuan somehow belongs to tribal units which share: a common kinship system, a cosmological world view, a tribal history and close bonds with their ancestral customary land. While the international community widely accepts ethnic Papuans as indigenous peoples, the Indonesian Government represents the view that all Indonesian citizens – to some extent - are indigenous peoples (In Bahasa Indonesia *orang adat*). Accordingly, ethnic Papuans have the same rights and freedoms as any other ethnic group in Indonesia, partly denying them any special status as indigenous peoples including a related set of rights and freedoms as promoted under international law. The Indonesian Government has repeatedly used this argument when stating reservations and to withdraw from obligations as stipulated in international human rights treaties on indigenous peoples. Today, the demographic shift through government-driven and spontaneous migration as well as land grabbing and deforestation in relation to large scale resource exploitation projects are widely considered as the most common threats against indigenous peoples in West Papua.

The government of Indonesia had its first experience with transmigration programs under Dutch rule. After gaining independence, the Indonesian Government continued the program, acknowledging the program's use to form Indonesia as a nation, overcome regional disparities and push economic development. It must be assumed that the government also followed strategic and security-related motivations for the implementation of the program in West Papua. This demographic transfer has been a long-term strategy of the Indonesian government to 'resolve' the threat of separatism in West Papua by inexorably undermining the Papuan population and leaving them unable to use democratic means to express their aspirations for political self-determination. Therefore, transmigration and support for migration in general must also be regarded as profoundly political policies. Today, the demographic shift in West Papua is being caused by three forms of migration, firstly through transmigration; secondly through spontaneous migration; and thirdly by direct employment through companies. The demographic

shift in West Papua has also resulted in the marginalisation of indigenous Papuans and growing social tensions between Papuans and Non-Papuans. A major result of the influx is the growing competition for land and resources.

Large-scale investment projects continue to have multiple adverse impacts on the environment and the land-rights situation of indigenous Papuans. Particularly, palm oil plantations and mining activities have a strong impact on the food security of indigenous communities. Deforestation poses another major threat to indigenous communities in West Papua, as illegal timber logging and trade continue to exist on a large scale. Past government attempts to control the logging industry in West Papua have failed because companies use loopholes to process illegally

logged timber. A common illegal practice is the production of timber outside concession areas. Instead, timber is harvested from community forests, while customary communities receive disproportionately low prices for the logged wood. If cases of illegal logging were brought to the attention of the authorities, they did not result in criminal prosecutions. The provincial government of Papua has designed a Customary Forest Concession Licencing (IUPHHK-MHA) procedure to improve indigenous peoples' prosperity through the utilisation of their own resources. However, the implementation of the procedure is poor due to conflicting legal interpretations by the central government and the Papuan Provincial Government.

## 6.1 Transmigration and Demography

**For more than one hundred years, the government of Indonesia has been documenting experiences about transmigration programs. The first transmigration programs were introduced by the Dutch. After gaining independence, the Indonesian Government continued the program. The purpose and scheme changed over time with alterations in the political and economic contexts. The programs were initially designed to redistribute populations from overcrowded islands to less populated areas, provide economic opportunities for poor farmers and to promote national consciousness through 'interculturalisation' of different ethnic groups in Indonesia. Later the program was supposed to boost development in underdeveloped regions and accelerate the exploitation of natural resources. It must be assumed that the government also had strategic and security-related motivations for the implementation of the program in West Papua. For instance, border areas with Papua New Guinea (PNG) were favored, becoming a buffer between PNG and Indonesia. Transmigration settlements restricted the movement of armed resistance fighters across the border, while transmigration-related infrastructure helped in 'securing' the province. Today, the demographic shift in West Papua is being caused by three forms of migration, firstly through transmigration; secondly through spontaneous migration; and thirdly by direct employment through companies. This demographic transition has been a long-term strategy of the Indonesian government to 'resolve' the threat of separatism in West Papua. Therefore, the policies of transmigration and policies relating to spontaneous migration generally are profoundly political.**

## The beginnings of the transmigration program during the colonial era (before 1945)

The origin of Indonesia's Transmigrasi-Program can be traced back to a population redistribution program named "Kolonisatie". The program was introduced during the Dutch colonial rule. In 1905, 155 families were brought from the Bagelen reGENCY (today known as Purworejo) in Central Java to Gedongtataan in the Lampung Province of South Sumatra, where they were supposed to establish a pioneering settlement. The first resettlement trials had already taken place before the Kolonisatie-Program. In 1902, the Dutch colonial government shipped several Javanese farmer families to Nederlands Nieuw Guinea (today West Papua). The families had to grow rice, vegetables and fruits in the Merauke area.<sup>1</sup>

## Transmigration after Indonesian independence (1945-1967)

The official "Transmigrasi" program began on 12 December 1950. The new Indonesian government under President Sukarno recognised the benefits of the "Kolonisatie" program for building the Indonesian Republic and decided to continue the program under the new name "Transmigrasi". At that time, the "Transmigrasi-

Program" was designed to increase prosperity in the isolated provinces of Indonesia by bringing in farmers from the overpopulated islands of Java and Bali. It was expected that the program would accelerate development and decrease economic and cultural disparities that existed throughout Indonesia.<sup>2</sup> The program was limited to a few East Indonesian provinces under President Sukarno. However, the government introduced other small-scale relocation programs in the 1960s which targeted destinations in the present-day provinces of Papua and Papua Barat. One example was the "pioneering program for the development of West Irian"<sup>3</sup> (Program Pelopor Pembangunan Irian Barat or PPIB) which led to the resettlement of Javanese families in Manokwari, Merauke and Jayapura in 1964.<sup>4</sup>

## The transmigration program during the "New Order" under President Suharto (1967-1998)

In 1969, responsibility for the implementation of the "Transmigrasi-Program" was transferred to the Ministry for Transmigration and Cooperatives. The ministry later changed its name to the Ministry for Labour, Transmigration and Cooperatives in 1974. The first legal foundations of the program were created in the 1970s.<sup>5</sup> Before 1987, the Transmigrasi-Program only set South

1 Dominggus Mampioer (2008): Dari Kolonisasi sampai Transmigrasi di Tanah Papua, available at: <http://www.kabarindonesia.com/berita.php?pil=20&dn=20080721134337>

2 Kementerian Desa, Pembangunan, Daerah Tertinggal dan Transmigrasi (2005): Transmigrasi, Masa doeloe, Kini dan Harapan Kedepan, available at: <http://ditjenpkp2trans.kemendesa.go.id/resources/files/a2e27404a080382134857e7ef4874c6f.pdf>

3 The term 'West Irian' originated under the first Indonesian President Sukarno and refers to the western part of the island of New Guinea, which was under Dutch colonial rule until 1963. The Netherlands gave the colony the name 'Nederlands Nieuw Guinea' ('Dutch New Guinea'). Under President Suharto 'West Irian' was finally renamed 'Irian Jaya'. It was only after the fall of the Suharto regime that the province 'Irian Jaya' became the province of 'Papua'. In violation of the Special Autonomy Law, the Indonesian government under President Megawati Sukarnoputri split 'Papua' into the provinces of 'Papua' and 'Papua Barat'. Today, the term 'West Papua' is often used in international context to refer to the western part of the island of New Guinea under Indonesian rule, consisting of the aforementioned provinces.

4 Dominggus Mampioer (2008): Dari Kolonisasi sampai Transmigrasi di Tanah Papua, available at: <http://www.kabarindonesia.com/berita.php?pil=20&dn=20080721134337>

5 The most important laws, which regulate government-sponsored transmigration in Indonesia until today are Law No. 3/1972 on basic conditions of transmigration (available at: <https://www.bphn.go.id/data/documents/72uu003.pdf>), Law No. 15/1997 on resettlement (available at: [https://www.ndaru.net/wp-content/uploads/201106/UU\\_15\\_1997.pdf](https://www.ndaru.net/wp-content/uploads/201106/UU_15_1997.pdf)), Government regulation No. 2/1999 on practical implementation of resettlements (available at: [http://hukum.unsrat.ac.id/pp/pp\\_2\\_1999.htm](http://hukum.unsrat.ac.id/pp/pp_2_1999.htm)) as well as Government regulation No. 3/2014 on the implementation of Law No. 15/1997 on resettlement (available at: <https://peraturan.bpk.go.id/Home/Download/55782/PP%20Nomor%2003%20Tahun%202014.pdf>)

Sumatra, Kalimantan and West-Nusa Tenggara as destination regions for the resettlement of migrants. The presidential decree No. 7/1987, expanded the program to North Sumatra and East-Indonesian provinces, in particular the provinces of Aceh, North Sumatra, North Sulawesi and Irian Jaya (now, the provinces of Papua and Papua Barat).<sup>6</sup>

In the mid-1980s, the scope of the large-scale Transmigrasi-Program under President Suharto had to be drastically reduced, after international donors such as the World Bank withdrew funds for the program. Between 1976 and the mid-1980s, the World Bank supported seven projects under the state program on the islands of Sumatra and Kalimantan with a total of US \$ 560 million.<sup>7</sup> After the World bank cut the funds for the program, sponsored transmigration decreased and spontaneous migration quickly became the dominant form of transmigration causing demographic shifts in West Papua. Anecdotal testimonials of subsidised tickets for ships travelling to West Papua support the claim that the Indonesian government promoted demographic change as a long-term strategy of resolving the independence movement threat by making the indigenous Papuans a minority.

## Transmigration since the Reformation period (1998-2018)

As the Indonesian government lacked funding for the implementation of a large-scale transmigration scheme, the program was restructured and downsized. During the reformation period, the concept changed from a top-down

approach under Jakarta's lead, to a program of interregional cooperation between sending and receiving provinces. This was named "Kerja Sama Antar Daerah" (KSAD).<sup>8</sup>

The restructuring of the program also had a significant impact on its objective, which was: that transmigration should, in the first place, speed up the economic exploitation of available resources in remote parts of the archipelago. The shift from a relocation to a development-oriented program is inter alia reflected in the change of Indonesian ministries in charge of the program. In 2014, the government transferred responsibility for the transmigration program to the Ministry of Villages, Underdeveloped Regions and Transmigration.<sup>9</sup> In addition to the economic component of the program, the promotion of national unity continues to remain a key objective of the transmigration policy.<sup>10</sup> It must be assumed that the government also followed strategic and security-related motivations for the implementation of the program in West Papua. Border areas with PNG –such as Keerom and Arso in the north and Merauke in the south– were favored, becoming a buffer between PNG and Indonesia. Transmigration settlements restricted movement of armed resistance fighters over the border, while transmigration-related infrastructure helped in 'securing' the province within Indonesia. Transmigration centres like Tanah Miring and Arso in Papua Province have become major plantation and agribusiness sites for rice and palm oil production.<sup>11</sup> The first "Transmigration Cities", known as "Kota Terpadu Mandiri" (KTM), were established from 2008 onwards as part of the program. Today, the largest transmigration cities in Papua province

6 Kementerian Desa, Pembangunan, Daerah Tertinggal dan Transmigrasi (2005): *Transmigrasi, Masa doeloe, Kini dan Harapan Kedepan*, available at: <http://ditjenpkp2trans.kemendes.go.id/resources/files/a2e27404a080382134857e7ef4874c6f.pdf>

7 Independent Evaluation Group (IEG) of the World Bank Group: *Transmigration in Indonesia*, available at: <http://lnweb90.worldbank.org/oed/oeddoclib.nsf/DocUNIDViewForJavaSearch/4B8B0E01445D8351852567F5005D87B8>

8 Kementerian Desa, Pembangunan, Daerah Tertinggal dan Transmigrasi (2005): *Transmigrasi, Masa doeloe, Kini dan Harapan Kedepan*, available at: <http://ditjenpkp2trans.kemendes.go.id/resources/files/a2e27404a080382134857e7ef4874c6f.pdf>

9 Website available at: <http://kemendes.go.id/>

10 Kementerian Desa, Pembangunan, Daerah Tertinggal dan Transmigrasi (2005): *Transmigrasi, Masa doeloe, Kini dan Harapan Kedepan*, available at: <http://ditjenpkp2trans.kemendes.go.id/resources/files/a2e27404a080382134857e7ef4874c6f.pdf>.

11 Ibid.

are located in Senggi (Keerom Regency), Salor and Muting (Merauke Regency).<sup>12</sup>

Table 6.1-1 shows a total area of 2,100,740 Hectares, which was provided by the Provincial Government of Papua for the implementation of the Transmigrasi-Program in ten regencies up to 31 August 1999. The governor issued decrees, which provided a legal framework for the transmigration settlements.

**Table 6.1-1: Area approved by the Provincial Government of Papua for the implementation of the Transmigrasi-Program in ten regencies (Source: Kantor Wilayah Transmigrasi Provinsi Papua 2000).**

Nr	Regencies	Areas provided for Transmigrasi-Program
1	Jayapura	201.150 hectares
2	Manokwari	598.500 hectares
3	Sorong	214.530 hectares
4	Nabire	135.610 hectares
5	Jayawijaya	1.500 hectares
6	Merauke	155.000 hectares
7	Mimika	146.075 hectares
8	Fakfak	388.025 hectares
9	Biak Numfor	100 hectares
10	Yapen Waropen	260.250 hectares
<b>TOTAL</b>		<b>2.100.740 hectares</b>

One can find several types of transmigration schemes in West Papua, differing in the allocation of land and state allowances. The majority of the transmigration schemes (about 90%) in West Papua were implemented for the development and management of agriculture. In this transmigration type, each household received two hectares of land, consisting of 0.25 hectares to build a farm, 0.75 hectares for agricultural use and one hectare for forest production. The agricultural land was used for the cultivation of vegetables, but mainly for

rice cultivation. Another transmigration scheme was related to the establishment of large-scale palm oil plantations. These may be found in Arso (Keerom Regency) and Perafi (Manokwari Regency). Each household received three hectares of land, consisting of 0.25 hectares for the construction of a house, 0.75 hectares for the cultivation of crops and two hectares for the cultivation of oil palms.<sup>13</sup> This transmigration scheme is particularly questionable. Until today, some palm oil plantations continue to preferably recruit workers from outside of Papua instead of indigenous Papuans from local communities. This practice has fuelled social jealousy because Papuans have not been employed on the plantations that are situated on their traditional lands.

In addition to the afore mentioned types, other variants of transmigration schemes were limited to a few regions in West Papua, e.g. to increase the exploitation of local fish resources. For this purpose, fishermen were resettled in Wimro Village of Bintuni Regency. The local government provided 10,000 hectares of land for transmigration settlements of this type on the island of Waigeo, in Raja Ampat Regency. Another local limited transmigration model was created for the commercial use of forest production areas. Transmigration settlements of this type were built in Aranday I, and Aranday II of Manokwari regency. In West Papua, this scheme was limited to the non-sustainable exploitation of wild sago stocks. The sago palms were logged for commercial food production without being replanted.<sup>14</sup>

In 2016, the provincial governments of Papua and Papua Barat Provinces introduced a new transmigration scheme which is limited to the resettlement of residents within provincial boundaries. According to the Papua Barat Provincial Agency for Population, Labour and

12 Antara News (29.11.2011): 12 kota transmigrasi akan dibangun di perbatasan, available at: <https://www.antaraneews.com/berita/286869/12-kota-transmigrasi-akan-dibangun-di-perbatasan>

13 Dominggus Mampiooper (2008): Dari Kolonisasi sampai Transmigrasi di Tanah Papua, available at: <http://www.kabarindonesia.com/berita.php?pil=20&dn=20080721134337>

14 Ibid.



Transmigration, 350 socially disadvantaged families were given the chance to move to the regencies of Manokwari, Fakfak, Maybrat and South Manokwari under the new program. The program was supported financially by the provincial government and the regencies participating in the program. The local government provided a piece of land and a house to the participants. According to government information, all households were equipped with tools for field cultivation and solar cells for power generation.<sup>15</sup> In the same year, the Provincial Government of Papua built 200 houses in transmigration settlements in the regencies of Keerom (Senggi) and Merauke (Muting) as part of a similar program.<sup>16</sup>

In recent years, senior government officials in Indonesia have made contradictory statements regarding the continuation and termination of the “Transmigrasi-Program”. According to Mr. Natalius Pigay, former commissioner of the National Human Rights Commission (Komnas HAM) until 2017 and advisory staff under former Transmigration Minister Mr. Al Hilal Hamdi, the government-sponsored transmigration to Papua province was stopped already in 2000.<sup>17</sup>

This statement contradicts statements made by various high-ranking government officials. In February 2010, the Governor of West Java Province, Mr. Ahmad Heryawan, reached an agreement with the provincial government of Papua Barat province, according to which 700 families from West Java would be resettled in the province of Papua Barat every year. According to the Provincial Government of Papua Barat, 5.8 million hectares of land have been allocated for the implementation of the joint program.<sup>18</sup> In 2013, the Minister of Labour and Transmigration,

Mr. Muhaimin Iskandar, publicly announced that his ministry had promoted migration to West Papua through the development of 271 transmigration settlements in the provinces of Papua and Papua Barat. In this regard, the minister named the transmigration cities of Salor and Muting in the district of Merauke.<sup>19</sup>

At least the city of Salor coincides with a map published by the Ministry of Villages, Underdeveloped Regions and Transmigration in 2014. The map continues to list the Province of Papua as a transmigration destination (see Image 6.1-1, site Salor [23]). The Merauke regency is home to the MIFEE (Merauke Integrated Food and Energy Estate) project which was established under President Susilo Bambang Yudhoyono and continued under President Jokowi who changed the name to MIRE (Merauke Integrated Rice Estate).



Image 6.1-1: Map published by the Ministry of Villages, Underdeveloped Regions and Transmigration in 2014 (Source: Biro Humas dan Kerjasama Kementerian Desa, Pembangunan Daerah Tertinggal, dan Transmigrasi dan Tim Komunikasi Pemerintah Kemkominfo)

15 Cahaya Papua (19.02.2016): 4 Kabupaten, Target Transmigrasi Lokal Tahun ini, available at: <http://www.cahayapapua.com/11355-2/>

16 Kabar Papua (01.09.2016): Pemerintah Papua Bangun Ratusan Rumah untuk Transmigrasi Lokal, available at: <http://gubernurlukasenembe.com/2016/09/05/pemerintah-papua-bangun-ratusan-rumah-untuk-transmigrasi-lokal/>

17 Kompas (07.06.2015): Upaya Hentikan Transmigrasi ke Papua Sudah Dilakukan 15 Tahun Lalu, available at: <http://nasional.kompas.com/read/2015/06/07/15520261/Upaya.Hentikan.Transmigrasi.ke.Papua.Sudah.Dilakukan.15.Tahun.Lalu>

18 VIVA News (10.02.2010): 5 Juta Ha Lahan Transmigrasi di Papua Barat, available at: <https://www.viva.co.id/arsip/128406-5-juta-ha-lahan-transmigrasi-di-papua-barat>

19 VIVA News (01.12.2013): Kemenakertrans Kembangkan 271 Pemukiman Transmigrasi di Papua, available at: <http://www.viva.co.id/prancis2016/read/462588-kemenakertrans-kembangkan-271-pemukiman-transmigrasi-di-papua>

In 2015, 25 provinces signed an agreement to continue the Transmigrasi-Program under Minister Marwan Djafar, who was then in charge. In an interview on 22 September 2015, Diafar announced the following ten 'sending provinces': Lampung, Banten, DKI Jakarta, West Java, Central Java, East Java, Yogyakarta, Bali, Nusa Tenggara Barat and Nusa Tenggara Timur. He stated that 15 provinces had agreed to receive trans-migrants, namely the provinces of Aceh, Riau, Kepulauan Riau, Bengkulu, South Sumatra, Gorontalo, Central Sulawesi, Southeast Sulawesi, South Sulawesi, Bangka Belitung, West Kalimantan, Northern Kalimantan, Central Kalimantan, the Moluccas, and Northern Moluccas.<sup>20</sup> Although neither the province of Papua nor Papua Barat are mentioned among the 15 destination provinces, Marwan Djafar announced his intention to expand the transmigration program to West Papua.<sup>21</sup> Marwan's statement contradicts that of President 'Jokowi'. On 4 June 2015, President Joko Widodo announced at a press conference the provisional termination of the transmigration program to the province of Papua, arguing that the program had led to social conflicts between indigenous Papuans and migrants in the past.<sup>22</sup>

The governor of Papua province, Mr. Lukas Enembe, criticised the suggested continuation of the Transmigrasi-Program in the province of Papua. He explained in an interview on 16 August 2016 that the provincial government of Papua province will not participate in the program. He further expressed concerns about the increase in spontaneous migration and announced he wanted to toughen the legal requirements for the entry of migrants to Papua

in cooperation with the district governments.<sup>23</sup> The legal foundation for the regulation of immigration to Papua is regulated by the special regulation of the province (PERDASI) No. 11/2013 on population control. The special regulation prohibits further implementation of the "Transmigrasi-Program" as long as the total population of the province of Papua remains below a population of 20 million.<sup>24</sup> In 2014, the province counted around 3.5 million inhabitants. The regulation sets the possession of a personal ID card with residence in Papua (Domisili Papua) as a major requirement for migrants who want to settle down permanently in the province of Papua. However, despite this legal foundation, spontaneous migration to the Papua province is increasing. One reason for the increase is the lack of consistent implementation and control mechanisms by regional governments and their responsible agencies.<sup>25</sup>

## Impacts of Transmigration in West Papua

The transmigration program has had serious repercussions in the provinces of Papua and Papua Barat, leading to social conflicts, demographic changes and land tenure conflicts between indigenous communities and public authorities.

### Demographic consequences

After the Indonesian takeover in 1962-63, serious demographic changes began to take place in West Papua. According to an official report of the Dutch colonial government from 1960, the population in Dutch New Guinea was 736,700

20 CNN Indonesia (23.09.2015): Kementerian Desa Kerja Sama Transmigrasi dengan 25 Provinsi, available at: <http://www.cnnindonesia.com/nasional/20150922153651-20-80330/kementerian-desa-kerja-sama-transmigrasi-dengan-25-provinsi/>

21 CNN Indonesia (13.05.2015): Menteri Marwan Akui Transmigrasi Picu Adanya Konflik, available at: <http://www.cnnindonesia.com/nasional/20150512164252-20-52850/menteri-marwan-akui-transmigrasi-picu-adanya-konflik/>

22 Kompas (09.05.2015): Jokowi Hentikan Transmigrasi ke Papua, available at: <http://nasional.kompas.com/read/2015/06/04/18471741/Jokowi.Hentikan.Transmigrasi.ke.Papua>

23 Kabar Papua (16.08.2016): Lukas Enembe: Saat ini Terjadi Migrasi Luar Biasa ke Papua, Ini Transmigrasi Gelapkah?, available at: <http://kabarpapua.co/lukas-enembe-saat-ini-terjadi-migrasi-luar-biasa-ke-papua-ini-transmigrasi-gelapkah/>

24 Tabloid Jubi (30.10.2014): Transmigrasi Lagi, Tabrak Perdasi No. 11 Tahun 2013, available at: <http://tabloidjubi.com/16/2014/10/30/transmigrasi-lagi-tabrak-perdasi-11-tahun-2013/>

25 Tabloid Jubi (20.06.2016): OAP Kian Tersingkir, Papua Butuh Pengendalian Penduduk, available at: <http://tabloidjubi.com/16/2016/06/20/oap-kian-tersingkir-papua-butuh-pengendalian-penduduk/>

inhabitants.<sup>26</sup> A census in 1971 showed already a total population of 923,000 inhabitants, consisting of 96% Papuans and only 4%, or 36,000 inhabitants of non-Papuan descent. At the following census in 2000, the total population increased to 2,213,830, consisting of 68% Papuans and 32% non-Papuans. According to the Indonesian centre for statistics, the census in 2010 showed a total population of 3,612,854 inhabitants for the provinces of Papua and Papua Barat. According to the census, the total figure could be broken down as follows: 1,730,336 (47.89%) Papuans and 1,882,517 (52.10%) non-Papuans.<sup>27</sup> The results by ethnicity were only temporarily published and later removed from all statistics due to the political sensitivity of these figures. Indigenous Papuans had become the minority on their island.<sup>28</sup> Today there are twelve regencies in West Papua, where indigenous Papuans have already become a minority.<sup>29</sup>

In recent years, Indonesian government officials have repeatedly commented on demographic changes in West Papua. The Director of the Municipality Development and Transmigration Authority, Mr. SE Wibowo, stated in 2008 that about 17% of the population in the province of Papua are trans-migrants. He noted that this number does not include the following generation.<sup>30</sup> The former Minister of Villages, Underdeveloped Regions and Transmigration, Mr. Djafar Marwan, said in an interview in 2015 that about 62% of the total population in the province of Papua consisted of migrants.<sup>31</sup>

Even if the figures only allow conclusions regarding the current demographic composition in West Papua, it is undisputed that the percentage of the non-Papuan segment of the population continues to increase. Uncontrolled immigration fuels the conflict in West Papua and inevitably leads to economic competition and conflicts over access to resources such as land, forests and minerals.<sup>32</sup> Non-Papuan migrants clash with the Papuan population due to the loss of customary lands, competition for available resources and discrimination in employment, health and education services. This is set to continue and grow as more non-Papuan migrants arrive, fuelling ethnic tensions and laying the ground for violent horizontal and vertical conflicts.

### Social Conflicts

Migrants from other regions of Indonesia bring a different culture and customs. The majority of people in Indonesia eat rice as the major staple food. This has had a severe impact on the food markets, agriculture and consumption behavior of indigenous Papuans. Even in many remote villages, imported rice has replaced traditional staple foods like sweet potatoes, taro or sago, which has created dependencies on commercial goods among many Papuans. Migrant traders and business people are dominating the local markets, while many Papuans lack the financial resources and practical business knowledge to compete with them. In remote regencies of West Papua, the prices for commercial trade goods like cooking oil are so high that people can hardly

26 Dominggus Mampioer (2008): Dari Kolonisasi sampai Transmigrasi di Tanah Papua, available at: <http://www.kabarindonesia.com/berita.php?pil=20&dn=2008072113433>

27 Jim Elmslie: The Great Divide: West Papuan Demographics Revisited; Settlers Dominate Coastal Regions but the Highlands Still Overwhelmingly Papuan, in: *The Asia-Pacific Journal: Japan Focus* (January 2017), available at: <http://apjif.org/2017/02/Elmslie.html>

28 Both the old and the new government of Indonesia emphasise the national unity of Indonesia as an important foundation of the state. The government represented the view that the results of the 2010 Census regarding the actual ethnic composition of the population could lead to social and political instability in Papua and the provinces.

29 Jim Elmslie: The Great Divide: West Papuan Demographics Revisited; Settlers Dominate Coastal Regions but the Highlands Still Overwhelmingly Papuan, in: *The Asia-Pacific Journal: Japan Focus* (January 2017), available at: <http://apjif.org/2017/02/Elmslie.html>

30 Dominggus Mampioer (2008): Dari Kolonisasi sampai Transmigrasi di Tanah Papua, available at: <http://www.kabarindonesia.com/berita.php?pil=20&dn=20080721134337>

31 Dominggus Mampioer (2008): Dari Kolonisasi sampai Transmigrasi di Tanah Papua, available at: <http://www.kabarindonesia.com/berita.php?pil=20&dn=20080721134337>

32 Jim Elmslie: The Great Divide: West Papuan Demographics Revisited; Settlers Dominate Coastal Regions but the Highlands Still Overwhelmingly Papuan, in: *The Asia-Pacific Journal: Japan Focus* (January 2017), available at: <http://apjif.org/2017/02/Elmslie.html>

afford them. This has led to growing notions of social envy among many indigenous Papuans.

Many migrants are Muslims. Many rules and values in Islam are in contradiction to customs as practiced by indigenous Papuans, who are mostly Christians. Papuans domesticate dogs and pigs and consume their meat. The traditional Papuan clothing leaves many parts of the body uncovered and uses natural material such as bark and shells. These are only a few examples among many customs and traditions which seem foreign and repulsive to many migrants which have led to the widespread misrepresentation that Papuans are uncultivated or primitive. Local governments have failed to promote interfaith tolerance as well as social and cultural integration through government programs. It is therefore not surprising that a large proportion of horizontal conflicts between indigenous Papuans and migrants occur in the immediate vicinity of transmigration settlements.

Another source of conflict is rooted in social injustices with regard to health care and education. The uneven distribution of teachers is just one of many examples that have led to allegations of discriminatory development policies in Papua. A field study by Pastor John Jongga and Dale Cypri in Keerom County showed that there are unequal educational conditions in transmigration settlements and traditional villages. In villages like Towe, where the majority of the population are indigenous Papuans, one teacher taught up to 52 elementary students. In the transmigration settlements of Arso and Skanto, on the other hand, there were on average only 11 students per teacher.<sup>33</sup> In many remote inland areas, where the majority of the population consists of indigenous Papuans, there is a shortage of middle and high schools, forcing children to move or walk long distances to school. The lack of teachers in these areas is

of even greater concern than the lack of proper facilities. Harsh living conditions for teachers and the lack of government incentive programs for teachers working in these areas have left the education system in many non-urban areas of West Papua in a devastating condition.

The strong disparities between urban and non-urban areas can also be observed in the health sector. During the past three years, local news outlets and human rights defenders have repeatedly revealed where the outbreaks of Measles, Pertussis, Pneumonia, Malaria, Acute Watery Diarrhea and other food- and waterborne infectious pathogens caused a great number of fatalities (see chapter 4.2 on the right to health). The cases indicate a pattern of preventable infectious diseases leading to preventable chronic mortality in the Papuan population. While the health situation at the national level has improved, West Papua remains vulnerable to such epidemic outbreaks due to its challenging geographic conditions, a scarcity of functioning health facilities and the deliberate isolation it endures, which is maintained by the central government.

The increasing potential of horizontal conflicts between migrants and indigenous Papuans is inter alia reflected in the formation of migrant movements, which should form a nationalist antipole to political independence organisations in West Papua. Nationalist groups such as 'Barisan Merah Putih' (Red and White Front), 'Milisi Merah Putih' (Red and White Militia) and 'Kelompok Nusantara' (Nusantara Group) organised a mass demonstration in Jayapura on 2 June 2016. The large majority of protesters were migrants. The demonstration was registered under the name 'People's Front for the Defence of the Unity of Indonesia' (Barisan Rakyat Pembela NKRI) and called for a ban on the pro-independence organisations KNPB (*West Papua National Com-*

33 ICP (2015): Human Rights in West Papua 2015, The fourth report of the International Coalition for Papua (ICP) covering events from April 2013 until December 2014, available at: <http://www.humanrightspapua.org/images/docs/HumanRightsPapua2015-ICP.pdf>

mittee) and ULMWP (*United Liberation Movement for West Papua*).<sup>34</sup>

## Land-rights conflicts

One of the most visible consequences of the “Transmigrasi-Program” in West Papua is the conflict related to land rights. To date, there are dozens of indigenous groups who received no compensation payments or insufficient compensation for land used for transmigration settlements. Cases of such land rights violations are known from all major transmigration centers in the regencies of Keerom, Sarmi, Jayapura, Manokwari, Sorong and Merauke. Under the totalitarian regime of President Suharto, land without legal proof was considered as state-owned land that could be used by the government without involving indigenous societies.

The first transmigration settlements in the Jayapura regency were established in the districts of Nimbokrang and Namblong (Besum) in 1975. In Namblong (Besum) about 500 hectares of land were used for transmigration settlements and agricultural development. Indigenous communities in both districts continue to demand compensation for the land which was

used by the government for the implementation of the “Transmigrasi-Program.”<sup>35</sup> Similar land rights conflicts were reported from Arso in the Keerom regency, where a government-owned palm oil plantation was established in 1982. The majority of the plantation workers were trans-migrants. Indigenous landowners are still in dispute with the local government over thousands of hectares of land that has been used for the palm oil plantation and the construction of transmigration settlements in Arso.<sup>36</sup>

## Conclusion

The demographic shift in West Papua was and is being caused by three forms of migration, firstly through transmigration; secondly through spontaneous migration; and thirdly by direct employment through companies bringing in workers from outside of West Papua. This demographic transition has been a long-term strategy of the Indonesian government to ‘resolve’ the separatist threat by inexorably undermining the Papuan population and leaving them unable to use democratic means to express their aspirations for political self-determination. Therefore, transmigration policies and other migration policies generally are profoundly political.

## Recommendations



### The ICP recommends that:

- **The Government should stop immediately transmigration programs and control spontaneous migration as a root cause of conflict and marginalisation of indigenous Papuans.**
- **The centres for statistic (BPS) in the provinces of Papua and Papua Barat should collect and publish accurate population data in West Papua which must be**

34 Warta Plus (02.06.2016): Ribuan Pendemo di Jayapura Turun Jalan Bawa Bendera Merah Putih, available at: <http://www.wartaplus.com/ribuan-pendemo-di-jayapura-turun-jalan-bawa-bendera-merah-putih/>

35 Antara News Papua (01.05.2015): Penyelesaian lahan transmigrasi Jayapura diproses di kementerian, available at: <https://papua.antaranews.com/berita/449997/penyelesaian-lahan-transmigrasi-jayapura-diproses-di-kementerian>

36 Pasifik Post (02.12.2015): Masyarakat Adat Merasa Dibohongi Pemerintah Keerom, available at: <https://www.pasificpos.com/headline/6585-masyarakat-adat-merasa-dibohongi-pemerintah-keerom>

disaggregated by ethnic origin (indigenous Papuans and non-indigenous Papuan residents), in order to assist stakeholders in the empowering process of indigenous Papuans through adoption of affirmatives special autonomy policies.

- The centres for statistic (BPS) in the provinces of Papua and Papua Barat to disaggregate data for different ethnic groups in its demographic, health and education services statistics, e.g. non-indigenous Papuan and indigenous Papuan inhabitants; The data would provide insight into existing inequalities and could be the basis for a specific provincial Papuan health strategy to address HIV/AIDS, sexual and reproductive health issues, substance abuse and human resource issues.
- The provincial Governments of Papua and Papua Barat develop procedures for the implementation and supervision of special regulation of the province (PERDASI) No. 11/2013 on population control together with responsible government agencies.



## Recommendations by states:

- Mexico recommends to the Government of Indonesia to “extend an invitation to the Special Rapporteur on the rights of indigenous peoples to visit Indonesia, including Papua, in line with the openness of Indonesia to collaborate with special procedure mandate holders”<sup>37</sup>



## Recommendations by international human rights mechanisms:

### *The Committee for the Elimination of Racial Discrimination*

- Encourages the state party [Indonesian Government] to take into consideration the definitions of indigenous and tribal peoples as set out in ilo convention no.169 of 1989 on indigenous and tribal peoples, and to envisage ratifying that instrument.<sup>38</sup>
- Strongly recommends that the state party [Indonesian Government] increase its efforts to prevent the resurgence of ethnic conflicts on its territory. It should assess the adverse impact of the transmigration programme, in particular on the rights of local communities, and promote mutual understanding between communities, as well as mutual knowledge and respect for their histories, traditions and languages.<sup>39</sup>

37 Human Rights Council (14.07.2017): 3rd cycle of the Universal Periodic Review of Indonesia, available at: [http://ap.ohchr.org/documents/dpage\\_e.aspx?si=A/HRC/36/7](http://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/36/7)

38 UN Committee on the Elimination of Racial Discrimination (01.10.2017): Concluding Observations, A/62/18, p. 35 available at: <http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=dtYoAzPhJ4NMMy4Lu1TOebBHVOpdciO2EGHqWkI8pHWWV%2fPnZlYc5Fq9nY0fnFvJ3x3rAigWw0vFdU%2fEcR43Q%2fpQ%2fSNHgYAedY%2fgnTA8Ak4Q%3d>

39 Ibid. p. 36

## 6.2 Deforestation, Land Grabbing and the Exploitation of Natural Resources

Illegal timber logging and trade continue to exist on a large scale in West Papua despite the attempt to introduce an 'Information System for Administrative Governance of Forestry Products' (SIPUHH) in 2009. Case studies show that companies use loopholes in the SIPUHH to process illegally logged timber through the system. Logging companies in West Papua use various methods to cover up illegal logging – Investigators and auditors are bribed not to report illegal activities. Commonly, logging companies produce timber outside their concession areas and pay customary communities to log wood in their community forest for a low price. When cases of illegal logging were brought to the attention of the authorities, these did not result in criminal prosecutions. The provincial government of Papua has designed a Customary Forest Concession Licencing (IUPHHK-MHA) procedure to improve indigenous peoples' prosperity through the utilisation of their own resources. However, conflicting legal interpretations by the central government and the Papua Provincial Government regarding the implementation of the IUPHHK-MHA have forced IUPHHK-MHA holders to await the approval of their permits. Large-scale investment projects continue to have multiple adverse impacts on the environment and the land-rights situation of indigenous Papuans. Particularly, palm oil plantations and the presence of mining activities have a strong impact on the food security of indigenous communities.

### Illegal Timber Trade and Logging Activities

The ministry of forestry introduced the concept of the 'Information System for Administrative Governance of Forestry Products'<sup>1</sup> (SIPUHH) in 2009. The Government hoped that the system would convince foreign buyers and regain access to the European timber market. Prior to the establishment, buyers from Europe would often refuse Indonesian timber because they feared the wood was logged illegally. After the final establishment of the SIPUHH in 2015, the value of timber being exported to Europe reached more than 43 million. The system was promoted as revolutionary and allowed forest concession

holders to report the cubic amount of harvested timber through an online application.

Several case studies show that companies use loopholes in the SIPUHH to process illegally logged timber through the system. Scientific researches confirm the finding. A research by the Auriga Nusantara Foundation based on satellite imagery came to the result that deforestation of Papuan forests in 2016 and 2017 was three times higher than the timber circulating on national and global markets. Auriga estimated that the fraud created a state loss of almost 200 million Euro in 2016-2017. According to the forestry ministry, more than 300.000 cubic meters illegal timber from Papua have reportedly entered the

1 The SIPUHH can be accessed online. It is available at [http://sipuhh.phpl.menlhk.go.id:7777/its/home\\_default](http://sipuhh.phpl.menlhk.go.id:7777/its/home_default)

global market through such illegal practices. If the illegal timber is not directly exported from West Papua, it is usually shipped to the Tanjung Emas Port in Semarang, Java Tengah Province, or the Tanjung Perak Port in Surabaya, Java Timur Province.<sup>2</sup>

Once the illegal timber reaches Java, the wood is temporarily stored and shipped to China, Europe, Japan and the Middle East. Shipping documents mention at least 10 companies in Papua supplying companies in Java. The receiving timber companies in Java do not document the majority of the timber in the documents. Some companies do not record a single cubic meter in the SIPUHH. This is possible because the processing companies in Java do not have the obligation to report the timber traffic. The SIPUHH procedure only commits logging companies to document the logged timber at the place of origin.<sup>3</sup>

Logging companies in West Papua use various methods to cover up illegal logging. Investigators and auditors are bribed not to report the illegal activities of the companies, so Government bodies approve certificates for felling illegal timber. A common practice is for logging companies to produce timber outside their concession areas. The companies pay customary communities to log wood in their community forest for low prices, around 50 Euro per cubic meter for Merbau wood. The value on the global market can reach up to 1,300 Euro per cubic meter. Moreover, many logging companies log more timber than they report in the SIPUHH, or valuable timber is reported as low-quality timber to reduce tax obligation.<sup>4</sup>

When cases of illegal logging were brought to the attention of authorities, they did not result in criminal prosecution. In a few cases seized illegal timber, disappeared and re-entered the market

with legal certification. In December 2017, investigators from the prevention division of the 'Commission for the Eradication of Corruption (KPK) inspected 10 timber companies in West Papua, discovering a great amount of illegal timber. Discoveries were forwarded to the environment and forestry ministry. However, there was no sanctioning against those companies producing and processing the illegal timber.<sup>5</sup>

## Case Studies:

### ► *Angkasa II Village, Sarmi Regency:*

Between March and May 2018, local villagers reported that seven trucks fully loaded with Merbau timber have been transported every night. The Illegal Merbau wood is brought to PT Mansinam Gopal Mandiri company in Abepura Pantai, Jayapura Regency. Although the company is holding a timber logging and export permit, it does not hold any concession for the customary forest at Angkasa Village, from where the timber originates. According to official data, the company's main supplier is the Hanurata Unit Jayapura company in the Keerom regency. PT Mansinam Gopal Mandiri officially reported that they had received timber raw material from the logging companies Hanurata and Batasan with an amount of 225 cubic meter over the past two years. In fact, shipping authorities documented that the company exported 131 containers of timber to the Chinese cities of Shanghai, Ningbo and Hunagpu during the same period.<sup>6</sup>

### ► *Klawon Village, East Sayosa District, Sorong Regency*

In early 2018, a lumber broker named Pasiale approached the customary community in Klawon Village and gave the tribal leader 750

2 Hidayat, Bagja & Agung Wijaya (31.12.2018): Legal Timber's Loophole, p. 13, in Tempo English, December 25-31, 2018, p. 13-25

3 Ibid. p. 21

4 Ibid. p. 13

5 Ibid. p. 21

6 Ibid. p. 20f



Euro, to receive permission to harvest Merbau wood in the community's forest areas. According to the lumber broker, additional payments to communities depend on the amount of logged wood and can reach up to 13,000 Euro. The wood was sold to the Alco Timber Group and Maridjo company in the Aimas District, Sorong Regency, which pays the entrepreneur 300 Euro per cubic meter of Merbau. In order to avoid further questioning by police, the supplier gets a company invoice for transporting the uncertified wood from the village to the company. In August 2017, the company transported 30 TEU (twenty-foot equivalent unit) containers of Merbau wood to Shanghai, China and denied that any timber supplies from customary forests. According to the company, the timber supply comes from Alco Group companies that produces the wood legally. Although one of the Alco Group companies (Alco Timber Irian) has a permit for land clearing, the permit only covers a production area in South Sorong, on the land of palm oil plantation Inti Kebun Sawit and Inti Kebun Sejahtera, which is far away from the East Sayosa District.<sup>7</sup>

### Customary Forest Concession Licencing (IUPHHK-MHA)

Law No. 21/2001 on Papua Special Autonomy allows the Provincial Governments in West Papua to have greater authority over its natural resources and revenues. The law also provides a framework for acknowledging and strengthening Papuan indigenous peoples' customary rights. The Papua Special Autonomy Law, does not explicitly mention forest as a resource under the Provincial Government's authority. However, the Papua Province Special Bylaw No. 21/2008 on Sustainable Forest Management in the Province

of Papua (Perdasus No. 21/2008) stipulates that Papuan indigenous peoples have rights to natural forests, indicating that all forests in Papua are under indigenous peoples' stewardship. Perdasus No. 21/2008 regulates that indigenous peoples' forest refers to forest located within indigenous peoples' territory. This definition differs from the customary definition of forest under Law No. 41/1999 on Forestry, also known as the Forestry Law (prior to Constitutional Court Decision No. 35/2012), which states that customary forest was actually state-owned forest located within indigenous peoples' territory.<sup>8</sup>

Perdasus No. 21/2008 also regulates that the implementation of forest utilisation in all types of forest function (conservation, protection and production) must follow its provisions. For instance, forest timbers can be used to improve indigenous peoples' prosperity, as long as customary communities use forest areas in accordance with the forestry concessions. The forest may be used for both commercial and non-commercial purposes. Accordingly, indigenous peoples may establish enterprises for commercial purposes and then apply for a forest utilisation permit to the provincial and regency governments. One of the permits regulated under Article 38 of Perdasus No. 21/2008 is the Customary Forest Concession License (IUPHHK-MHA).<sup>9</sup>

The IUPHHK-MHA was designed as an instrument to deal with the negative effects of the former Timber Utilisation Permit for Indigenous Peoples (IPK-MA), which was revoked in 2005 because it was believed to have expanded unsustainable logging practices. The IUPHHK-MHA is given to Papuan indigenous peoples holding a customary land title and allows them to harvest

7 Ibid. p. 21f

8 Auriga Nusantara, Jerat Papua, Elsam (2018): Half-Hearted Recognition: A Study on Customary Forest Concession License in Papua, p. 7f, available at [https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=1&ved=2ahUKewiE5fqf9s7gAhUysaQKHHTTXBeAQFjAAegQIAxAC&url=https%3A%2F%2Fauriga.or.id%2Fwp-content%2Fuploads%2F2019%2F01%2Fhalf-hearted-recognition-on-customary-forest-concession-license-papua.pdf&usq=AOvVaw3jhMifQm7U-YaXamJR7\\_aU](https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=1&ved=2ahUKewiE5fqf9s7gAhUysaQKHHTTXBeAQFjAAegQIAxAC&url=https%3A%2F%2Fauriga.or.id%2Fwp-content%2Fuploads%2F2019%2F01%2Fhalf-hearted-recognition-on-customary-forest-concession-license-papua.pdf&usq=AOvVaw3jhMifQm7U-YaXamJR7_aU)

9 Ibid. p. 9f

or log, process, plant, maintain and secure timber in their customary forests. The permit is approved through a gubernatorial decree, while the work plan (RKU) and the annual work plan (RKT) must be authorised by the Head of the Provincial Forestry Agency and Head of the Regency Forestry Agency. Cooperatives and local indigenous peoples-owned enterprises can apply for the IUPHHK-MHA permit with a maximum concession size of 5,000 ha and a validity period of 10 years, extendable for another 10 years. IUPHHK-MHA holders are prohibited to use heavy machinery for logging operations or transferring the IUPHHK-MHA permit to a third party.<sup>10</sup>

### Weaknesses in the IUPHHK-MHA implementation process

There were 18 IUPHHK-MHA permits issued by the Papua Provincial Government up to 2017. All IUPHHK-MHA permit holders shared similar stories about their long wait for the approval of their permits. Many described the increasingly massive illegal timber distribution around their IUPHHK-MHA concessions. The problem lies in the conflicting legal interpretations made by the central government that holds on to the Forestry Law, whereas the Papua Provincial Government persists on the Papua Special Autonomy Law. This conflict is the reason the provincial government was unable to give a green light to IUPHHK-MHA holders. This condition once again illustrates the central government's inconsistent implementation of Papua's special autonomy. Without the green light from the provincial government, IUPHHK-MHA holders were afraid that police would have arrested IUPHHK-MHA holders on the allegation of illegal logging.<sup>11</sup>

Concerns that an IUPHHK-MHA designated area might be located on land with a concession or

already allocated for other permits continues to be another reason why the Papuan Provincial Forestry Agency is still hesitant to approve the operational permits for IUPHHK-MHA holders.<sup>12</sup> An example is the local cooperative (Koperasi Serba Usaha, KSU) 'Mo Make Unaf'. The IUPHHK-MHA that the communal cooperative proposed is located within the industrial forest concession area of company PT Selaras Inti Semesta. This situation will be increasingly difficult given the fact that since 2016, the central government has approved concessions with an area of more than 17 million hectares. Currently there are 18 IUPHHK-MHA concessions granted by the Papua Governor, which might end up in the same fate as 'Mo Make Unaf'. If customary land owners want to apply for an IUPHHK-MHA concession and find out that their customary land is situated in an area with an existing concession, conflicts are likely to occur.<sup>13</sup>

### Natural resource exploitation and land grabbing

Large-scale investment projects in West Papua had multiple adverse impacts on the environment and the land-rights situation of indigenous Papuans. The conversion of forest areas into palm oil plantations or logging areas has led to the destruction of local livestock while causing impoverishment amongst indigenous communities. This situation has forced affected indigenous peoples to apply for jobs in companies, where they work mostly as temporary day labourers. The income as a labourer on plantations is often not enough to cover indigenous families' basic living expenses if they no longer have access to traditional food sources.<sup>14</sup>

Palm oil companies continue to be the greatest threat to primary rain forests in West Papua.

10 Ibid. p.14

11 Ibid. p. 17f

12 Ibid, p. 30f

13 Ibid, p. 35f

14 Suara Papua (04.08.2018): Orang Papua, Pendatang Papua dan Persatuan Nasional, available at <https://suarapapua.com/2018/08/04/orang-papua-pendatang-di-papua-dan-persatuan-nasional/>

The presence of palm oil plantations reportedly had a strong impact on the food security of indigenous communities. Local NGOs reported that at least eight plantation companies –all

palm oil plantations, with one exception– have cleared forest areas and demolished sago hamlets between January and October 2018.<sup>15</sup>

**Table 6.2-1: Plantation companies in West Papua that carried out land clearing activities throughout 2018 (Source: Pusaka)**

Nr	Company	Group	Forest Clearing period throughout 2018	Plantation Location	Reported effects on local communities
1	PT. Subur Karunya Raya	Salim/Indofood Group	February – September	Teluk Bintuni Regency, Districts Meyado and Moskona	Villages Barma and Meyado frequently face floods, the company cleared forests which the communities used for food production
2	PT. Bintuni Agro Prima Perkasa (Corn plantation)		August	Tambrau Regency, Kebar District	Clearing of sago hamlets in the Kebar Valley which Mpur indigneous communities used as staple food source
3	PT. Putera Manunggal Perkasa	Austindo Nusantara Jaya (ANJ) Group	July – August	Sorong Selatan regency, Kais District	Clearing of sago hamlets in the Kais District
4	PT. Permata Putera Mandiri		January – August	Sorong Selatan Regency, Inanwatan District	Clearing of sago hamlets and forest in Puragi Village which indigenous Kokoda communities used as staple food source
5	PT. Medco Papua Hijau Selaras	Capitol Group	May – October	Manokwari Regency, Sidey District	N/A
6	PT. Megakarya Jaya Raya	Pacific Interlink Group	March – October	Boven Digoel Regency, Jair District	N/A
7	PT. Kartika Cipta Pratama		May – October	Boven Digoel Regency, Jair District	N/A
8	PT. Agrinusa Persada Mulia	GAMA (Wilmar) Group	April – August	Merauke Regency, Eligobel District	N/A

## Case Studies:

► Since the signing of the Contract of Work (CoW) in 1973, PT Freeport Indonesia, a subsidiary of the American mining giant Freeport McMoRan, has disposed tailings from their mineral exploitation into the Ajikwa River. The mine produces and dumps over 200,000 tonnes of tailings per day (over 80 million tonnes per year) into the Otomina and Ajikwa rivers, to wetland estuaries, and out into the Arafura Sea.<sup>16</sup> The mine is located on the land of the Amungme and Kamoro people, two

indigenous tribes that have been excluded from any negotiation since the CoW was signed under the military dictator Suharto's regime in 1973. PT Freeport Indonesia has never been obliged to compensate indigenous communities which experienced forced displacement due to mining operations.<sup>17</sup> The depletion caused by toxic and acid rock tailings over decades has had a severe impact on rivers, lakes and forests, including food sources and sacral places for the Amungme and the Kamoro tribes, whose customary land

15 Yayasan Pusaka (23.11.2018): Laporan kasus hak atas Pangan

16 Mining, Minerals, and Sustainable Development (2002): Mining for the Future Appendix J: Grasberg Riverine Disposal Case Study. International Institute for Environment and Development and World Business Council for Sustainable Development.

17 Leith, D. (2002): The Politics of Power: Freeport in Suharto's Indonesia. (University of Hawaii Press)

is located downstream in the coastal lowlands. Their staple food sources, such as sea fish, crabs, shrimps, stocks of Sago palm (*Metroxylon sagu*) and Matoa fruit (*Pometia pinnata*) trees, have been severely affected by the poisonous tailing deposits. Traditional fisheries have been degraded by 'suspended particulate matter' (SPM) and associated copper toxicity.<sup>18</sup>

The SPM are taken by the Ajikwa river into deeper rainforest areas and into the sea, where they have serious effects on the local flora and fauna. Based on the analysis of satellite images it is estimated that a total area of at least 138 km<sup>2</sup> has been affected by the mine<sup>19</sup>. The Ajkwa river system has a relatively low natural sediment carrying capacity, estimated to be 15,000 and 20,000 tons per day. Between the late 1980s and the early 1990s the Grasberg mine deposited approximately 19,000 tons of tailings per day into the Ajikwa River – this has pushed the river system beyond its capacity and led to overland sheeting and intrusion of contaminated water into the neighbouring Minajerwi and Kopi rivers.<sup>20</sup> The level of suspended solids transported into the Arafura Sea significantly increased after 1998 above 40 g/m<sup>3</sup>, a level of contamination that has been shown to directly contribute to mortality in aquatic plants and affects the reproductive cycle of invertebrates and fish<sup>21</sup>

► Illegal gold mining activities have affected indigenous communities of the Koroway ethnic group in the Districts of Yaniruma and Firiwage of Boven Digoel Regency. Local residents reported that the alleged use of mercury has polluted the Deiram River. The river, which used to carry clear water has reportedly turned brown as a result of mining activities. The illegal gold mines are

operated by migrants - however a few Papuans were employed to work in the mines. The use of mercury represents a serious risk to the Koroway people's livelihood, bearing in mind that the Koroway communities depend on the Deiram river for their livelihood as a source of food and clean water.<sup>22</sup> Similar illegal gold panning activities were also reported from the Districts of Langda and Seradala in the Yahukimo regency.<sup>23</sup>

► On the 22 March 2017, members of the Moi ethnic group from the districts of Klaso, Saengkeduk and Seleko of Sorong Regency gathered at the palm oil plantation of PT Mega Mustika to erect a road block. The company's concession was already granted in 2011 with a total concession area of 9,835 hectares. The Moi people had organised the protest because the company and the local government did not respond to previous protests in 2012 and 2016. The indigenous communities claim that the presence of the company has led to impoverishment among many Moi people. Many indigenous peoples who had started to work with PT Mega Mustika were fired as they demanded compensation payments for the use of their ancestral land from the company. The Moi people stated during the protest that the presence of the palm oil plantation had a severe impact on the food situation of many Moi families whose customary land is often not large enough to provide sufficient food for the communities.<sup>24</sup>

► In September 2017, a conflict between indigenous community members in Puragi Village, Sorong Selatan Regency, Papua Barat Province, and PT Permata Putera Mandiri, a subsidiary of the Austindo Nusantara Jaya Group occurred.

18 Michael Alonzo, Jamon Van Den Hoek & Nabil Ahmed (11.10.2016): Capturing coupled riparian and coastal disturbance from industrial mining using cloud-resilient satellite time series analysis, p. 2, available at: <https://www.nature.com/articles/srep35129> <https://www.nature.com/articles/srep35129>

19 Ibid. p. 3 <https://www.nature.com/articles/srep35129>

20 Ibid. p. 5f

21 Hettler, J., Irion, G. & Lehmann, B. (1997): Environmental impact of mining waste disposal on a tropical lowland river system: a case study on the Ok Tedi Mine, Papua New Guinea. *Miner. Depos.* 32, 280–291

22 Awasmifee (23.02.2018): They're killing the Koroway with mercury and precious metals, available at: <https://awasmifee.potager.org/?p=1627> & JUBI (20/02/2018): Mereka sedang membunuh Koroway dengan air perak dan logam mulia, available at: <https://tabloidjubi.com/artikel-13875-mereka-sedang-membunuh-koroway-dengan-air-perak-dan-logam-mulia-.html>

23 Yayasan Pusaka (23.11.2018): Laporan kasus hak atas Pangan

24 Mongabay (29.03.2017): Tolak Perkebunan Sawit, Masyarakat Adat Moi Palang Jalan, available at: <http://www.mongabay.co.id/2017/03/29/tolak-perkebunan-sawit-masyarakat-adat-moi-palang-jalan/>

The company had cleared forest areas for the expansion of its palm oil plantation without compensating seven land-owning clans. The company did not keep its promise to hold a decision-making meeting with the community to reach an agreement about the status of the land, and compensation for the lost sources of livelihood, including forest products and food sources. In response, the indigenous community erected traditional land blockades to prevent the company from continuing its operations. The villagers were repeatedly intimidated by members of the security forces. On the 23 October 2017, a villager named Mr. Yan Ever Mengge was severely beaten by three police mobile brigade members (Brimob) for trying to defend his land (see Chapter 3.6 on Torture and Ill-treatment).

► On 20 September 2017, the government granted a concession to the palm oil company PT Menara Wasior (associated with the Salim Group), which established its plantation near Ambuni Village in the Teluk Wondama Regency of Papua Barat Province. The company had tried to present its plans and consult with the local indigenous communities on its environmental impact assessment. However, the community opposed the plan and did not attend the meetings. The concession was approved despite

severe protests by the local community and local civil society organisations in 2015. The Ambuni community and activists were concerned that the establishment of PT Menara Wasior's plantation would result in the destruction of their forest. Indigenous local communities use the forest for their livelihoods and as a source of their food, water and medicines. The communities also use the forest to generate income and maintain their cultural traditions.<sup>25</sup>

► The clearing of nearly 100 hectares of forest by the company PT Bintuni Agro Prima Perkasa (PT BAPP) for the establishment of a corn plantation was reported from the Kebar Valley in the Tambrau Regency of Papua Barat Province. The land belongs to the Mpur ethnic group, who have protested against the loss of their forests and sago groves.<sup>26</sup> On 17 November 2017, the Mpur clan representatives held an assembly to discuss the issue and produced a joint statement of opposition to the company. The clan has also expressed repeatedly but in vain their disapproval to the local government regarding the plantation concessions.<sup>27</sup> Some of the clans have attempted to return the money they were given. The company refused to accept it.<sup>28</sup>

25 PUSAKA (23.03.2018): "Hutan sumber kehidupan kami bukan kelapa sawit", English translation available at: <https://awasmifee.potager.org/?p=1633>

26 Awasmifee (07.02.2018): The Salim Group and land conflicts around West Papua, available at <https://awasmifee.potager.org/?p=1611>

27 JPIC GKI-TP (23.05.2018): The Traditional Community of Mpur in Kebar Valley Refuse the Company of Bintuni Agro Prima Perkasa

28 Awasmifee (12.08.2018): Mpur people return 100 million Rupiah to PT Bintuni Agro Prima Perkasa, attempt to take their land back, available at <https://awasmifee.potager.org/?p=1640>

# Recommendations



The ICP

## *Recommends to the Government of Indonesia to:*

- Introduce Free, Prior and Informed Consent (FPIC) principles into national regulations, including legal prosecution of companies disrespecting FPIC principles.
- Immediately stop the expansion of plantations to protect air and water quality, biodiversity and indigenous peoples in West Papua.
- Review and revoke the licenses to companies which contradict with the constitutional legislation and regulations which harm the rights of the indigenous Papua peoples.
- Improve procedures for granting permits for agricultural, timber and mining companies in order to guarantee West Papuan indigenous minorities' right to food and self-determination over their ancestral land and resources. The improvements should ensure greater transparency in the issuance of permits, allowing indigenous communities the full and timely information they need to make decision.
- Improve the 'information system for administrative governance of forestry products' (sipuhh). There should be a body which closely monitors that timber is only being logged within the boundaries of a company's concession area and that also all traded timber is correctly reported and registered in the sipuhh.
- Prosecute perpetrators of illegal logging as well as illegal mining and apply strict sanctions against companies engaging in illegal timber or mineral trade.
- Improve the customary forest concession licencing (IUPHHK-MHA) scheme, allowing indigenous communities to trade timber on their ancestral land for the welfare of their communities. If IUPHHK-MHA licenses are approved, the license holders should be required to participate in capacity building trainings for sustainable forest management.
- Review development policies and large-scale agriculture, mining and logging projects leading to the destruction of indigenous community forests and culture.
- Issues a standing invitation to the UN Special Rapporteur on the rights of indigenous peoples to assess the situation in West Papua and conduct a comprehensive study on the enjoyment of indigenous peoples' rights.

## *Urges companies operating in West Papua to:*

- Respect the decision of the constitutional court number 35/puu-x/2012 on the recognition of customary forest; the government should reinforce and increase protection and recognition of all indigenous peoples in Indonesia.
- Respect the principles of free, prior and informed consent (FPIC), comply with the UN guiding principles on business and human rights and uphold the principles enshrined in the UN Declaration on the Rights of Indigenous Peoples.

## ***Urges producers and consumers***

- Not to use and consume products resulting from the exploitation of natural resources in Papua which have been produced under unfair circumstances, under human rights violations and by destroying the environment.



## **Recommendations by states:**

- Peru recommends to the Government of Indonesia to “evaluate the establishment of mechanisms that allow indigenous peoples to be guaranteed the right to their ancestral lands”<sup>29</sup>
- Mexico recommends to the Governments to “extend an invitation to the Special Rapporteur on the rights of indigenous peoples to visit Indonesia, including Papua, in line with the openness of Indonesia to collaborate with special procedure mandate holders”<sup>30</sup>



## **Recommendations by international human rights mechanisms:**

### ***Multiple UN Special procedures mandates recommend to:***

- Protect the existence and the identity of minorities within their territories and to adopt the measures to the end (article 1, ICCPR) and adopt the required measures to ensure that persons belonging to minorities can exercise their human rights without discrimination (article 4, ICCPR)<sup>31, 32</sup>

### ***The UN Special Rapporteur on the right to food recommends:***

- That the Government shall “implement a land registration programme to protect local populations against large-scale land acquisitions by companies seeking to log, mine and grow palm oil.”<sup>33</sup>

### ***The UN Committee for economic, social and cultural rights (CESC):***

- “Calls on the State party [Indonesian Government] to review legislation, regulations and practices in the mining and plantations sectors and:

29 Human Rights Council (14.07.2017): 3rd cycle of the Universal Periodic Review of Indonesia, available at: [http://ap.ohchr.org/documents/dpage\\_e.aspx?si=A/HRC/36/](http://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/36/)

30 Ibid.

31 as stipulated in the international standards regarding the protection of the rights of persons belonging to minorities, article 27 of the ICCPR and the 1992 Declaration on the Rights of Persons Belonging to national or Ethnic, Religious and Linguistic Minorities

32 Mandates of the Special Rapporteur on minority issues; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on the rights to freedom of peaceful assembly and of association and the Special Rapporteur on the situation of human rights defenders (08.09.2017): Communication in relation to excessive use of force by police officers against Papuan villagers - some of them minors - during protests in Oneibo Village, AL IDN 6/2017, p. 5, available at: <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gld=23322>

33 Special Rapporteur on the Right to food (28.12.2018): Visit to Indonesia, Report of the Special Rapporteur on the right to food, A/HRC/40/56/Add.2, p.20f, available at: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G18/447/88/PDF/G1844788.pdf?OpenElement>

(a) Guarantee legal assistance to communities during consultations on extractive projects affecting them and their resources with a view to ensuring their free, prior and informed consent;

(b) Ensure that license agreements are subject to monitoring of human rights and environmental impact during the implementation of extractive projects;

(c) Guarantee legal assistance to communities lodging complaints about allegations of human rights violations, thoroughly investigate all allegations of breach of license agreements, and revoke licenses, as appropriate;

(d) Ensure that tangible benefits and their distribution are not left solely to the voluntary policy of corporate social responsibilities of companies, but are also defined in license agreements, in the form of employment creation and improvement of public services for local communities, among others<sup>34</sup>

- “Urges the State party [Indonesian Government] to adopt a land policy which
  - (a) establishes an institution tasked with the oversight of settlement of land disputes;
  - (b) promotes settlement approaches that take into account the fact that land titles are not always available;
  - (c) reviews relevant laws and regulations which make individuals and communities vulnerable to land-grabbing;
  - (d) facilitates the titling of land without prohibitive procedural costs;
  - (e) secures the involvement of the national human rights institutions and the civil society.”<sup>35</sup>
- “Urges the State party [Indonesian Government] to expedite the adoption of the draft law on the rights of Masyarakat Hukum Adat<sup>36</sup> and ensure that it:
  - (a) Defines Masyarakat Hukum Adat and provides for the principle of self-identification, including the possibility to self-identify as indigenous peoples;
  - (b) Effectively guarantees their inalienable right to own, develop, control and use their customary lands and resources;
  - (c) Define strong mechanisms for ensuring the respect of their free, prior and informed consent on decisions affecting them and their resources, as well as adequate compensation and effective remedies in case of violation.
- The Committee also recommends that the State party undertake to harmonise existing laws according to the new law on the rights of Masyarakat Hukum Adat and ratify the ILO Convention on Indigenous and Tribal Populations, 1989 (No. 169).<sup>37</sup>
- “That, as a priority for the implementation of the Plan of Action of the Joint Agreement for the Acceleration in the Determination of Forest Regions, the State party [Indonesian Government]:

34 UN Committee for Economic, Social and Cultural Rights (19.06.2014): Concluding Observations on the initial report of Indonesia, E/C.12/IDN/CO/1, p. 9f, available at: <http://undocs.org/E/C.12/IDN/CO/1>

35 Ibid. p. 10

36 The term ‘Masyarakat Hukum Adat’ refers to the English term ‘Customary Law Community’

37 Ibid. p. 13



- (a) Amend all legislative provisions which are incompatible with the Constitution Court Decision 35/PUU-X/2012, including those contained in the Law 18/2013 on Prevention and Eradication of Forest Destruction, and take steps for the review of decisions against members of Masyarakat Hukum Adat based thereon; and
- (b) Identify and demarcate customary lands and forests, resolve disputes thereon, in consultation with representatives of Masyarakat Hukum Adat and the national human rights institutions.”<sup>38</sup>

***The UN Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination recommends that***

- The Government should ensure that “land policy should protect the interests of low-income households, indigenous communities and communities occupying land based on customary (adat) law”<sup>39</sup>
- “The Government should ensure security of tenure – legal recognition of possession, communal land rights, forest land ownership. To this end, land regime should be revised so as to resolve ambiguities between customary (adat) and formal land laws”<sup>40</sup>

***The UN Committee for the Elimination of Racial Discrimination (CERD) recommends that:***

- The Government “should review its laws, in particular Law No. 18 of 2004 on Plantations, as well as the way they are interpreted and implemented in practice, to ensure that they respect the rights of indigenous peoples to possess, develop, control and use their communal lands.”<sup>41</sup>
- “The State party [Indonesian Government] secures the possession and ownership rights of local communities [...]. The State party should also ensure that meaningful consultations are undertaken with the concerned communities, with a view to obtaining their consent and participation in it.”<sup>42</sup>

38 Ibid. p. 13f

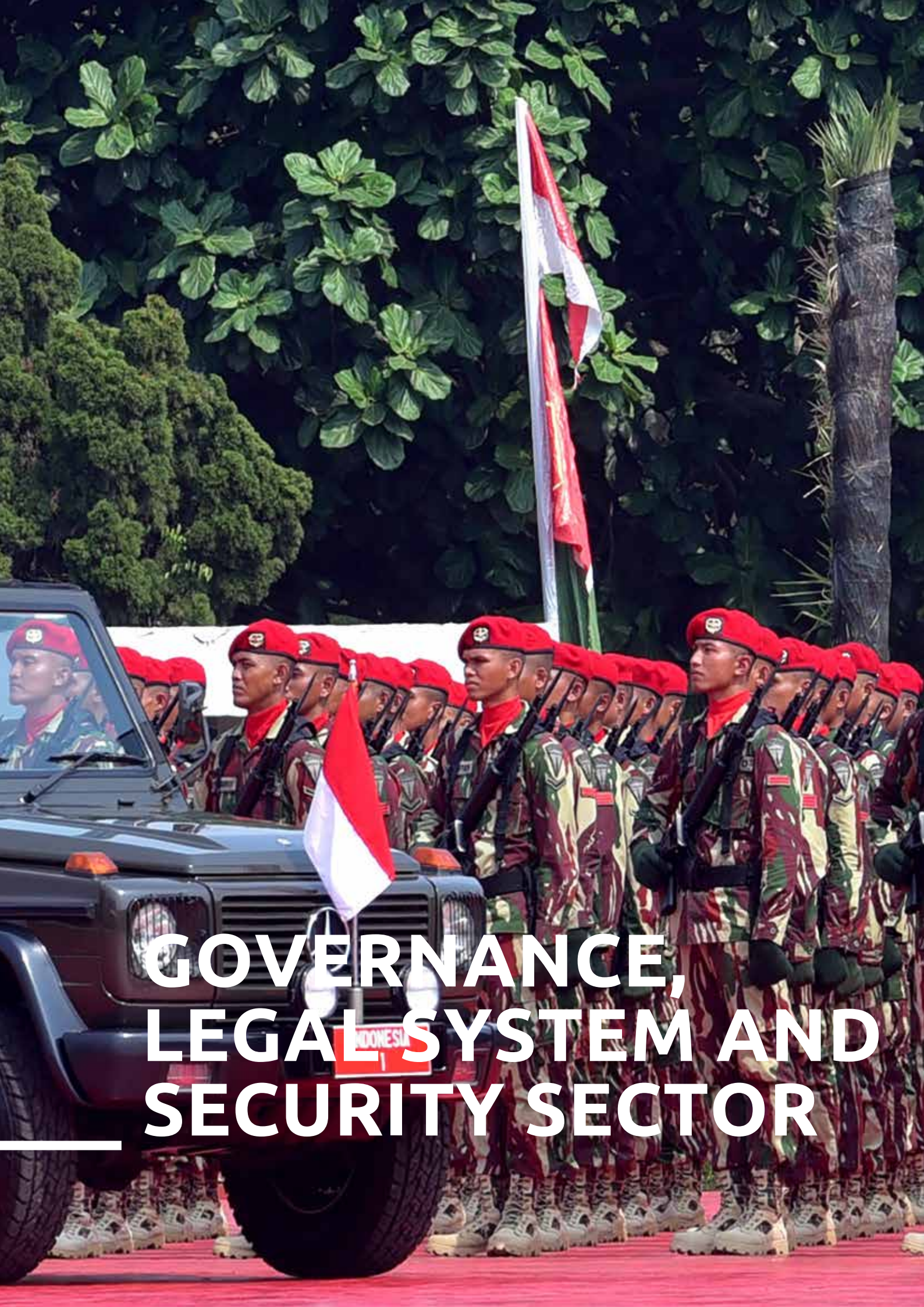
39 UN Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination (26.12.2013): Report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context, Raquel Rolnik, Addendum, Mission to Indonesia, A/HRC/25/54/Add.1, p. 21, available at: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G13/191/55/PDF/G1319155.pdf?OpenElement>

40 Ibid. p. 21

41 UN Committee for the Eradication of Racial Discrimination (01.10.2017): Concluding Observations, A/62/18, p. 36, available at: <http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=dtYoAzPhJ4NMMy4Lu1TOebBHVOpdciO2EGHqWKl8pHWV%2fPnZlYc5Fq9nY0fnFvj3x3rAigWw0vFdU%2fEcR43Q%2fpQ%2fSNHgYAedY%2fgnTA8Akd4Q%3d>

42 Ibid. p. 36





**GOVERNANCE,  
LEGAL SYSTEM AND  
SECURITY SECTOR**

## SECTION 7

# Governance, Legal System and Security Sector

After the election of the current Indonesian President, Mr. Joko Widodo (Jokowi), Indonesia's civil society had great hopes that wide-ranging reforms would bring about justice, increase the rule of law, eradicate corruption and enforce democratic principles in the country. In the specific context of West Papua, such reforms would urgently address serious shortcomings in: the national human rights mechanisms, the criminal code, the special autonomy law and the military sector.

Though President Jokowi has been re-elected for a second term, his administration still has unfulfilled "promises", including the settlement of human rights violations in West Papua. Indonesian civil society actors widely criticise the Government for their negligence of human rights-related issues in West Papua, which continues to be among the areas in Indonesia with the highest poverty levels, the lowest human development index and frequent reports of human rights violations. During the first four years of his administration, President Jokowi has put an emphasis on infrastructural development in West Papua but has neglected the settlement of past human rights violations.

West Papuans continue to be arrested, detained, prosecuted, and punished under treason, or *makar* provisions of the Indonesian Criminal Code. The continuous use of these provisions reaffirms the call for their amendment and their exclusion from the draft revision of the Code. The House of Representatives planned to enact a new Criminal Code in September 2019, which is due to come into effect in 2022. The new Criminal Code has failed to address the lack of clarity regarding treason and other provisions.

Similar to the criminal code, the national human rights system is in urgent need of reform with a view to increasing its effectiveness. The current system in Indonesia consists of semi-independent institutions as well as internal complaint procedures within the Police and the Military. Only a small percentage of human rights violations in West Papua result in the prosecution of perpetrators, making these options of prosecution rather 'unattractive' for the victims and their relatives. The semi-independent institutions have

limited mandates and powers, while the internal mechanisms within the military and the police lack transparency and impartiality.

The Special Autonomy status of the Provinces of Papua and Papua Barat mandates the local governments to regulate and manage the interests of the local people, at its own initiative, based on their aspirations and fundamental rights. Along with the Governor, the provincial parliaments have the power to enact special provincial bye-laws ('Perdatus') as well as regular provincial bye-laws ('Perdasi'). Once a by-law is drafted, the text must be submitted to the Minister of Home Affairs who has the responsibility to number the bye-law as a minor procedural requirement. However, the requirement has been misused by Jakarta to prevent any Perdatus or Perdasi which it does not agree with from coming into effect.

Post-Suharto governments have reformed the Indonesian military (TNI) to reduce its economic and political influence. Despite these efforts former and incumbent military leaders still have far-reaching influence in economic and political affairs. Observers argue that the power of the TNI has even increased under the new president Mr. Joko Widodo, (Jokowi) who appointed several former high-ranking military generals as close advisors and ministers, including Prabowo Subianto as defense minister in October 2019. West Papua remains one of the military strongholds in Indonesia. The TNI continues to engage itself in a wide range of civilian matters, including the protection of private businesses, the implementation of government development projects and in law enforcement operations.

## 7.1 Development Policy and Security Approach

**The first term of President Joko Widodo's administration will end in October 2019. Though, he has been re-elected for a second term, his administration still has unfulfilled "promises", such as the settlement of human rights violations in West Papua. This is one of the crucial issues, given that there are a lot of cases alleged gross human rights violations in West Papua, as well as the massive exploitation of natural resources, while neglecting the rights of indigenous people. The failure in settling human rights violations has been caused by the absence of Jokowi's focus on human rights issues in the provinces Papua and Papua Barat. In his four years of administration, Jokowi has put emphasis on infrastructural development. Through Presidential Regulation (Perpres) No. 129 of 2018 on the State Budget for 2019 signed on 29 November 2018, the government has allocated a budget for the special autonomy of the provinces of Papua and Papua Barat amounting to 882,677,451.6 US dollars (12,6 trillion rupiahs).<sup>1</sup> A considerable share of the budget is used for infrastructure development. The Government's approach is widely criticised as the provinces of Papua and Papua Barat continue to be among the areas with the highest poverty and lowest human**

<sup>1</sup> Sekretariat Kabinet Republik Indonesia (10.12.2018): APBN 2019: Pemerintah Alokasikan Rp 20,979 Triliun Untuk Otonomi Khusus Aceh, Papua dan Papua Barat, available at: <http://setkab.go.id/apbn-2019-pemerintah-alokasikan-rp20979-triliun-untuk-otonomi-khusus-aceh-papua-dan-papua-barat/>.

development index in Indonesia. The largest infrastructure in West Papua is the ‘Trans–Papua’ road project, aiming at opening access to isolated regions of West Papua.<sup>2</sup>

## Stagnant Quality of Life in Papuan Society

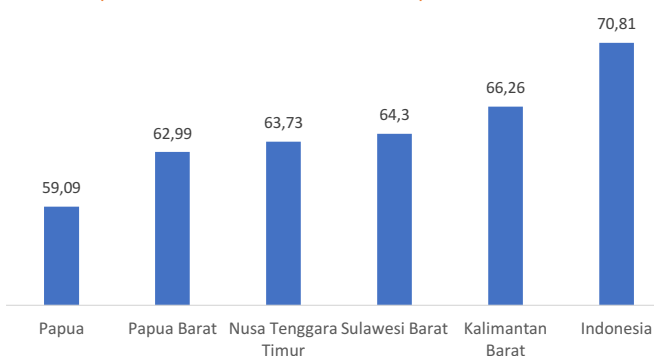
Papua receives a bigger development budget than other regions. However, the quality and availability of public services provided in West Papua are still among the worst in Indonesia. Multiple health disasters have severely affected indigenous communities. During January 2018, the Papuan regencies of Asmat and Pegunungan Bintang Regencies were affected by an epidemic outbreak of measles and malnutrition. Ninety-eight people, mostly children, died in the two regencies which are hundreds of kilometres apart.<sup>3</sup>

The Head of the Regional Police of Papua, General Boy Rafli Amar stated that there were at least three causes for malnutrition in the Asmat Regency. Firstly, access to health services which are far from community settlements; secondly, the lack of medicines and vaccines; and thirdly, the lack of medical staff.<sup>4</sup> However, the Head of Presidential Executive Office (KSP) General Moeldoko and Minister of Health Nila F. Moeloek made a contradictive statement, mentioning that community habits and sanitation related issues were the main factors causing the plague of malnutrition and measles in the Asmat regency.<sup>5</sup> The two officials argued that the lifestyle of the community was the main cause of the health disaster in these regencies. However, another cause for the health crisis in West Papua

is the conversion of forests into plantations and mining sites. The expansion of Papuan forests has an impact on food availability and security of Papuan communities whose livelihood depends on the products of the forest.<sup>6</sup>

The expansion of private companies also results in changes of Papuan community’s lifestyle and their way of managing food. Papuan communities have become more vulnerable to famine. The Human Development Index (HDI)<sup>7</sup> 2017 released by the Statistic Centre (BPS), showed that from 2010 until 2017, Papua province is still categorised as having a “low human development”<sup>8</sup>

Graphic 7.1-1. Ratio of Human Development Index of 2017



Sources: Indonesia Statistics Agency

Looking at the 2017 ratio of Human Development Index (HDI) in Indonesia, the HDIs in the Provinces of Papua and Papua Barat are far below the average HDI rate in Indonesia (see Graphic

2 According to the Minister of Public Works and Housing, Mr. Basuki Hadimuljono, there are 3 main aims attached to infrastructure development in Papua, namely (1) to bring justice; (2) to reduce the income gap; (3) and to reduce the high prices in each region. See liputan6.com (05.03.2017): Ini Tujuan Utama Pemerintah Bangun Jalan Trans Papua, available at: <https://www.liputan6.com/bisnis/read/2876420/ini-tujuan-utama-pemerintah-bangun-jalan-trans-papua>.

3 BBC Indonesia (22.01.2018): ‘Kelaparan’ dan Wabah Campak di Papua Menyebar, Korban Jiwa Hampir 100 Orang, available at: <https://www.bbc.com/indonesia/majalah-42758636>.

4 IDN Times (25.01.2018): Polri Jelaskan 3 Penyebab Gizi Buruk Melanda Asmat, IDN Times, 25 January 2018, at: <https://www.idntimes.com/news/indonesia/vanny-rahman/polri-jelaskan-3-penyebab-gizi-buruk-melanda-asmat/full>.

5 Tirta id (19.01.2018): Pemerintah Ungkap Penyebab Merebaknya Campak & Gizi Buruk di Asmat, at: <https://tirta.id/pemerintah-ungkap-penyebab-merebaknya-campak-amp-gizi-buruk-di-asmat-cDtr>.

6 ELSAM (18.01.2018): Campak dan Gizi Buruk di Asmat dan Tanggung Jawab Korporasi, at: <http://elsam.or.id/2018/01/campak-dan-gizi-buruk-di-asmat-dan-tanggung-jawab-korporasi/>

7 Human Development Index (IPM) is an indicator to measure success in the efforts of building human life quality. The IPM explains how a population can access results of development to obtain income, health, education and etc.

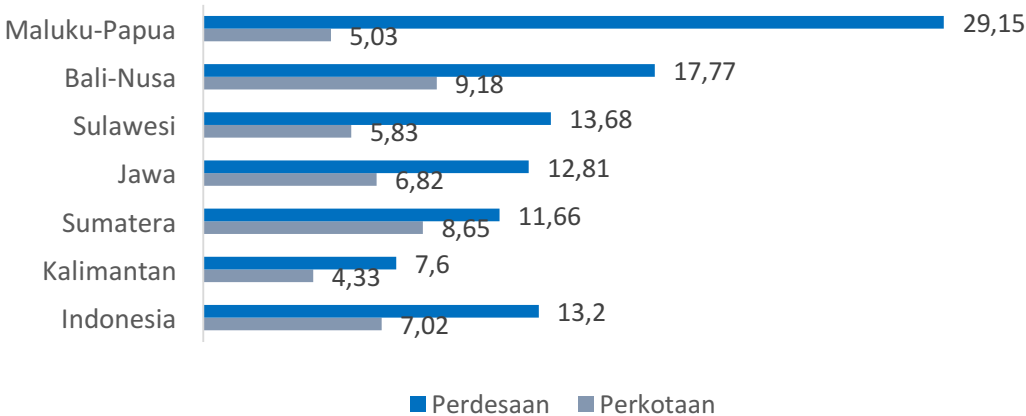
8 Center for Statistics, BPS (16.04.2018): “Indeks Pembangunan Manusia (IPM) Tahun 2017”, in Berita Resmi Statistik. No.33/Th.XXI, p.5

7.1-1). The human development rate status from 2010 until 2017 is an indicator for the low life quality, particularly in Papua Province. The figures also correlate with the percentage of poor populations in the provinces of Papua and Papua Barat.

Based on BPS<sup>9</sup> data, the percentage of poor populations in the villages of Maluku and Papua is still high, reaching up to 29,15%, which means that more than a quarter of the population in these areas are below the poverty level. The poverty figure of the villagers in Maluku and Papua is more than twice times as high as the national average of 13,2%.

The number of poor village populations in Maluku and West Papua has reached 1.41 million, equalling 9% of Indonesia’s poor village population.<sup>10</sup> It can therefore be concluded that the focus on economic development under Jokowi’s administration and the increase in the budget allocation have not brought upon a meaningful progress for the prosperity of the Papuan people.

**Graphic 7.1-2.**  
**Percentage of Poor Population on different Islands,**  
**segregated between rural (Perdesaan) and urban (perkotaan) areas**  
**(March 2018)**



Sources: Indonesia Statistics Agency

Graphic 7.1-2 illustrates the percentage of poor populations in the villages of Maluku and Papua is the highest in Indonesia. Meanwhile, the percentage of poverty in urban areas in the two islands is only 5.03%, but still the second lowest after Kalimantan island with the percentage of 4.33% in urban settlements (see Graphic 7.1-2).

**Huge Investment and Deforestation**

The Jokowi administration’s focus on economic development is in line with the ambitious investment target in West Papua. The Indonesian Investment Coordinating Board (BKPM) has

9 Badan Pusat Statistik (16.07.2018): “Profil Kemiskinan di Indonesia Maret 2018”, Berita Resmi Statistik. No.57/07/Th.XXI, p.3

10 Ibid, p.7

targeted investment realization in West Papua to reach 18,581,821,200 US\$ (265 trillion rupiahs -IDR) during the years 2015-2019. The investment target in Jokowi's administration has been drastically increased compared with the investment realization of 2010-2014 which amounted to 4,698,045,360 US\$ (67 trillion rupiahs).<sup>11</sup> BKPM also mentioned that the investments will be spread across various businesses, which included among others, food crops and plantation, food industry, timber industry, transportation, warehouse, telecommunication and farming.

According to the Civil Society Coalition for Papua's Spatial Management (Koalisi Masyarakat Sipil untuk Tata Ruang Papua, KMSTRP), until 2017, the government has issued 338 permits for land-based industry in Papua. Those permits consist of 171 mining permits, 114 oil palm plantation and 43 IUPHHKHA (Natural forest products usage permits), and 10 IUPHHK-HTI (timber estate permits) with the total permitted concession area of 14.853.646,60 hectare, equal to 34,77% of the total land area of West Papua.<sup>12</sup>

In many cases, the permits overlap with protected forest areas. The spatial analysis using the overlay method conducted by the civil society coalitions KMSTRP and KPRHPB showed that there are 162 permits for land based industry which consist of 102 mining permits, 25 oil palm plantation permits, and 35 permits of natural forest/timber estate which overlap with protected forest and conservation areas of 2,627,010 hectares or

11,43% of the total area of protected areas in West Papua. As an effect, according to the study of Forest Watch Indonesia, in the last seven years (2009-2016), the deforestation in West Papua reached 170,494 hectares per year.<sup>13</sup>

In 2015, the Ministry of Environment and Forestry has recorded that the forest areas in the provinces of Papua and Papua Barat— including production forest, limited production forest, and protected forest —reached 38,153,269 hectares. In 2009, the forest areas in West Papua reached 42,000,000 hectares. According to Greenpeace data from 2011, the rate of deforestation reached 143,680 hectares per year in the province of Papua and 293,000 hectares per year in Papua Barat province.<sup>14, 15</sup>

## Conflicts and arrests in Papuan Communities

An increase of private investments has led to conflicts between companies and indigenous communities in West Papua. For instance, one such conflict occurred when around twenty representatives of five indigenous communities urged PT Bintuni Agro Prima Perkasa (BAPP), a subsidiary of the Salim Group (also owned by Indofood<sup>16</sup>), to leave their land. BAPP has concessions for 19,363 hectares in the Kebar Valley, Tambora Regency, operating on the customary land of the Mpur Tribe.<sup>17</sup>

On 18 December 2018, Papuan indigenous leaders and civil society activists published a

11 Merdeka.com (01.03.2015): Investasi di Papua selama Pemerintahan Jokowi Ditarget Rp 265 T, available at: <https://www.merdeka.com/uang/investasi-di-papua-selama-pemerintahan-jokowi-ditarget-rp-265-t.html>

12 Tirto.id (09.10.2018): ICBE 2018: Mimpi Konservasi di Tengah Deforestasi yang Ugal-Ugalan, available at: <https://tirto.id/icbe-2018-mimpi-konservasi-di-tengah-deforestasi-yang-ugal-ugalan-c5BU>.

13 *Ibid*

14 Greenpeace (23 August 2011): Hutan Surga Papua yang semakin terancam, available at: <https://www.greenpeace.org/archive-indonesia/blog/hutan-surga-papua-yang-semakin-terancam/blog/36462/>

15 Tirto.id (03.01.2018): Tahun Tak Pernah Berakhir: Saat Paru-Paru Dunia Kian Sesak, available at: <https://tirto.id/tahun-tak-pernah-berakhir-saat-paru-paru-dunia-di-papua-kian-sesak-cCDM>

16 Indofood also has four plantation companies in Papua, three in West Papua, namely PT Subur Karunia Raya (38.620 ha) di Teluk Bintuni, PT Rimbun Sawit Papua (30.596 ha) in Fakfak, PT Menara Wasior (32.173 ha) in Teluk Wondama, and PT Tunas Agung Sejahtera (40.000 ha) in Mimika, Papua.

17 Lusya ArumingtyasMongobay.com (04.12.2018): Warga Adat Papua Desak Pemerintah Cabut Izin Kebun Sawit Bermasalah available at: <https://www.mongobay.co.id/2018/12/04/warga-adat-papua-desak-pemerintah-cabut-izin-kebun-sawit-bermasalah/>



joint statement in which they raised concerns over their customary land as their source of livelihood. The statement also highlights the lack of capability of the local government to fulfil its responsibility to settle human rights violations and environmental crimes.<sup>18</sup>

In early December 2018, the development of the Trans Papua Road was disturbed by an attack against construction workers, resulting the deaths of at least 17 workers in the Papuan regency of Nduga. Joint military and police responded with widespread raids which severely affected indigenous villagers in the Nduga regency. Ever since the joint operation was launched, thousands of civilians were forced to leave their villages and flee to the forest areas and neighbouring regencies.<sup>19</sup>

Particularly the incident in the regency of Nduga elucidates that the security approach under the Jokowi government results in human rights violations. The government failed to form an independent team to investigate allegations of human rights violations and prevent re-occurrence of violence in the Nduga Regency.

### Shrinking space for peaceful expression of opinion

Multiple occurrences throughout 2018 elucidate the repression against freedom of expression and assembly in West Papua despite the fact that the rights of Papuans are regulated and protected by the Indonesian constitution. Law enforcement institutions frequently use treason articles to criminalise Papuan activists and suppress the freedom of expression and freedom of peaceful assembly. The violence, arrests, and prosecutions have resulted in the shrinking of democratic space. This condition leaves hardly any possibility for Papuan civil society to peacefully express

their opinions and demand the government to uphold its human rights obligations in West Papua.

► See Chapter 2.3 on Freedom of Peaceful Assembly, p. 41.

### What should President Jokowi do?

As a variety of problems have been frequently happening for many years, the government should change its conflict approach in West Papua. If the Government continues to focus only on infrastructure development, it surely cannot resolve the problems in West Papua. The Government policy must consider the rights of the community to be the main foundation of all development programs. Jokowi's administration must dare to adopt a policy for the settlement of human rights violations in order to break through the circle of violence in West Papua. Furthermore, the government should give up its security-based approach to handle the longstanding structural issues in West Papua. Papuan history has shown that such an approach will only result in new human rights violations.

Instead, the Government should improve bureaucratic procedures related to land tenure and usage permits. Extractive activities such as land clearing for plantation businesses, mining operations and illegal logging, cannot be advantageous for indigenous Papuans. The result of environmental destruction and deforestation does not only pose a threat to indigenous Papuans' livelihoods –it is also contrary to the reduction of carbon emissions, as a national and global interest in the struggle against global warming.

Government agencies must undertake strict supervision of and affirmative action against

18 Resolusi Maranatha (08.12.2018): Dialog Kebijakan dan Konferensi Masyarakat Adat Papua, available at: <https://pusaka.or.id/assets//2018/12/Resolusi-Maranatha-Des-2018.pdf>

19 Tirta.id (21.12.2018): Natal Duka di Nduga: Korban Sipil saat TNI-Polri Memburu TPNPB-OPM, available at: <https://tirta.id/natal-duka-di-nduga-korban-sipil-saat-tni-polri-memburu-tpnpb-opm-dcnk>

companies committing forestry destruction and arbitrary land grabbing. If such measures are not immediately carried out, the conflict between indigenous people and business companies, the Government and security agencies will likely extend and grow.

## Recommendations



### The ICP recommends to the Government of Indonesia to:

- Adopt a policy for the settlement of human rights violations in order to break through the circle of violence in West Papua.
- Renounce a security-based approach in handling the long-standing structural issues in West Papua.
- Improve bureaucratic procedures related to land tenure and usage permits in order to improve the livelihoods and food security of indigenous communities.
- Undertake strict supervision of and affirmative action against companies committing forestry destruction and arbitrary land grabbing.



### International human rights mechanisms recommend:

#### *The Committee on the Rights of the Child*

- “Urges the State party [Indonesian Government] to take all necessary measures to eliminate poverty among indigenous communities and monitor progress in that regard, as well as provide for their equal access to all public services, pursue demilitarization efforts and ensure the prior informed consent of indigenous peoples with regard to exploitation of the natural resources in their traditional territories.”<sup>20</sup>

20 UN Committee on the Rights of the Child (10.07.2014): Concluding observations on the combined third and fourth periodic reports of Indonesia, CRC /C/IDN/CO/3-4, p. 16, available at: [http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2fPPRiCAqhKb7yhsojFE9Wic32tm02CjRcUBTBmKP\\_abAgZ7Ii0nMYRDpozvvgO6Kk9Idi5sHE7D%2fJLQ\\_lgxERzDXfrxFiMsl3xlAtLDGNp2JPP1cG8C97NBLgEsa](http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2fPPRiCAqhKb7yhsojFE9Wic32tm02CjRcUBTBmKP_abAgZ7Ii0nMYRDpozvvgO6Kk9Idi5sHE7D%2fJLQ_lgxERzDXfrxFiMsl3xlAtLDGNp2JPP1cG8C97NBLgEsa)

## 7.2 Criminal Code Reform

As in previous years, in 2017 and 2018 West Papuans continued to be arrested, detained, prosecuted, and punished under treason, or *makar* provisions of the Indonesian Criminal Code. The continuous use of these provisions reaffirms the call for their amendment and their exclusion from the draft revision of the Code. The Institute for Criminal Justice Reform (ICJR) and a group of West Papuans filed two separate applications with the Constitutional Court challenging the compatibility of treason provisions with the Constitution. The Constitutional Court unanimously ruled that the treason provisions do not contradict any provisions in the Constitution. The House of Representatives (*Dewan Perwakilan Rakyat*, DPR) had scheduled to enact a new Criminal Code in September 2019, which is due to come into effect in 2022. However, serious criticism of the draft from the public led to a postponement of the adoption. The new Criminal Code Draft does not address the lack of clarity in the treason provisions criticised by civil society members and will also carry provisions criminalizing insults against the president, vice president, and the legitimate government.

The Criminal Code has seven provisions relating to *makar*, but Article 106 is most often used by the Indonesian authorities to arrest, detain, prosecute, and punish West Papuans who express political views. Article 106 reads that *makar* “undertaken with intent to bring the territory of the state wholly or partially under foreign domination or to separate part thereof, shall be punished by life imprisonment or a maximum imprisonment of twenty years.” What acts amount to bringing Indonesia’s territory under foreign domination or to separate parts of its territory is unclear.

The vagueness of the provision enables the Indonesian authorities to use Article 106 to arrest and punish individuals engaging in peaceful political activities. Four Papuan students in Manado, North Sulawesi, were arrested and charged under Article 106 prior to participating

in a protest to support the full membership of the United Liberation Movement for West Papua (ULMWP) in the Melanesian Spearhead Group. Hiskia Meage, one of the arrested students who was also the Chairman of the West Papua National Committee (*Komite Nasional Papua Barat*, KNPB), stated they were accused of holding posters containing the Morning Star flag, the symbol of West Papua’s independence.<sup>1</sup>

In March 2018, the Chairman of Timika KNPB Yanto Awerkion was sentenced to 10-months imprisonment for his involvement with a petition calling for West Papuan independence.<sup>2</sup> Later that year, a West Papuan student Simon Carlos Magal was arrested for communicating with a Polish citizen who was arrested a few days earlier on suspicion of being a journalist and reportedly meeting with alleged members of an armed independence group.<sup>3</sup>

1 Jubi (23.12.2016): *Di Manado, empat anggota KNPB Manado dikenakan pasal makar*, available at: <https://www.jubi.co.id/staging/di-manado-empat-anggota-knpb-manado-dikenakan-pasal-makar/>.

2 Unrepresented Nations & Peoples Organisation (16.03.2018): *West Papua: Yanto Awerkion Sentenced to Jail for Involvement in Independence Petition*, available at: <https://unpo.org/article/20686>.

3 TAPOL (07.09.2018): *Joint statement: Call for immediate release of Simon Magal and Jakub Skrzypski – The West Papuan and Polish pair have been charged with treason*, available at: <https://www.tapol.org/news/joint-statement-call-immediate-release-simon-magal-and-jakub-skrzypski-west-papuan-and-polish>.

In light of the vagueness of the treason provisions in the Code, the Institute for Criminal Justice Reform (ICJR) and a number of West Papuans filed two separate applications with the Constitutional Court challenging the compatibility of these provisions with the Constitution. The ICJR asked the Court to determine whether the notorious Article 106 and other related articles contradict the right to legal certainty and freedom of expression set out in the Constitution.<sup>4</sup> The application filed by the West Papuans asked the Court to consider the treason provisions' compatibility with the rule of law (*negara hukum*) and a number of human rights provisions in the Constitution.<sup>5</sup>

The applicants in both applications argued that the Dutch text of the Criminal Code uses a specific term, *aanslag*, which means *serangan* in Indonesian, or attack in English, in all the provisions on treason. An attack is therefore required for an act to be classified as treason under the Criminal Code. The failure of the Indonesian text of the Criminal Code to acknowledge this has led to a legal uncertainty, in which individuals involved with political yet non-violent activities are at risk of being arrested, prosecuted, and punished.

In its decision issued in January 2018 on both applications, the Court unanimously ruled that the treason provisions do not contradict any provisions in the Constitution. It disagreed with the ICJR's claim that an attack is required for an act to fall within the definition of treason in the Criminal Code. The Court cited Article 87 of the Criminal Code which sets out that an 'intent' (*niat*) which was manifested in 'an attempt to commit a crime' (*permulaan pelaksanaan*) on its own is sufficient.<sup>6</sup>

The Court accepted that there are no set or agreed parameters to determine what acts constitute 'an attempt to commit a crime'. This does not translate, however, to legal uncertainties as the interpretation is left to the judges. The ICJR's argument that the treason provisions have allowed the Indonesian authorities to arrest, prosecute, and punish individuals believing in an independence from Indonesia is an issue for the implementation of the law. The Court however accepted that this was due to the absence of a uniformed understanding between the authorities on the clear parameters of treason.<sup>7</sup>

The Court further concluded that the treason provisions do not limit the freedom of expression guaranteed in the Constitution. Treason is not freedom of expression. Even if they were, their applicability would be limited by Article 28J(2) of the Constitution.<sup>8</sup> This Article sets out that the rights set out in the Constitution may be limited as long as it is prescribed by law and is for a fair cause "in accordance with moral considerations, religious values, and public order in a democratic society."

The House of Representatives (*Dewan Perwakilan Rakyat*, DPR) plans to enact a new Criminal Code in September 2019. The new Criminal Code will not come into effect until 2022 to allow for a three year transition period.<sup>9</sup> The new Criminal Code will still carry provisions on treasons that are similar to the ones in the existing Criminal Code.<sup>10</sup> It does not address the lack of clarity in the treason provisions criticised by civil society members. The new Criminal Code will also carry provisions criminalizing insults against the president, vice president, and the legitimate

4 Indonesian Constitutional Court (2017): Putusan Nomor 7/PUU-XV/2017, available at: [https://mkri.id/public/content/persidangan/putusan/7\\_PUU-XV\\_2017.pdf](https://mkri.id/public/content/persidangan/putusan/7_PUU-XV_2017.pdf).

5 Indonesian Constitutional Court (2017): Putusan Nomor 28/PUU-XV/2017, available at: [https://mkri.id/public/content/persidangan/putusan/28\\_PUU-XV\\_2017.pdf](https://mkri.id/public/content/persidangan/putusan/28_PUU-XV_2017.pdf).

6 See Putusan Nomor 7/PUU-XV/2017 cited above, paras. 3.13.3 – 3.13.6.

7 Putusan Nomor 7/PUU-XV/2017, page 155.

8 Putusan Nomor 7/PUU-XV/2017, para. 3.13.7.

9 News Detik.com (03.09.2019): Masa Transisi 3 Tahun, RUU KUHP Baru Efektif Berlaku 2022, available at: <https://news.detik.com/berita/d-4691192/masa-transisi-3-tahun-ruu-kuhp-baru-efektif-berlaku-2022>

10 News Detik.com (02.09.2019): *Begini Definisi Makar dalam RUU KUHP*, available at: <https://news.detik.com/berita/d-4690617/begini-definisi-makar-dalam-ruu-kuhp>.

government.<sup>11</sup> The existing Criminal Code used to carry similar provisions. They were however revoked by the Constitutional Court in 2006, when it ruled that they contradicted the freedom of expression guaranteed in the Constitution.

## Recommendations



### The ICP recommends to the Government of Indonesia to:

- **Revise bills and regulations that threaten democracy and human rights protection, such as the changes adopted to the national law on mass organizations, Emergency Law 12/1951, Articles 106 and 110 on treason, and Article 160 on incitement, of the Indonesian Criminal Code KUHP (Kitab Undang-Undang Hukum Pidana).**
- **Review the Criminal Procedure Code (Kitab Undang-Undang Hukum Acara Pidana KUHP) in accordance with ratified international human rights treaties.**
- **Cease the application of Articles 106 and 110 of the Indonesian Criminal Code on treason, as well as Article 160 on incitement, until the Code has been reviewed and release all those currently detained under these articles.**
- **Abrogate Emergency Law 12/1951.**
- **Amend Government Regulation 99/2012 to remove the parole requirement for loyalty statements in the case of crimes against the state, and/or consider regulating prisoners detained under such charges separately from those convicted of terrorism, corruption and drug crimes.**



### Recommendations by states:

- **Honduras, the Republic of Korea, and Canada recommend that the Government should review the Criminal Code ensuring that it includes a definition of torture consistent with the Convention against Torture.<sup>12</sup>**
- **Germany recommends to the Government to make efforts to “repeal or amend articles 106 and 110 of the Criminal Code to avoid restrictions on freedom of expression”<sup>13</sup>**

11 Tirto.id (25.07.2018): *Mengapa Rancangan KUHP Terlalu Berbahaya untuk Disahkan?*, available at: <https://tirto.id/mengapa-rancangan-kuhp-terlalu-berbahaya-untuk-disahkan-cPQf>.

12 Human Rights Council (14.07.2017): 3rd cycle of the Universal Periodic Review of Indonesia, available at: [http://ap.ohchr.org/documents/dpage\\_e.aspx?si=A/HRC/36/7](http://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/36/7)

13 Ibid.



## Recommendations by international human rights mechanisms:

### *The European Parliament*

- “Calls on the authorities of Indonesia to repeal Articles 156 and 156(a) of the country’s Criminal Code, to remove the blasphemy provisions in the current draft Bill of Revision of the Criminal Code (RUU Revisi KUHP), the Electronic Information and Transactions Law and the rebellion laws (in particular Articles 106 and 110 of the Code), and to bring all laws into conformity with Indonesia’s obligations under international human rights law, specifically on freedom of expression, thought, conscience and religion, equality before the law, freedom from discrimination, and the right to expression and public assembly; notes that people may be imprisoned for ‘defamation’ for as long as five years”<sup>14</sup>

### *The UN Human Rights Committee (CCPR)*

- Recommends that the Government must “ensure that the revised Penal Code includes a definition of torture that covers all of the elements contained in article 1 of the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment and article 7 of the Covenant. The State party should also ensure that the law adequately provides for the effective investigation and prosecution of perpetrators of such acts and their accomplices; that, if convicted, perpetrators and their accomplices are punished with sanctions commensurate with the seriousness of the crime; and that victims are adequately compensated.”<sup>15</sup>
- “Encourages the State party to ensure that the Criminal Procedure Code be revised in order to provide that anyone arrested or detained on a criminal charge is brought before a judge within 48 hours”<sup>16</sup>
- Urges the Government to “review the Law on mass organizations to ensure that it is in compliance with the provisions of articles 18, 19 and 22 of the Covenant as expounded by the Committee in its general comments No. 22 (1993) on the right to freedom of thought, conscience and religion and No. 34 (2011) on the freedoms of opinion and expression.”<sup>17</sup>

### *The UN Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment recommends:*

- To the Government of Indonesia to ensure that “torture should be defined and criminalised as a matter of priority and as a concrete demonstration of Indonesia’s

14 European Parliament Resolution 2017/2506 (RSP) on Indonesia adopted on 19th January 2017 in Strasbourg, available at: <http://www.europarl.europa.eu/sides/getDoc.do?type=TA&reference=P8-TA-2017-0002&language=EN&ring=P8-RC-2017-0072>

15 UN Human Rights Committee CCPR (21.08.2013): Concluding observations on the initial report of Indonesia, CCPR/C/IDN/CO/1, p. 5, available at: <http://undocs.org/CCPR/C/IDN/CO/1>

16 Ibid. p. 6

17 Ibid. p. 7

commitment to combat the problem, in accordance with articles 1 and 4 of the Convention against Torture, with penalties commensurate with the gravity of torture.”<sup>18</sup>

- “The Government should ensure that corporal punishment, independently of the physical suffering it causes, is explicitly criminalised in all parts of the country.”<sup>19</sup>

### ***UN Working Group on Arbitrary Detention recommends to the Government that***

- “All emergency laws and measures should be abrogated and replaced by a legal system which would be applicable in times of national crisis and in states of emergency and which would be compatible with article 4 of the International Covenant on Civil and Political Rights, i.e.: legal procedure for the proclamation of the state of emergency; listing of all non-derogable rights; measures ensuring respect for the principle of proportionality, both in relation to time (limited duration and renewal subject to specific conditions) and to space (limitation to the zones covered by a state of emergency).”<sup>20</sup>

## **7.3 National Human Rights Mechanisms - Shortages, Challenges & Opportunities**

The national human rights system in Indonesia includes various mechanisms which may be used to file a complaint. The mechanisms consist of semi-independent institutions such as the National Human Rights Commission (Komnas HAM), the National Police Commission (Kopolnas) and the Ombudsman as well as internal complaint procedures within the Police and the Military. Despite the existence of these mechanisms, only a small percentage of human rights violations in West Papua results in the prosecution of perpetrators, making these options rather ‘unattractive’ for the victims and their relatives. The semi-independent institutions have limited mandates and powers, while the internal mechanisms within the military and the police lack transparency and impartiality. There were achievements in 2017 and 2018 which opened up new opportunities for human rights institutions in Indonesia to protect fundamental freedoms and human rights in West Papua, including the Constitutional Court’s decision limiting the interpretation of the crimes of treason and the signing of a Memorandum of Understanding between the National Police and the National Police Commission on the handling of complaints against police officers.

18 UN Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment (10.03.2018): Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Manfred Nowak, Addendum Mission to Indonesia, A/HRC/7/3/Add.7, p. 25, available at: <http://daccess-ods.un.org/access.nsf/Get?Open&DS=A/HRC/7/3/Add.7&Lang=E>

19 Ibid. p. 25

20 Working Group on Arbitrary Detention (12.08.1999): Report of the Working Group on Arbitrary Detention on its visit to Indonesia (31 January-12 February 1999), E/CN.4/2000/4/Add.2, p. 24, available at: <http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=4slQ6QSmIBEDzFEovLCuW0JehA%2ffj8BhFpaBkMTxmJklmf7qwZetZFMgSZJ1ArZOQspkZ26si6wgQw%2bQ%2bX%2bt9ECiRly%2bd8WjHOknyi%2fhFVMYwS1AUUnYVmlLoVy%2fpFAnjIFN2ifHBRIH2v0BDmwoZaA%3d%3d>

## Shortages and challenges

A very small percentage of human rights violations in West Papua results in the prosecution of perpetrators of human rights violations, including extra-judicial killings or torture. Amnesty International reported that: of the 69 cases of extra-judicial killings in West Papua in the past eight years, none was criminally investigated by an independent institution. In 25 cases there was no investigations, while in another 26 the police or the military claimed to have conducted internal investigations but did not make the results public. In only six cases were the perpetrators held accountable for the deaths<sup>1</sup>. The low prosecution rate reflects the government's failure to implement an effective legal framework to bring the perpetrators of human rights violations to justice.

Torture victims and the relatives of extra-judicial killing victims have only unattractive options if they wish to bring the perpetrators to justice. One available option is to file grievances to semi-governmental organisations such as the National Human Rights Commission (Komnas HAM), the Ombudsman, or the National Police Commission. As they are not part of the Police or the Military, the investigations conducted by these parties are reasonably impartial. They, however, have limited mandates and powers.

Law No. 39 of 1999 gives Komnas HAM the authority to receive complaints from individuals, or group of individuals, who allege that their human rights had been breached, and to initiate an investigation following such a complaint. At the conclusion of its investigation, Komnas HAM may issue a report setting out its findings and recommendations, all of which are not legally binding. An investigation conducted by Komnas

HAM may result in a trial before the Human Rights Court only in limited circumstances, namely, in cases involving genocide and crimes against humanity. The mechanism for legal processing of cases of genocide and crimes against humanity is stipulated in Law No. 26 of 2000 on Human Rights Courts. The law sets out Komnas HAM's mandate to investigate a potential genocide or crimes against humanity case. Komnas HAM files its report to the Attorney General, who reviews and submits it to an *ad-hoc* human rights court and initiates a prosecution, if he or she considers the report to satisfy the legal requirements. The decision to prosecute entirely lies with the Attorney General.

On 27 November 2018, the Attorney General's Office returned the case files of nine alleged serious human rights abuses to Komnas HAM for further investigation. Amongst the returned files were those related to the Wamena and Wasior cases, two serious human rights violations in West Papua which took place in April 2003 and June 2001, respectively<sup>2</sup>. The Attorney General's Office claimed that the evidence in all the nine cases was insufficient to initiate a legal process. Komnas HAM Chairperson, Mr. Ahmad Taufan Damanik, expressed the opinion that the absence of a supervisory body monitoring the performance of the functions of the Attorney General's Office and the government's lack of commitment to settle human rights cases had prevented prosecutions from taking place<sup>3</sup>. Since 2002, the nine case-files have been passed back and forth between Komnas HAM and the Attorney General's Office with no meaningful progress.<sup>4</sup>

The Ombudsman can only issue non-legally binding reports and provide recommendations.

1 Amnesty International (2018): "Don't bother – just let him die", Killing with impunity in Papua, p. 7f, available at: <https://www.amnesty.org/download/Documents/ASA2181982018ENGLISH.PDF>  
2 Tempo (11.01.2019): Sembilan Kasus Dugaan Pelanggaran HAM yang dikembalikan Kejaksaan, available at: <https://nasional.tempo.co/read/1163801/sembilan-kasus-dugaan-pelanggaran-ham-yang-dikembalikan-kejaksaan>

3 Tempo (11.01.2019): Kejaksaan Agung Kembalikan Berkas Pelanggaran HAM ke Komnas HAM, available at: <https://nasional.tempo.co/read/1163767/kejaksaan-agung-kembalikan-berkas-pelanggaran-ham-ke-komnas-ham>

4 BBC Indonesia (11.01.2019): Kejaksaan Agung kembalikan berkas kasus pelanggaran HAM berat, bagaimana komitmen Presiden Jokowi?, available at: <https://www.bbc.com/indonesia/indonesia-46822119>



On paper, Law No. 37 of 2008 requires the complained state officials and their superiors to comply with any recommendations issued by the Ombudsman. Any failure to comply with the recommendations may lead to an administrative sanction being imposed on the state officials and their superiors and/or the matter being reported to the President and the House of Representatives. In practice, as recognised by its Chairperson, the Ombudsman's recommendations are more often ignored than not.

In cases where human rights violations were perpetrated by members of the police, the victims and/or their relatives have the option of filing a complaint to the National Police Commission (Kompolnas). Kompolnas is not an independent institution as it answers to the President, but it is an entity separate from the Indonesian National Police. Complaints against police officers may also be filed to Propam, an internal division of the Police that is supposedly responsible for maintaining its officers' accountability, or to its criminal investigation unit. When receiving complaints on torture or extra-judicial killings carried out by its officers (either directly from civil society members or Kompolnas) the Police have the option to investigate it as a criminal and/or disciplinary matter. It tends to do neither, as there are no legal consequences for failure to pursue any of the options.

In the rare event when the Police decided to initiate disciplinary proceedings, the investigated officers were subjected to lenient disciplinary sanctions such as transfers, suspensions, or making public apologies in internal 'code of conduct trials' (in Indonesian: *'Sidang Kode Etik'*)<sup>5</sup>. The proceedings are not open to the public and the complainants are not always updated about

progress in the case. Criminal investigations leading to the prosecution of perpetrators in a public trial are uncommon. As a result of internal disciplinary proceedings, four police officers involved in the shooting in Oneibo Village in August 2017 were required to make a public apology and were transferred to another district police unit.<sup>6</sup>

A similar state of affairs can be found in cases of torture or extra-judicial killings perpetrated by military officers. In these cases, the victims or their relatives may file a complaint to the Military Police (POM) or the Special Unit for Security or to the Military Discipline and Criminal Investigation (PROVOST), both of which are part of the Indonesian Military. Under Law No 31 of 1997, military officers who have allegedly committed a crime (even that of a 'civilian nature' such as theft or assault) should be tried by the Military Court. If military officers were convicted for assaults, they often serve a short period of imprisonment. Chief Brigadier Yusuf Salasar was sentenced to eight months imprisonment, to be reduced by the period of the detention he had served, for fatally shooting Mr Theodorus Cekatem in August 2017 and injuring some others<sup>7</sup>. There is no mechanism in place allowing the public to supervise the convicted military officers and to ensure that they serve their sentences.

The internal disciplinary proceedings within the police and the military lack transparency and commonly fail in adequately punishing the perpetrators or restoring justice for the victims. Cases of extra-judicial killings throughout 2017 and 2018 illustrate that investigations by the mechanisms within the military or the police often take a long time, while important evidence and witness testimonies are not considered. The

5 Perkap POLRI Nomor 21 Tahun 2010, Lampiran F Divpropam Polri, available at: [https://www.propam.polri.go.id/pol/download.php?f=peraturan/1299751013\\_LAMPIRAN%20F%20DIVPROPAM%20PERKAP%202010.pdf&id=85&dir=peraturan&mnu=peraturan](https://www.propam.polri.go.id/pol/download.php?f=peraturan/1299751013_LAMPIRAN%20F%20DIVPROPAM%20PERKAP%202010.pdf&id=85&dir=peraturan&mnu=peraturan)

6 CNN Indonesia (31.08.2017): Penembakan di Deiyai, Empat Polisi Divonis Minta Maaf, available at: <https://www.cnnindonesia.com/nasional/20170831162855-12-238698/penembakan-di-deiyai-empat-polisi-divonis-minta-maaf/>

7 PAHAM Papua (20.03.2018): Serka Yusuf Salasar, Terdakwa Kasus Penembakan di Pelabuhan Pomako-Timika Divonis 8 Bulan Penjara Oleh Hakim. See also <http://tabloidjubi.com/artikel-14817-oknum-tni-pelaku-penembakan-nelayan-pomako-hanya-divonis-delapan-bulan-penjara.html>.

cases also reveal a new pattern of structural violation against the right to a fair trial. There have been reports that military trials are held in Jayapura, although the incidents occurred in other regencies in the Papuan province. This prevents witnesses from attending the trials and testifying against the perpetrators, since most families do not have the financial means to travel to Jayapura. Indonesian human rights non-governmental organisation KontraS reported that the trial against three military members who killed Isak Dewakyequa on 19 November 2017 was held at the Military Court III-19 in Jayapura, despite the fact that the incident occurred in Kimam District of Merauke Regency. Important witnesses to the killing could not testify before the court because they had no resources to travel.<sup>8</sup>

## Opportunities

Despite many challenges and shortcomings in the national human rights mechanisms, there were a few events in 2017 and 2018 which open up new opportunities for the progress of human rights in West Papua. A ruling by the Constitutional Court in decisions 7/PUU-XV/2017 and 28/PUU-XV/2017 provides some clarification on the scope of some provisions in the Penal Code relating to treason. Although it rejected civil

society's application for the repeal of the treason provisions in the Penal Code<sup>9</sup>, the Constitutional Court did clarify that the possession of a Morning Star Flag or other political attributes on its own is insufficient evidence for treason or criminal prosecution. The judges further clarified that the police can arrest someone for possessing or waving a Morning Flag only if it can be proven that such an act was the beginning or part of the planning of a treasonous act.<sup>10</sup> An analysis of the pattern of criminal charges used against political detainees suggests that the Indonesian authorities have begun to modestly reform the use of treason charges since January 2015.<sup>11</sup>

A further promising development was achieved by Kompolnas who, in October 2017, signed a Memorandum of Understanding with the National Police setting out, that the complaints received by Kompolnas may be brought to the attention of the Internal Supervision Unit of the Indonesian National Police. Kompolnas may request the Unit to follow up the complaint or, subject to certain conditions, to restart or conduct further investigations. Kompolnas may also recommend a criminal proceedings or disciplinary proceedings be launched, although the decision on whether further actions will be taken is left for the Police to make.<sup>12</sup>

8 Asian Human Rights Commission (31.07.2018): INDONESIA: Military court III-19 Jayapura Papua must examine witnesses from victim's family, available at <http://www.humanrights.asia/news/urgent-appeals/AHRC-UAU-006-2018/>

9 Kabar 24 (31.01.2018): Uji Materi Pasal Makar: Begini Putusan Mahkamah Konstitusi, available at: <https://kabar24.bisnis.com/read/20180131/15/732882/uji-materi-pasal-makar-begini-putusan-mahkamah-konstitusi>

10 KBR News (31.01.2018): ICJR: Berdasarkan Putusan MK, Pengibaran Bendera Papua Tidak Boleh Asal Ditangkap, available at: [https://kbr.id/nasional/01-2018/icjr\\_berdasarkan\\_putusan\\_mk\\_pengibaran\\_bendera\\_papua\\_tidak\\_boleh\\_asal\\_ditangkap/94812.html](https://kbr.id/nasional/01-2018/icjr_berdasarkan_putusan_mk_pengibaran_bendera_papua_tidak_boleh_asal_ditangkap/94812.html)

11 International Coalition for Papua (September 2017): Human Rights in West Papua 2017, the Fifth report of the International Coalition for Papua (ICP) covering events from January 2015 until December 2016, p. 9, available at: <http://www.humanrightspapua.org/images/docs/HumanRightsPapua2017-ICP.pdf>

12 Mutual agreement between the National Police Commission and the National Police of the Republic of Indonesia, Number: 01/X/2017/ KOMPOLNAS, Number: B/80/X/2017, regarding the cooperation and relationship of work procedures, functions, duties and authorities between the National Police Commission and the Indonesian National Police (09.10.2017), available at: <https://ppid.kompolnas.go.id/wp-content/uploads/MOU-Kompolnas-Polri-2017.pdf>

# Recommendations



## The ICP recommends to the Government of Indonesia to:

- Establish a human rights court in West Papua and ensure the court's effectiveness by extending its mandate to process all human rights cases, and not only those meeting the criteria of systematic and widespread attacks against civilians.
- Strengthen the Papuan representative's office of the National Human Rights Commission through financial resources as well as the enhancement of its mandate including the authorization to carry out independent investigations and the ability to conduct direct coordination with the Attorney General's Office.
- Support the National Human Rights Commission (Komnas HAM), the national police commission (Kopolnas) and the Ombudsmen office to increase monitoring of places of detention across Papua, particularly prioritizing the central highlands.
- Ensure that the National Police applies effective oversight of the provincial police in Papua and Papua Barat to guarantee that the residents of West Papua can enjoy a high standard of law enforcement. Negligence and corruption within the police need to be addressed with serious sanctions and criminal procedures where applicable.
- Review Law 31/1998 on Military Justice. Military members committing human rights violations against civilians should not be processed in military courts but held accountable in civilian, public, and transparent court proceedings.
- Ensure that military tribunals take place in the regency, where an alleged violation was committed in order to ensure that victims and witnesses can attend and participate in the trial.
- Ensure that the police-internal 'code of conduct trials' are transparent and publicly accessible by journalists, lawyers as well as victims and their relatives



## Recommendations by international human rights mechanisms:

### *The UN Human Rights Committee (CCPR) recommends that the Government should:*

- "As a matter of urgency, address the impasse between Komnas HAM and the Attorney General. It should expedite the establishment of a court to investigate cases of enforced disappearance committed between 1997 and 1998 as recommended by Komnas HAM and the Indonesian Parliament. Furthermore, the State party should

effectively prosecute cases involving past human rights violations [...] and provide adequate redress to victims or members of their families.”<sup>13</sup>

- “Take appropriate measures to strengthen the National Police Commission to ensure that it can effectively deal with reported cases of alleged misconduct by law enforcement personnel”<sup>14</sup>

### ***The UN Committee against Torture (CAT) recommends that the Government should:***

- “Consider amending its legislation on human rights courts, since they face serious difficulties in carrying out their judicial mandate, which has led to de facto impunity for perpetrators of gross human rights violations.”<sup>15</sup>
- “Reform the Attorney-General’s office to ensure that it proceeds with criminal prosecution into allegations of torture and ill-treatment with independence and impartiality. In addition, the State party should establish an effective and independent oversight mechanism to ensure prompt, impartial and effective investigation into all allegations of torture and ill-treatment. The State party should also publish, without delay, the reports of Komnas HAM investigations”<sup>16</sup>

### **The UN Special Representative on the situation of human rights defenders recommends that:**

- “Guidelines and standards are laid down by the Supreme Court for effective investigation, with directions that compel investigation and prosecution agencies to ensure that cases are based on investigations conducted under those guidelines.”<sup>17</sup>
- “A better system of coordination and support be created within Komnas HAM in order to ensure that regional representatives are able to operate effectively. They must receive full and timely support of the Commission if there is interference in their functioning or they are at risk in their regions.”<sup>18</sup>

13 UN Human Rights Committee CCPR (21.08.2013): Concluding observations on the initial report of Indonesia, CCPR/C/IDN/CO/1, p. 3, available at <http://undocs.org/CCPR/C/IDN/CO/1>

14 Ibid. p. 5

15 UN Committee against Torture CAT (02.07.2008): Consideration of reports submitted by states parties under article 19 of the convention, Concluding observations of the Committee against Torture, Indonesia, CAT/C/IDN/CO/2, p. 9f, available at <http://undocs.org/CAT/C/IDN/CO/2>

16 Ibid. p. 10

17 UN Special Representatives on the situation of human rights defenders (28.01.2008): Report of the Special Representative of the Secretary-General on the situation of human rights defenders, Ms. Hina Jilani, Addendum, Mission to Indonesia, A/HRC/7/28/Add.2, p. 25, available at: <http://daccess-ods.un.org/access.nsf/Get?Open&DS=A/HRC/7/28/Add.2&Lang=E>

18 Ibid. p. 25

## 7.4 Democracy and elections in West Papua

**Law No 21/ 2001 on Special Autonomy for the Papua Province ('UU Otsus')** mandates the local governments in West Papua to regulate and manage the interest of the local people, at its own initiative, based on their aspiration and fundamental rights. Along with the Governor, the DPRD holds the power to enact special provincial bye-laws ('Perdatus') as well as regular provincial bye-laws ('Perdasi'). Once a bye-law is drafted, the text must be submitted to the Minister of Home Affairs who has the responsibility to number the bye-law as a minor procedural requirement. However, the requirement has been misused by Jakarta to prevent any Perdatus or Perdasi which it does not agree with from coming into effect. By refusing to number the Perdatus or Perdasi agreed by the elected Papuan government, the central Government unlawfully bypasses the Supreme Court's constitutional power to decide on the rejection of laws. The 2018 local elections and the 2019 general election are resuscitating the discussion on the establishment of local political parties in Papua. Preparations for the local elections in the highland regencies of Nduga and Puncak Jaya were accompanied by violent clashes between armed groups and security forces.

### Constitutional and legal framework

Following the second amendment of the Constitution in 2000, Indonesian provinces, regencies, and municipalities (i.e. 'local government') were given the powers to self-regulate<sup>1</sup>. The amended Constitution introduces the principle of broad power decentralization: any matters which the law does not set to fall under Jakarta's authority are for local governments to regulate<sup>2</sup>. The Constitution requires that, the power relationship between the central and local governments be prescribed by law and take into account the specificity and diversity of each region<sup>3</sup>.

A year later, in 2001, the Law on Special Autonomy for the Papua Province ('UU Otsus')

came into effect. UU Otsus mandates that, the local governments in West Papua regulate and manage the interest of the local people, at its own initiative, based on their aspiration and fundamental rights. This 'special' power shall extend to all government matters, except limited matters which fall under the responsibility of the central government in Jakarta, namely international affairs, defense, security, judicial, monetary and national fiscal, religion, and other matters to be prescribed by law<sup>4</sup>.

The 'special' power is to be jointly exercised by the provincial government consisting of the Papuan House of Representatives ('DPRD'), as the legislative branch of power, and the Governor and their apparatuses, as the executive<sup>5</sup>. Along with the Governor, DPRD holds the power to enact special provincial bye-laws ('Perdatus') as well as regular provincial bye-laws ('Perdasi') and

1 Article 18(2) of the amended 1945 Constitution.  
2 Article 18(5) of the amended 1945 Constitution.  
3 Article 18A(1) of the amended 1945 Constitution.

4 Article 4 of Undang-Undang tentang Otonomi Khusus bagi Provinsi Papua, Law No. 21 of 2001.  
5 In this writing, any reference to 'Government' (with a capital 'G') refers to the executive branch of power, whereas 'government' (with a small 'g') refers to both the executive and the legislative branches.

to discuss and determine the regional budget for the provinces.

UU Otsus established the Papuan Peoples Assembly ('MRP') as part of the provincial government. It shall represent the indigenous Papuans and be given the special power to protect the rights of the indigenous people. The MRP has the power, for example, to provide advice, consideration, and approval of the Provincial Government's plan to enter into a cooperation agreement with a third party which may affect the protection of the rights of indigenous Papuans.

### Perdasus and Perdasi<sup>6</sup>

Perdasus and Perdasi, are both products of the DPRD and the Governor and, like other bye-laws, their legal status in the hierarchy of Indonesian law is below Presidential Regulations, but above the bye-laws enacted at the level of regencies or municipalities<sup>7</sup>. The content of Perdasus and Perdasi thus should not contradict any provisions in any of the higher laws made at the national level: the Constitution, the decrees of the People's Consultative Assembly ('Ketetapan MPR'), the national Law ('Undang-undang'), Government Regulation in Lieu of Law ('Perpu'), Government Regulations ('Peraturan Pemerintah' or simply referred to as 'PP'), and Presidential Regulations ('Perpres')<sup>8</sup>.

What mainly distinguish Perdasus and Perdasi are their functions and content. The enactment of Perdasus is required to allow the implementation of UU Otsus. DPRD and the Governor thus cannot enact a Perdasus unless it is mandated by UU Otsus, such as matters relating to the regional symbol and MRP's memberships. Perdasi, on the other hand, are regular bye-laws. They are not 'special' in the sense that their enactment is not

mandatory for the implementation of UU Otsus. Perdasi are equivalent to other bye-laws made by local governments in other parts of Indonesia, albeit under different names.

For a Perdasus to be enacted, an approval from DPRD is required. The DPRD and the Governor do not require the approval of the DPRD's if they wish to enact a Perdasi, although the DPRD may ask for the review of a Perdasi if it considers it to be at odds with indigenous Papuans' rights. Perdasus and Perdasi, according to UU Otsus, are legally binding once they are published in the Local Gazette.

UU Otsus does not provide a detailed explanation on how Perdasus and Perdasi are made. Neither does it explain their relationship with the national law, or the central government's possible involvement which may determine the applicability of these bye-laws. These aspects of Perdasus and Perdasi are thus subject to other, higher laws: mainly the Law on Regional Autonomy ('UU Otonomi Daerah') and the Law on the Formation of Legislations ('UU P3').

The 'special' autonomy granted to the Papuan provinces does not come with the freedom to enact any bye-laws as the DPRD, the Provincial Government, or the DPRD wishes. As a start, a Perdasus or Perdasi cannot regulate matters falling within the power of the Central Government such as those relating to international affairs, security, defense and religion. Furthermore, under the law on the Formation of Legislative Regulations ('UU P3' short for Undang-undang Pembentukan Peraturan Perundang-undangan), DPRD and the Provincial Government should only enact bye-laws listed in the Local Legislation Program ('Prolegda' abbreviation for Program Legislasi Daerah), an annual list of bye-laws to be enacted during a particular year.

6 Any reference to Perdasus and Perdasi in this writing refers to the bye-laws at the provincial level.

7 Article 7(1) of Undang-Undang tentang Pembentukan Peraturan Perundang-Undangan, Law No. 12 of 2011.

8 Article 7(2) of Undang-Undang tentang Pembentukan Peraturan Perundang-Undangan, Law No. 12 of 2011.

Bye-laws whose enactments are required by a higher law should be listed as top priority in the Prolegda ('Program Legislasi Daerah' or Local Legislation Program), such as the national Law or the Government Regulation. Next in the list are bye-laws concerning the province's development planning, the implementation of its autonomy power and any bye-laws desired by local communities<sup>9</sup>. The Prolegda may also include bye-laws concerning the regional budget and any amendment of bye-laws ordered by the Supreme Court<sup>10</sup>. Only in limited circumstances can the Provincial parliament and the Provincial Government enact bye-laws not listed in the Prolegda, for example those needed to respond to extraordinary circumstances such as a conflict or natural disaster<sup>11</sup>.

Once DPRP and the Governor agreed on the final text of a Perdasus or Perdasi, a set of procedural requirements should be met before the Perdasus or Perdasi has any legal effect. DPRP first should formally submit the agreed Perdasus or Perdasi to the Governor who, in turn, has to submit the text to the Minister of Home Affairs. Each stage of this process should take place within three days after the recipients have received the agreed Perdasus or Perdasi.

The Minister is legally required to number the Perdasus or Perdasi within seven days<sup>12</sup>, although failure to do so will have no legal consequences for the Minister. The Governor should subsequently sign the numbered Perdasus or Perdasi within thirty days after the final text has been agreed. In the event that the Governor fails to provide his signature within the statutory timeframe, the Perdasus or Perdasi will

automatically come into effect and should be gazetted in the Local Gazette.

The provision regarding the numbering of a Perdasus or Perdasi by the Minister is intended to be a minor procedural requirement. UU Otonomi Daerah explains that the rationale behind this requirement is to create the so-called "administrative order", in that it will allow the collection of comprehensive information on all bye-laws enacted by local governments across Indonesia<sup>13</sup>.

In practice, however, the requirement has been misused by Jakarta to prevent any Perdasus or Perdasi which it does not agree with from coming into effect. A Perdasus concerning local political parties agreed by the DPRP and the Governor in 2016, for example, never come into effect because the Minister of Home Affairs left it unnumbered<sup>14</sup>. An unnumbered Perdasus or Perdasi cannot be gazetted and thus can never come into effect<sup>15</sup>. Two other Perdasus concerning Indigenous Papuans and Political Recruitment faced the same fate<sup>16</sup>.

Any disagreement between the central and Papuan governments on the content of a Perdasus or Perdasi should not be used as an excuse by the Minister to avoid their obligation to number bye-laws agreed by DPRP and the Governor. As the Constitutional Court correctly pointed out in their decisions in 2015 and 2016<sup>17</sup>, the executive (which includes the Minister of Home Affairs and the governors) does not have the constitutional power to annul any

9 Article 35 of Undang-Undang tentang Pembentukan Peraturan Perundang-Undangan, Law No. 12 of 2011.

10 Article 38(1) of Undang-Undang tentang Pembentukan Peraturan Perundang-Undangan, Law No. 12 of 2011.

11 Article 38(2) of Undang-Undang tentang Pembentukan Peraturan Perundang-Undangan, Law No. 12 of 2011.

12 Article 242(5) of Undang-Undang tentang Pemerintahan Daerah, Law No. 23 of 2014.

13 See point 8 of the explanation of Law No. 23 of 2014.

14 Jubi (3.12.2018): Registrasi Kemendagri hambat Perdasus Parpol lokal Papua, available at <https://www.tabloidjubi.com/artikel-21598-registrasi-kemendagri-hambat-perdasus-parpol-lokal-papua.html>.

15 Article 243(1) of Undang-Undang tentang Pemerintahan Daerah, Law No. 23 of 2014.

16 JUBI (12.03.2017): Bertemu Dubes AS, DPRP angkat isu HAM dan kebebasan berpendapat, available at <http://www.tabloidjubi.com/artikel-4480-bertemu-dubes-as-dprp-angkat-isu-ham-dan-kebebasan-berpendapat.html>

17 See Indonesian Constitutional Court Decision No. 137/PUU-XIII/2015 available at [https://mkri.id/public/content/persidangan/putusan/137\\_PUU-XIII\\_2015.pdf](https://mkri.id/public/content/persidangan/putusan/137_PUU-XIII_2015.pdf) and Decision No. 56/PUU-XIV/2016, available at [https://mkri.id/public/content/persidangan/putusan/56\\_PUU-XIV\\_2016.pdf](https://mkri.id/public/content/persidangan/putusan/56_PUU-XIV_2016.pdf).

bye-laws. In accordance with Article 24A(1) of the Constitution, such power falls within the authority of the Supreme Court instead.

If the central Government disagrees with the content of a *Perdasus* or *Perdasi*, it should file a complaint before the Supreme Court, where the judges will decide whether a bye-law contradicts any higher laws, public interest, or morality and if it should have any legal effect. By refusing to number the *Perdasus* or *Perdasi* agreed by the elected Papuan government, the central Government unlawfully bypasses the Supreme Court's constitutional power as well as the democratic process and growth in Papua.

## Local Elections in Papua

In 2018, local elections were held across Papua and other parts of Indonesia to choose the heads of the respective local Governments for the years 2018 to 2023. The incumbent Papuan Governor Lukas Enembe and Deputy Governor Klemen Tinal competed against challengers John Wembi Wetipi and Habel Suwai, popularly referred to as Josua. Lukas Enembe and Klemen Tinal were backed by ten political parties, including the Democratic Party, Golkar, National Democratic Party (Nasdem), and the Prosperous Justice Party (PKS). Josua was supported by Megawati's Indonesian Democratic Party of Struggle ('PDI-P') and Prabowo's Gerindra Party.

The 2018 local elections and the upcoming 2019 general election resuscitated the discussion on the establishment of local political parties in Papua. The United Papua Party, a local political party established in 2014, registered itself to compete in the upcoming 2019 election but the General Elections Commission's representatives in Papua determined that the party was not qualified to participate. A lack of legal basis was cited as the reason for the decision not to allow the participation of local parties in the election<sup>18</sup>.

The United Papua Party claimed that Papuans were granted the right to establish local parties under the Constitution and UU Otsus. This view gained support from the provincial government in Papua, but it proved not to be as popular in Jakarta (see above). In 2015, the Law and Human Rights Ministry revoked its own decree which acknowledged the establishment of the United Papua Party. Those opposing the participation of local Papuan parties in the election argue that UU Otsus only grants the Papuan residents the right to establish a *national* political party, and not a *local* one such as in Aceh.

Unlike the Law on the Governance of Aceh, UU Otsus does not have any specific provisions for the establishment local political parties and their participation in the elections. Article 28 of UU Otsus states that the residents of Papua may establish a political party, without clarifying whether it refers to a national or local political party. Interpreting Article 28 to only allow the establishment of national parties by Papuans, however, would lead to an absurd result. All adult Indonesians have the right to establish a national political party – so there is nothing *khusus (special)* in Article 28 of UU Otsus if the provision is read narrowly. There have been talks to bring the Constitutional Court into the discussion, so that it can clarify the correct and appropriate reading of Article 28 of UU Otsus.

The preparations for the local elections in the highland Regencies of Nduga and Puncak Jaya were accompanied by violent clashes between armed groups and security forces who had been deployed to the Regencies to provide security for the election process. On 25 June 2018, an unknown armed group opened fire at a civil plane of the aviation company Trigana, as the airplane was landing at the Kenyam Airport in Nduga Regency. The Twin Otter plane was bringing security force personnel to Nduga, where they were deployed to secure

18 See 'Ketua KPU Minta Partai Lokal Kembali Daftar Lima Tahun Lagi', *Kabar Papua*, 6 December 2018, available at <https://kabarpapua.co/ketua-kpu-papua-minta-partai-lokal-kembali-daftar-lima-tahun-lagi/>.



the local elections. The pilot sustained a bullet injury and had to receive medical treatment. A subsequent armed clash between the armed group and security force members led to the death of Henrik Sattu Kola (35 years), his wife Margaretha Pali (20 years) and Zaenal Abidin (28 years). Six-year-old Arjuna Kola was injured and had to be hospitalised.<sup>19</sup> According to Radio New Zealand International, a faction of the West Papua National Liberation Army (TPN) claimed responsibility for the shooting.<sup>20</sup>

A second attack on a group of police officers occurred in the Torere district of Puncak Jaya

Regency on the 26 June 2018. A group of Torere villagers went with two speed boats to a polling station near the border to Mamberamo Raya Regency, where they wanted to participate in local elections. One of the speed boats was attacked as the group was on its way back to Torere District. The perpetrators released multiple shots from a hideout near the river bank and targeted the boat with the head of Torere District and nine police officers. The head of district and two police officers from the Puncak Jaya District police died during the attack.<sup>21</sup>

## Recommendations



### The ICP recommends to the Government of Indonesia to:

- **Strictly monitor the compliance of article 242(5) of law no. 23/2014 on Local Governments and apply sanctions for the Ministers blocking the enactment of a local regulation by refusing to number the bye-law.**
- **Challenge legality of bye-laws in the supreme court instead of blocking their enactment by hampering the enactment procedures through bureaucratic interventions.**
- **Allow the formation of local political parties and their participation in local elections across the provinces of Papua and Papua Barat.**

19 Local Human Rights Defenders (01.07.2018): Aksi Penembakan Pesawat Trigana Twin Otter PK- YRU oleh OTK di Kab. Nduga.

20 Local Human Rights Defenders (01.07.2018): Aksi Penembakan Pesawat Trigana Twin Otter PK- YRU oleh OTK di Kab. Nduga.

21 Kompas (28.06.2018): Seorang Camat dan 2 Polisi Tewas Ditembak KKB di Distrik Torere Papua, available at <https://regional.kompas.com/read/2018/06/28/07075251/seorang-camat-dan-2-polisi-tewas-ditembak-kkb-di-distrik-torere-papua>

## 7.5 The Indonesian Military and its Influence

**Despite the efforts to reform the Indonesian military (TNI) and reduce its economic and political influence, former and incumbent military leaders continue to pull their power strings behind the scene. Observers argue that the power of the TNI has even increased under the new president Mr. Joko Widodo, (Jokowi) who appointed several former high-ranking military generals as close advisors and ministers. The military used its influence to hamper political attempts which jeopardised the impunity of military generals who had allegedly been involved in past human rights violations. Para-military organisations and radical Islamist groups have reportedly been funded and coordinated by the former and incumbent TNI leaders to initiate a coup against President Jokowi in 2016 for pushing attempts to resolve past human rights violations. West Papua remains one of the military strongholds in Indonesia due to the unresolved long-lasting political conflict in the region. The TNI continues to engage in a wide range of civilian matters in West Papua, including the protection of private businesses, implementation of government development projects and law enforcement operations.**

### The power of the military in Jakarta

Indonesian Governments of the 'Reformasi' era have tried to reduce the political and economic power of the Indonesian military (Bahasa Indonesia: Tentara Nasional Indonesia or 'TNI'). The privileges which the TNI enjoyed under President Suharto were curtailed after the military dictator stepped down. The TNI, no longer had a guaranteed number of permanent seats in the parliament and the political rights of active military members to vote or run for candidacy in public elections was revoked<sup>1</sup>. In addition, the military had to give-up its dual function (Dwi Fungsi) which mandated it during the 'New Order' period to engage in civilian matters besides its role as a national defence institution<sup>2</sup>. In 2004, the Indonesian Parliament

adopted a law according to which the TNI had to withdraw from its business activities until 2009<sup>3</sup>. While these efforts forced the military to leave the political stage in Indonesia, former and incumbent generals continue to pull their power strings behind the scene. Some observers argue that the power of the military has even increased under the new president Mr. Joko Widodo ('Jokowi'), who himself does not come from a military background.

Being well aware that the military continues to be among the political key actors in Indonesia, President Jokowi chose several former army generals as ministers in his cabinet. In 2015, Jokowi appointed the former army chief Luhut Binsar Panjaitan as Coordinating Minister for Political, Legal and Security Affairs. One year later, he gave the position to former army General Wiranto, despite the fact that the United Nations

1 Aljazeera (12.04.2019):Indonesia election and the role of its powerful military, available at: <https://www.aljazeera.com/news/2019/04/indonesia-election-role-powerful-military-190409075921126.html>

2 Bilveer Singh (2001): Civil-Military Relations in Democratising Indonesia, pp.37–40

3 Human Rights Watch (11.01.2010):'Unkept Promise', Failure to End Military Business Activity in Indonesia, available at: <https://www.hrw.org/report/2010/01/11/unkept-promise/failure-end-military-business-activity-indonesia>

alleged Wiranto's involvement in "crimes against humanity" during TNI operations in East Timor's 1999 independence vote. Observers estimate that the operations cost the lives of more than 1.000 East Timorese. President Jokowi appointed Mr. Luhut Panjaitan as the new Coordinating Minister for Maritime Affairs after Mr. Wiranto took his former position.<sup>4</sup> He also appointed Prabowo Subianto as defense minister in 2019.

President Jokowi went even further –after a joint meeting between the TNI and the National Police (POLRI) leaders on 29 January 2019, Jokowi and the TNI commander Air Chief Marshal Hadi Tjahjanto announced plans to create sixty new job careers for brigadiers, majors and lieutenant generals who could no longer be employed in the Indonesian security force apparatus. Jokowi suggested to place the officers in civil servant positions - a plan that contradicts the reforming spirit in the military, that is: to reduce the role of the military to a professional army in charge of national defence only. The implementation of such plans will require amendments to Law 34 /2004 regarding the role and function of the TNI. The amendment would be a major retrogressive step in Indonesia's democratisation progress over the past twenty years.<sup>5</sup>

Liberals in Indonesia hoped that Jokowi would succeed in controlling the military and leave political offices and government administration to civil society actors. The hopes were encouraged as the Jokowi government for the first time organised a ground-breaking Symposium in 2016, allowing victims of the 1965 massacres to testify about the crimes which were committed by security force members as part of Suharto's fight against 'Communism'. Many Indonesians thought that President Jokowi would take a stance to deal with the past human rights violations and bring the

perpetrators to justice. During the symposium, high-ranking TNI figures –publicly promoted as war heroes safeguarding the nation from the constant threat of communism– were suddenly alleged as perpetrators of human rights violations. The symposium gave rise to the possibility that the perpetrators may one day have to face prosecution. The TNI regarded the symposium and President Jokowi as a threat to their impunity.<sup>6</sup>

'The Intercept' published an article in April 2014 according to which a group of former and active army officials allegedly conspired against President Jokowi as a reaction to the 1965 survivors' symposium. The article illustrates the operation mode which the TNI uses to exercise political influence behind the scenes. Para-military organisations and radical Islamist groups would be funded and coordinated by the TNI. According to the article, former and active military officials together with leaders of the Islamic Defenders Front (FPI) planned a coup against Jokowi. The FPI was supposed to conduct large mass demonstrations, trying to occupy the president's palace or the congress with the goal to create chaos. The scenario should appear like civil society raising their voices against the president. Subsequently, the TNI would step in and re-establish public order. Investigative journalist Allan Nairn claimed that old elites, including various TNI figures, attempted to use the allegations of blasphemy against former Jakarta mayor Basuki Tjahaja Purnama (or Ahok) as a pretext to carry out large scale mass demonstrations in Jakarta for the implementation of their conspiracy plans. After the FPI demonstration in front of the Presidential Palace on 4 November 2016, FPI movement leader, Muhammad Khattath, and former TNI General, Kivlan Zein, were arrested with allegations of trying to overthrow President

4 Aljazeera (12.04.2019):Indonesia election and the role of its powerful military, available at: <https://www.aljazeera.com/news/2019/04/indonesia-election-role-powerful-military-190409075921126.html>

5 The Jakarta Post (04.02.2019): Restless Colonels, available at: <https://www.thejakartapost.com/academia/2019/02/04/restless-colonels.html>

6 Allan Nairn (19.04.2017): Trump's Indonesian Allies In Bed With ISIS-Backed Militia Seeking to Oust Elected President, available at: <https://theintercept.com/2017/04/18/trumps-indonesian-allies-in-bed-with-isis-backed-militia-seeking-to-oust-elected-president/>

Jokowi. The article also named other former and incumbent TNI leaders, among them former president Susilo Bambang Yudhoyono (SBY), presidential candidate Mr. Prabowo Subianto and infantry general Gatot Nurmantyo, as silent supporters and funders of the coup movement. Despite repeated attempts to prosecute Mr Kivlan Zein for his involvement in treasonous acts, the case was never forwarded to a public prosecutor. He was not detained and allowed to leave the country.<sup>7</sup> The most recent attempts to prosecute the former army general occurred in May 2019. He was summoned as a suspect in relation to allegations of treason against the Jokowi Government<sup>8</sup>.

### Military influence in West Papua

The military's sphere of influence expands far beyond Indonesia's capital Jakarta to the edges of the archipelago. A heavy military presence in all parts of West Papua, numerous army bases and military posts make the region into one of the TNI's strongholds inside Indonesia. The TNI is undoubtedly the most powerful state institution in West Papua. The unresolved political conflict in West Papua strengthens and justifies the TNI's position as a key stakeholder in West Papua, enabling it to spread its sphere of influence far beyond those of a professional defence state institution.

Law No. 34/2004 on the TNI, stipulates that all businesses owned by the military shall be transferred into civilian hands by 2009. The implementation of the law was delayed until former president SBY issued presidential decree No. 43 of 2009 on the Takeover of Business Activities of the TNI. Many human rights organisations identified serious shortcomings in the decree, inter alia the possibility of retaining

TNI businesses by shifting the ownership to one of its many foundations and cooperatives<sup>9</sup>. Until today, the TNI in West Papua –as an institution or through individual members– still engages in a wide range of civilian matters, including the protection of private businesses, implementation of government development projects and law enforcement operations. In addition, the TNI uses national media and its relations with other government agencies to influence public opinion and to restrict criticism.

### Engagement in private businesses and government infrastructure projects

Observers estimate that a major share of TNI revenues are generated through involvement in large infrastructure and agricultural projects as well as extractive natural resource exploitation run by private companies and/or the central Government. While the engagement with private investors mainly focusses on the provision of security services, the TNI has also taken on infrastructure projects for the central Government where military members are working in the construction of infrastructure.

The highest revenues from private investors are likely to be those from Freeport McMoRan's Indonesian subsidiary PT Freeport Indonesia (PT FI), running the world's largest copper and gold mine in the Mimika Regency of Papua Province. A Freeport report to the United States Securities and Exchange Commission<sup>10</sup> stated that the Indonesian Police and the TNI had received US \$ 20 million for security services in 2016, US \$ 21 million in 2015 and US \$ 27 million in 2014. For earlier periods, other reports even mentioned the names of TNI commanders who had repeatedly received funds from PT FI –in some

7 Ibid.

8 CNN Indonesia (09.05.2019): Laporan Makar Kivlan Zein Dilimpahkan ke Siber Bareskrim, available at: <https://www.cnnindonesia.com/nasional/20190509194844-12-393541/laporan-makar-kivlan-zein-dilimpahkan-ke-siber-bareskrim>

9 Human Rights Watch (11.01.2010): 'Unkept Promise', Failure to End Military Business Activity in Indonesia, available at: <https://www.hrw.org/report/2010/01/11/unkept-promise/failure-end-military-business-activity-indonesia>

10 United States Securities and Exchange Commission (24.02.2017): Annual Report Pursuant to Section 13 or 15 (d) of the Securities Exchange Act of 1934 for the fiscal year ended December 31, 2016, available at: <https://d18rn0p25nwr6d.cloudfront.net/CIK-0000831259/3453e93c-2322-4b36-8e56-c5170b2a4660.pdf>

cases more than a hundred thousand US dollars – which were declared as food allowances ('uang makan') or travel allowances. The reports show that Freeport not only paid funds for multiple purposes to individuals but also to the TNI as an institution.<sup>11</sup>

The TNI is also directly involved in the implementation of Government infrastructure projects. The largest project of this kind in West Papua is the Trans Papua Road, a road network of 4,325 km which will connect the major coastal cities and the highlands of West Papua. At stages on the road, military members have been deployed to protect government contractors working on the construction of the road.<sup>12</sup> However, presidential regulation (Perpres) No. 40/2013 about the acceleration of development in the provinces of Papua and Papua Barat, elaborates that parts of the duty and authority for the completion of the road are handed over to the Indonesian military. Other parts of the road system will be established under the responsibility of the Indonesian Ministry of Public Works. The government allocated 3,4 trillion Rupiahs in 2017<sup>13</sup> alone for the ambitious road project. How much of these funds the TNI received is not clear.

### **Military members and law enforcement**

A considerably high number of cases of human rights violations in West Papua continue to be reported in which military officers act in the capacity of law enforcement officials (see Chapter 3.3 Right to Liberty and Security of the Person). It is very common that such incidents are accompanied by violent acts. In this report, chapter 3.5 on extra-judicial killings and chapter 3.6 on torture and ill-treatment list multiple cases that outline this pattern. None of the cases were followed up with independent investigations

and prosecution of the perpetrators because military members cannot be held accountable in civilian courts.

### **Influence of public opinion and repression against critics**

The TNI uses multiple strategies to counter criticism which go beyond 'heavy handed methods' like assault or intimidation. While assaults and intimidations continue to be used against single human rights defenders, political activists or journalists, these methods have limitations, especially if critics are foreigners or larger groups. In such cases the TNI uses its relations with other government institutions or with national media outlets to counter criticism.

There are several examples in which the TNI successfully used its relations with the immigration office to take firm measures against foreigners who have criticised the TNI. The BBC journalist Ms. Rebecca Henschke, was forced to leave West Papua in early February for allegedly offending members of the military on her Twitter account. Henschke was in the Asmat region to cover the health situation in the area where there was a measles epidemic and associated malnutrition. The military issued a complaint to the police and local immigration agency, stating after the journalist had posted a critical comment on unhealthy food supplies which the TNI brought to the Asmat Regency. Police and immigration officers subsequently questioned Rebecca Henschke for 17 hours.<sup>14</sup> Another case occurred in March 2017, when the Indonesia-based independent Al Jazeera journalist, Mr. Jack Hewson, was blacklisted without clear reason. An immigration officer admitted that TNI members had reported Jack Hewson to the immigration office, requesting that he be prevented from staying in Indonesia.<sup>15</sup>

11 Tirta (20.11.2017): Biaya Jutaan Dolar Mengamankan Freeport di Papua, available at: <https://tirta.id/biaya-jutaan-dolar-mengamankan-freeport-di-papua-cAfw>

12 Milimeter.com (28.06.2017): TNI Bangun Jalan Raya Trans Papua Sepanjang 4.325 Km, available at: <http://milimeter.com/tni-bangun-jalan-raya-trans-papua-sepanjang-4-325-km>

13 Berita Monas (15.03.2018): Triliunan Rupiah Demi Membangun Papua, available at: <http://www.beritamonas.com/index.php/2018/03/15/triliunan-rupiah-demi-membangun-papua/>

14 Human Rights Watch (06.02.2018): BBC Correspondent Detained in Indonesia Now Freed, available at: <https://www.hrw.org/news/2018/02/06/bbc-correspondent-detained-indonesia-now-freed>

Another strategy uses dubious internet websites and social media (read more in chapter 3.1.2 on Media Freedom) or national mainstream media outlets to influence public opinion on issues, in which the TNI has a particular interest. A case which illustrates this strategy occurred on 17 November 2017 in relation to an exchange of fire with Papuan Resistance fighters as joint security forces attempted to evacuate local population of the villages of Banti and Kimbeli. The Indonesian military general Gatot Nurmantyo gave interviews to mainstream media outlets in which he described the situation as the 'taking of 1,400 hostages by a criminal armed group' (*'Kelompok Kriminal Bersenjata'*).<sup>16</sup> National media outlets reported the hostage taking in the villages of Banti and Kimbeli, hence the security situation

at the Freeport Mine received Indonesia-wide attention in national newspapers and television broadcasts. Some national media outlets reported that the TPN burned down small stores owned by migrants. Following the interview with General Nurmantyo, the national media presented the Papuan independence fighters as criminal thugs, plundering and burning down local villages. Journalists working for the independent Australian media network Fairfax succeeded to interview villagers from Banti Village in relation to the so called 'hostage taking'. According to the villagers, nobody had been taken hostage and no stores were burned down as it had been described by military representatives.<sup>17</sup>

## Recommendations



### The ICP recommends to the Government of Indonesia to:

- **Implement and monitor Government Regulation No. 2/2003, particularly Articles 5 (d), 6 (d), 6 (q) and 6 (w), and implement and monitor Article 39 of Law No. 34/2004, stating that soldiers are prohibited from getting involved in any business activities to prevent police, military and state executive personnel to work in security positions for plantation companies. Military members violating the regulation shall be prosecuted in public and transparent trials.**
- **Immediately start a process of demilitarization in the provinces of Papua and Papua Barat.**
- **Investigate past human rights violations and hold members of the military responsible for crimes against humanity and genocide accountable in public transparent trials.**
- **Strengthen the legal frame work preventing military officials from taking a government office or run candidacy in the executive and legislative elections.**
- **Revoke Presidential Decree No. 43 of 2009 on the Takeover of Business Activities of the TNI with a view that the military can not run business under the name of its foundations and cooperatives.**

15 Tempo (28.03.2017): Imigrasi Cekal Jurnalis Al Jazeera, Ini Tanggapan Aktivistis HRW, available at: <https://nasional.tempo.co/read/860279/imigrasi-cekal-jurnalis-al-jazeera-ini-tanggapan-aktivis-hrw>

16 The Straits Times (10.11.2017): Armed separatists hold 1,400 villagers hostage in Indonesia's Papua: Police, available at: <https://www.straitstimes.com/asia/se-asia/armed-separatists-hold-1400-villagers-hostage-in-indonesias-papua-police>

17 Sydney Morning Herald (12.11.2017): Papuan villagers near Freeport mine conflict zone are 'safe' despite unrest, available at: <https://www.smh.com.au/world/papuan-villagers-near-freeport-mine-conflict-zone-are-safe-despite-unrest-20171112-gzjpn1.html>



# CONFLICT TRANSFORMATION

Papuan warrior. (by Myron Asso from pixabay)

## SECTION 8

# Conflict Transformation

The armed conflict in West Papua has its roots in the Indonesian takeover of the region in 1963. A heavy military presence under Indonesian rule was accompanied by oppression against the indigenous population in West Papua, giving rise to the resistance movement (Organisasi Papua Merdeka, OPM) and the armed group *West Papua National Liberation Army* (Tentara Pembebasan Nasional Papua Barat, TPN-PB). Since the beginning of the armed conflict, the Indonesian government has tried to prevent conflict escalation through a heavy security force presence and restrictive policies, limiting the space for freedom of expression, freedom of assembly and other human rights. The Government under current president Mr. Joko Widodo (aka. Jokowi) mainly addresses the conflict as an outcome of under-development and economic inequality in comparison to other regions of Indonesia. However, the root causes of the long-standing conflict –namely the dispute over the historic integration of West Papua into Indonesia, unresolved cases of human rights violations and the growing marginalisation of indigenous Papuans– remain un-addressed.

The conflict in West Papua has caused casualties and injuries among Indonesian security forces, TPN-PB fighters and civilians, especially in the central highlands of West Papua. Mimika and Nduga have become the Regencies with the highest number of armed attacks throughout 2017 and 2018. Based on the number of armed clashes or attacks, statistics illustrate that armed conflicts have been aggravated over the past four years. Particularly alarming is the significant increase in the number of civilian fatalities. The high number of civilians killed is also related to an armed attack on government contractors in the Nduga Regency and subsequent military raids, which cost the lives of at least 50 civilians throughout December 2018 and a lot more throughout 2019.

A further component of the conflict is the growing marginalisation of indigenous Papuans due to the influx of people from other Indonesian islands. Past transmigration programs and spontaneous migration have resulted in a demographic shift. Most of the immigrants from other parts of Indonesia are Muslims, owning the majority of businesses and trading venues in Papuan cities, while indigenous Papuans, who are to a large extent Christians, become increasingly marginalised in urban areas. Social envy, not



only between indigenous Papuans and migrants, but also between Christians and Muslims, has led to horizontal tensions between these groups. Several large radical Islamist organisations have implemented programs in West Papua, posing a threat to religious diversity and inter-religious tolerance in West Papua.

President Joko Widodo has repeatedly expressed his support for dialogue to resolve peacefully the West Papuan conflict. However, his Government failed to take meaningful steps for the implementation of such a dialogue throughout 2017 and 2018. The Government has still not taken a clear position as to whether the sectoral dialogue shall include the separatist movement and whether it will touch sensitive issues such as the settlement of human rights violations and Papuan history. While the majority of people in Indonesia consider a dialogue as important to resolve the long-standing conflict in West Papua, a survey by the Indonesian Institute of Sciences (LIPI) revealed significant differences in perception on the core issues in West Papua. While most Non-Papuans considered 'low education', and 'infrastructure and transportation issues' as the most severe problems in West Papua, indigenous Papuans regarded 'human rights violations' and 'corruption' as core issues.

The inconsistent implementation of the 'Special Autonomy Law', growing marginalization of the indigenous population and a widespread

pattern of human rights violations have fuelled aspirations for self-determination in West Papua. These aspirations were also encouraged by the decolonization process which has taken place in the neighbouring Pacific region. At least 10 territories gained full independence up to 1994. In contrast to some other regions, the process of decolonization was to a large extent non-violent and might have been a role model for the establishment of the United Liberation Movement for West Papua (ULMWP) which tries to advocate for West Papua's political independence through diplomatic intervention.

State lobbying and other advocacy efforts in the past five years have opened up a path for discussions on the human rights situation in West Papua in multiple international fora. Throughout 2017 and 2018, a number of states raised the issue of human rights violations in West Papua at the United Nations. Several Pacific states, particularly Vanuatu and the Solomon Islands, expressed support for the right to political self-determination of the Papuan people and addressed the human rights situation at United Nations General Assemblies and Human Rights Council sessions. Human rights violations in West Papua were also raised in various UN human rights mechanisms, for example during Indonesia's 3rd cycle of the Universal Periodic Review (UPR) and by several mandates of the Special Procedures of the Human Rights Council.

## 8.1 Armed Conflict

**The armed conflict in West Papua has its roots in the Indonesian takeover of the region in 1963, following the 'New York Agreement'. A heavy military presence under Indonesian rule was accompanied by oppression against the indigenous population in West Papua, giving rise to the resistance movement OPM (Organisasi Papua Merdeka) and its armed wing, the West Papua National Liberation Army (Tentara Pembebasan Nasional Papua Barat, TPN-PB). Instead of finding a peaceful solution to resolve the conflict, the Indonesian government has followed a security-based approach, which was expanded with a strong focus on economic development during the legislative term of the current president Mr. Joko Widodo. Nevertheless, the Jokowi government**

has neither followed up on promises to settle past human rights violations nor has he entered into peaceful dialogue with the representatives of the independence movement. The conflict in West Papua has caused casualties and injuries among Indonesian security forces, TPN-PB fighters and civilians, especially in the central highlands of West Papua. While the Puncak Jaya region has been a constant hotspot for armed clashes, Mimika and Nduga have become the regencies with the highest number of armed attacks throughout the past two years. The increase of armed attacks in Mimika regency is related to the negotiations over the prolongation of Freeport's mining licences until 2041 between Freeport McMoRan and the Indonesian Government. Based on the number of armed clashes or attacks, statistics illustrate that the armed conflict has aggravated over the past four years. Particularly alarming is the significant increase in the number of civilians killed. These numbers have significantly increased in 2018 when one compares the figures with those for 2014 and 2017. The high number of killed civilians is also related to an armed attack on government contractors in the Nduga Regency and subsequent military raids, which cost the lives of at least 51 civilians throughout December 2018.

### Historical roots of the armed conflict

The armed conflict in West Papua has its historical roots in the colonial era under the Dutch. In the 1950s the Dutch government began preparing 'Nederland's New Guinea' for independence through a process of decolonisation. The path to independence was interrupted when the government of the new Republic of Indonesia launched a military operation in December 1961 for the 'return' of Papua (then known by Indonesia as West Irian). Coming at a time of intense Cold War politics, Indonesia's military expansionism attracted international attention. The historical record also shows that US investors had recently secured a stake in Papua's natural wealth. The United States stepped in to broker a deal between the Dutch and the Indonesian Government which later became known as the 'New York Agreement'. In 1963, the United

States pressured the Dutch government to allow Indonesia to administer Papua while the United Nations oversaw negotiations on its future (see Chapter 2.1 History).

From the very beginning of the Indonesian takeover in 1 May 1963, the government under president Sukarno tightened its grip on West Papua. A heavy military presence accompanied by oppression of the indigenous population, human rights violations, strong limitations on freedom of opinion and freedom of assembly and the disintegration of the education system resulted in a mindset of resistance among many indigenous Papuans towards the Indonesian rulers.<sup>1</sup> Mr. Eliezer Bonay, a former Governor of West Irian in 1963, estimated that the Indonesian military had killed 30,000 Papuans by 1969.<sup>2</sup> Fearing a permanent takeover of West Papua by Indonesia, a small group of local indigenous Papuans founded the 'Organisasi Papua Merdeka' OPM (English: Free West Papua Organisation) in

1 Denise Leith (2003): *The politics of power: Freeport in Suharto's Indonesia*, University of Hawaii Press, p.12

2 Neles Tebay (2004): *Interfaith Endeavours for Peace in West Papua*, Human Rights issue 24, missio Aachen, p. 5.

1965 in the Papuan city of Manokwari.<sup>3</sup> Today, the term OPM refers rather to an umbrella organisation of multiple groups advocating for the political independence of West Papua through multiple means. The armed resistance against the Indonesian Government is continued by the armed wing of the independence movement, formerly known as the 'West Papua Liberation Army' TPN-PB. TPN-PB sources suggest the official establishment of the armed resistance group on 26 March 1973.<sup>4</sup>

## The Indonesian Government's role in the conflict

Since the Suharto regime's rule of Indonesia, all Indonesian governments have followed a security-based approach to assert its sovereignty over West Papua at any cost. The government under the current president Mr. Joko Widodo (Jokowi) has expanded this strategy, trying to counter independence sentiments by pushing economic development in West Papua. However, Jakarta has done very little to find a peaceful solution for the ongoing conflict. Although president Jokowi has publicly expressed support for a dialogue, the Government has not taken a clear position whether it is willing to enter into peace negotiations with the separatist movement. Attempts to settle past and current human rights violations have failed. The most promising change was the 'Road Map'—a conflict resolution approach that suggests a peaceful dialogue between Jakarta and representatives of the independence movement which was published by the Papuan Peace Network (Jaringan Damai Papua, JDP) in cooperation

with the Indonesian Institute of Sciences (LIPI) in 2008. However, the Indonesian Government has not made any serious efforts to participate in the dialogue with representatives of the independence movement to seek a peaceful solution.<sup>5</sup>

The reasons for Jakarta's restraint regarding peace talks with the Papuan separatist movement are complex—however, the region is highly important to the Indonesian Government. West Papua is the most resource-rich region in Indonesia with the largest extant tracts of rainforest in south-east Asia; vast oil and gas reserves, and possibly the world's largest deposits of copper and gold—trans-national companies such as British Petroleum and Freeport McMoRan bring in large revenues for the Indonesian Government. At the same time, West Papua makes up about 24% of Indonesia's total landmass but contains only 1.7% of the nation's population.<sup>6</sup> Furthermore, West Papua's geographical position is of high strategic value to the Government—the provinces of Papua and Papua Barat are Indonesia's gateway to the Pacific Ocean.<sup>7</sup> West Papua becoming a self-governing state would pose a threat to the unitary state of Indonesia. The multi-ethnic state is a highly fragile construction—the separation of single areas from the Indonesian national state would very likely encourage separatist aspirations in other parts of the country and may jeopardise the national unity of entire Indonesia.<sup>8</sup>

3 Institute for Policy Analysis of Conflict IPAC (24 August 2015): The current status of the Papua Pro-Independence movement, available at [http://file.understandingconflict.org/file/2015/08/IPAC\\_21\\_Papuan\\_Pro-Independence\\_Movement.pdf](http://file.understandingconflict.org/file/2015/08/IPAC_21_Papuan_Pro-Independence_Movement.pdf)

4 Sebyby Sambom (23.03.2016): Establishment History of TPN-OPM, available at <https://ssambom.blogspot.com/2016/03/establishment-history-of-tpnpb-opm.html>

5 International Coalition for Papua ICP (September 2017): Human Rights in West Papua 2017, The fifth report of the International Coalition for Papua (ICP) covering events from January 2015 until December 2016, p.185 ff, available at <http://www.humanrightspapua.org/images/docs/HumanRightsPapua2017-ICP.pdf>

6 Jim Elmslie (January 2017): The Great Divide: West Papuan Demographics Revisited; Settlers Dominate Coastal Regions but the Highlands Still Overwhelmingly Papuan, in: The Asia-Pacific Journal: Japan Focus

7 Economy Watch (18.06.2015): Indonesia's Jokowi Winning Hearts and Minds in Papua, available at <http://www.economywatch.com/features/Indonesias-Jokowi-Winning-Hearts-and-Minds-in-Papua.06-18-15.html>

8 Edward Aspinall (05.08.2010): The taming of ethnic conflict in Indonesia, available at <http://www.eastasiaforum.org/2010/08/05/the-taming-of-ethnic-conflict-in-indonesia/>

## Dimensions of the armed conflict

While the armed conflict in West Papua has attracted some international attention in the media and international forums, the availability of data on the dimensions of armed clashes and casualties among combatants and civilians is limited. Accordingly, for the purposes of deeper analysis, it is difficult to estimate whether the armed conflict has increased or calmed down over the past years due to a lack of consistent data sets over time. Apart from media articles on occasional incidents and press releases by the Papuan Regional Police (Polda Papua), a very comprehensive report by Anderson and Morel on the armed conflict was published in 2018,<sup>9</sup> covering a period between 2010 and 2014.

The increasing number of documented armed clashes between the TPN-PB and Indonesian security forces from 2014 to 2018 indicates that the armed conflict in West Papua has exacerbated over the past four years. A scientific study on violent deaths in West Papua published in March 2018 refers to 22 separatist-related incidents in 2014. In this regard, it must be noted that this number covers not only armed clashes between the TPN-PB and Indonesian security forces but also violent escalations between security forces and non-violent separatist groups, such as the West Papua National Committee (KNPB), which advocate for a referendum on West Papuan political independence through peaceful means. These incidents resulted in the deaths of 20 separatists, eleven members of the Indonesian security forces<sup>10</sup> and there were four civilian casualties. However, the report does not mention the number of injured combatants or civilians throughout 2014.<sup>11</sup>

All but one of the incidents in 2014 occurred in Papua Province, while the neighbouring province of Papua Barat was almost free from such violence. Seventy-one per cent of separatist-related killings between 2010 and 2014 occurred in four highland regencies of Papua Province, namely Puncak Jaya (48 deaths), Paniai (17 deaths), Lanny Jaya (17 deaths) and Puncak (14 deaths). The same study also reveals that separatist attacks between 2010 and 2014 caused more casualties than security force attacks, leading to 122 deaths, whilst violent action by state actors resulted in 43 deaths. The figures show that separatist attacks were more targeted than those of security forces. Seventy-five per cent of the targeted killings were security force members while 20% were civilians. The figures profoundly differ for security forces where 65 % of the casualties were civilians.<sup>12</sup>

According to numbers published by the Papua Regional Police, armed groups<sup>13</sup> conducted 15 armed attacks in 2016. The figure increased significantly to 24 attacks in 2017. According to police figures the armed conflicts resulted in the death of six persons, while nine people were injured during the incidents –two of the casualties were members of criminal armed groups.<sup>14</sup> An internet research of media sources for the same time period came to different results. The ICP documented a total number of 20 armed clashes between the TPN-PB and Indonesian security forces. While the number of documented clashes is considerably lower than police figures, the total number of reported fatalities and injuries was higher, with eight casualties and 22 injured persons. Security forces did not cause any casualties among civilians

9 Report is available at: [https://www.researchgate.net/profile/Bobby\\_Anderson2/publication/323959995\\_Violent\\_Death\\_in\\_Indonesian\\_Papua/links/5ab4dacdaca27217100463ab/Violent-Death-in-Indonesian-Papua.pdf](https://www.researchgate.net/profile/Bobby_Anderson2/publication/323959995_Violent_Death_in_Indonesian_Papua/links/5ab4dacdaca27217100463ab/Violent-Death-in-Indonesian-Papua.pdf)

10 The number of 11 casualties can be broken down further into eight police officers and three members of the army.

11 Anderson, Bobby & A. Morel (March 2018): Violent Death in Indonesian Papua, p. 10, available at [https://www.researchgate.net/profile/Bobby\\_Anderson2/publication/323959995\\_Violent\\_Death\\_in\\_Indonesian\\_Papua/links/5ab4dacdaca27217100463ab/Violent-Death-in-Indonesian-Papua.pdf](https://www.researchgate.net/profile/Bobby_Anderson2/publication/323959995_Violent_Death_in_Indonesian_Papua/links/5ab4dacdaca27217100463ab/Violent-Death-in-Indonesian-Papua.pdf)

12 Ibid. p.10 f

13 Indonesian media often adopts the expression used by the police in relation to armed clashes. The police usually use the term 'Kelompok Kriminalk Bersenjata' or KKP which can be translated as 'Criminal armed Groups'

14 CNN Indonesia (29.12.2017): Polisi: Kasus Penembakan di Papua Meningkat Sepanjang 2017, available at <https://www.cnnindonesia.com/nasional/20171228133013-20-265219/polisi-kasus-penembakan-di-papua-meningkat-sepanjang-2017>

throughout 2017 during armed combat but reportedly killed nine civilians during raids in the Nduga Regency in December 2017, whilst TPN-PB members killed three and injured three civilians. The segregation of these figures among actor groups can be seen in Table 8.1-1 below.

**Table 8.1-1: Figures in relation to armed clashes in the years 2014, 2017 and 2018 segregated among actor groups**

Armed clashes in West Papua	Year			
	2014	2017	2018	2017/2018
<b>Number of armed clashes</b>	<b>22<sup>1</sup></b>	<b>24<sup>2</sup></b>	<b>44</b>	<b>68</b>
<b>Number of casualties among security forces</b>	<b>11<sup>1</sup></b>	<b>3</b>	<b>8</b>	<b>11</b>
<b>Number of injured security forces</b>	<b>N/A</b>	<b>8</b>	<b>15</b>	<b>23</b>
<b>Number of casualties among TPN-PB fighters</b>	<b>20<sup>1</sup></b>	<b>2</b>	<b>12</b>	<b>14</b>
<b>Number of injured TPN-PB fighters</b>	<b>N/A</b>	<b>2</b>	<b>4</b>	<b>6</b>
<b>Total number of casualties among civilians</b>	<b>4<sup>1</sup></b>	<b>3</b>	<b>62</b>	<b>65</b>
Number of casualties among civilians caused by security force members	N/A	0	17	17
Number of casualties among civilians caused by TPN-PB fighters	N/A	3	25	28
Number victims who died during armed conflict due to consequences of internal displacement	N/A	0	20	20
<b>Total number of injured civilians</b>	<b>N/A</b>	<b>12</b>	<b>15</b>	<b>27</b>
Number of injured civilians caused by security force members	N/A	9	7	16
Number of injured civilians caused by TPN-PB fighters	N/A	3	8	11

**Sources:**

1 [https://www.researchgate.net/publication/323959995\\_Violent\\_Death\\_in\\_Indonesian\\_Papua](https://www.researchgate.net/publication/323959995_Violent_Death_in_Indonesian_Papua)

2 <https://www.cnnindonesia.com/nasional/20171228133013-20-265219/polisi-kasus-penembakan-di-papua-meningkat-sepanjang-2017>

The data on armed clashes documented throughout 2017 shows that the geographic distribution of armed contacts has shifted. While data from 2014 shows that most armed clashes occurred in the Puncak Jaya regency followed by the regencies of Paniai, Lanny Jaya and Puncak. In 2017, ten out of 20 armed clashes occurred in the regency of Mimika in the Tembagapura District, where PT Freeport Indonesia, a subsidiary of the trans-national mining company Freeport McMoRan is running the world's largest mine for combined extraction

of gold and copper. A significant lower number of such incidents occurred in the three regencies of Nduga (three cases), Puncak Jaya (two cases) and Lanny Jaya (two cases). Isolated cases were documented in other highland regencies like Puncak and Yapen Island. Apart from shifts in the geographic concentrations of armed contacts, the figures also reveal a significant increase of guerrilla attacks between September and December 2017 (see Table 8.1-2).

**Table 8.1-2: Armed clashes throughout 2017 segregated among actor groups, regencies and districts.**

Nr	Regency (District)	Date of Incident	Casualties - security forces	Injuries - security forces	Casualties- TPN-PB	Injuries - TPN-PB	Casualties - Civilians (perpetrator)	Injuries - civilians (perpetrator)
1	Puncak	13.02.2017					2 (TPN-PB)	2 (TPN-PB)
2	Puncak Jaya (Mulia)	02.03.2017	1		1			
3	Yapen Island (Angkaisera)	27.03.2017				1		
4	Lanny Jaya (Tiom)	01.05.2017		1				
5	Puncak Jaya (Mulia)	17.06.2017						
6	Mimika (Tembagapura)	25.09.2017						1 (TPN-PB)
7	Mimika (Tembagapura)	24.09.2017						
8	Mimika (Tembagapura)	21.10.2017		2				
9	Mimika (Tembagapura)	22.10.2017	1					
10	Mimika (Tembagapura)	23.10.2017		4				
11	Mimika (Tembagapura)	29.10.2017						
12	Mimika (Tembagapura)	03.11.2017						
13	Mimika (Tembagapura)	05.11.2017				2		
14	Mimika (Tembagapura)	12.11.2017						
15	Mimika (Tembagapura)	15.11.2017	1					
16	Lanny Jaya (Tiom)	06.12.2017						
17	Nduga (Mugi)	12.12.2017		1			1 (TPN-PB)	
18	Nduga (Mugi)	13.12.2017						
19	Nduga (Mugi)	15.12.2017						9 (SecFrc)
20	Lanny Jaya (Bakingga)	15.12.2017						
<b>TOTAL</b>			<b>3</b>	<b>8</b>	<b>2</b>	<b>2</b>	<b>3 (TPN-PB)</b>	<b>3 (TPN-PB) 9 (SecFrc)</b>

In 2018, the number of armed clashes significantly increased to 44 violent clashes. More than ten armed clashes occurred in the regency of Nduga in December as part of a widespread military raid in response to the killing of reportedly 19 government contractors.<sup>15</sup> While the number of casualties among security forces with eight fatalities almost tripled compared to 2017 figures, the casualties among TPN-PB members sextupled, with twelve killed TPN-PB fighters by the end of 2018. The number of injured combatants also diverges between both actor groups, with fifteen wounded security forces, but

only four injury cases reported among TPN-PB fighters. The figures show that the impact of the armed conflict on civilians significantly increased in 2018, causing the death of 62 civilians, while 15 civilians were injured during armed attacks. Twenty-five casualties among civilians were caused by armed separatists and 17 such cases were caused by security force members. At least 20 indigenous civilians died of indirect consequences<sup>16</sup> throughout December 2018 during the military raid in the Nduga regency. The difference between both armed actors are less significant with regard to injured civilians.

15 Republika (05.12.2018): Wiranto - Korban Tewas Dibunuh KKS di Papua 19 Orang, available at <https://www.republika.co.id/berita/nasional/daerah/18/12/05/pj9496409-wiranto-korban-tewas-dibunuh-kks-di-papua-19-orang>

16 The vast majority of deaths in this category occurred in relation to displacement during the military operation. A large majority of victims were women and children who died during while they gave birth after they fled their villages. Others died due to malnutrition and hypothermia. A small number of deaths were caused as an indirect result of armed clashes –two cases of death indicated that the victim died due to a heart attack, a second victim was believed to have died of an Asthma attack.

The TPN-PB fighters injured eight civilians during battle, whereas security forces were responsible for injuries of seven civilians (see Table 8.1-3).

**Table 8.1-3: Armed clashes throughout 2018 segregated among actor groups, Regencies and Districts.**

Nr	Regency (District)	Incident date	Casualties - Security forces	Injuries - Security forces	Casualties - TPN-PB	Injuries - TPN-PB	Casualties - Civilians (perpetrator)	Injuries - Civilians (perpetrator)
1	Mimika (Tembagapura)	01.01.2018						
2	Mimika (Tembagapura)	08.01.2018						
3	Mimika (Tembagapura)	16.01.2018						
4	Puncak (Sinak)	12.02.2018	1					
5	Mimika (Tembagapura)	16.02.2018						1 (TPN-PB)
6	Puncak Jaya (Yambi)	28.02.2018	1					
7	Mimika (Tembagapura)	15.03.2018						
8	Mimika (Tembagapura)	1/2.04.2018	1		2			
9	Mimika (Tembagapura)	04.04.2018					3 (SecFrc)	2 (SecFrc)
10	Mimika (Tembagapura)	27.04.2018						1 (TPN-PB)
11	Mimika (Tembagapura)	29.04.2018						
12	Puncak Jaya (Mulya)	12.05.2018				1		
13	Mimika (Tembagapura)	05.06.2018						
14	Puncak Jaya (Yambi)	16.06.2018		3				
15	Nudga (Kenyam)	22.06.2018						1 (TPN-PB)
16	Nudga (Kenyam)	25.06.2018		1			3 (TPN-PB)	2 (TPN-PB)
17	Nudga (Kenyam)	27.06.2018						1 (SecFrc)
18	Puncak Jaya (Torere)	27.06.2018	2				1 (TPN-PB)	
19	Puncak Jaya (Waegi)	27.06.2018					1 (TPN-PB)	
20	Nduga (Kenyam)	04.07.2018		1				
21	Nduga (Krepkuri)	11.07.2018			2			
22	Puncak Jaya (Pagaleme)	02.08.2018		2				
23	Paniai (Wagemuga)	06.08.2018		5				
24	Puncak Jaya (Irimuli)	07.08.2018						
25	Mimika (Tembagapura)	17.08.2018						
26	Puncak Jaya (Tingginambut)	19.08.2018	2					
27	Puncak Jaya (Tingginambut)	01.10.2018			1		2 (SecFrc)	
28	Puncak Jaya (Tingginambut)	02.10.2018			2			
29	Lanny Jaya (Mokoni)	02.11.2018					1 (TPN-PB)	
30	Lanny Jaya (Balingga)	03.11.2018			2			
31	Lanny Jaya (Wiringambur)	12.11.2018						
32	Nduga (Yigi)	02.12.2018					19 (TPN-PB)	
33	Nduga (Mbua)	03.12.2018	1	1				3 (TPN-PB)
34 – 40	Nduga (Mbua, Mbulmu Yalma, Dal, Yigi, Nirkuri, Yal, Mugi, Mam, Mbuwa, Inikgal, Mependuma, Kegayem and Meborok )	04 – 10.12.2018				3	9 (SecFrc)	2 (SecFrc)

41	Nduga (Yigi)	11.12.2018	2					
42	Nduga (Kenyam)	17.12.2018		3				
43	Nduga (Mapenduma)	18/19.12.2018			3 (SecFrc)	1 (SecFrc)		
44	Nduga (Kagayem)	19/12/18				1 (SecFrc)		
	Nduga				20 (displaced)			
<b>TOTAL</b>			<b>8</b>	<b>15</b>	<b>12</b>	<b>4</b>	<b>25 (TPN-PB)</b> <b>17 (SecFrc)</b> <b>20 (displaced)</b>	<b>8 (TPN-PB)</b> <b>7 (SecFrc)</b>

The Papua Regional Police (Polda Papua) published data for the years from 2008 to July 2018, according to which 30 police members were killed and 57 officers were wounded during armed clashes with armed separatist groups (in Indonesian police terminology often referred to as 'Kelompok Kriminal Separatis Bersenjata', abbreviated as KKSBB). The same data mentions the number of 78 casualties and 117 injuries among civilians for the same time period.<sup>17</sup> These figures are surprisingly low if compared with figures from the scientific study on violent deaths in West Papua published in March 2018. The study mentions a total number of 165 casualties and 562 injured persons in five years, namely between 2010 and 2014.<sup>18</sup>

### Conflict dynamics and recent developments

The figures from the aforementioned scientific study can be broken down into an average annual number of 33 casualties and 112 injured persons between 2010 and 2014. Based on the number of annually documented armed attacks, the armed conflict in West Papua has deteriorated over the past five years. This conclusion is supported by the significantly increasing number of casualties

and injuries among combatants and civilians from 2017 to 2018. The observation that the total number of 34 injuries in 2018 remain below the annual average number of 112 injured persons between 2010 and 2014 should not be interpreted as a decrease of violence because the figure includes violent incidents with unarmed separatist groups. Some of the incidents - such as the dispersal of demonstrations or security force raids - resulted in a high number of injured protestors, causing a distortion of the statistic value. The number of casualties reached a new record, with 82 victims killed during armed attacks throughout 2018.

Particularly alarming is the significant increase of civilians killed, which have reached a figure that is fifteen times higher than those of 2017 and 2014. The numbers of civilian fatalities have raised for both armed actors since the beginning of 2018. This indicates a higher level of aggression among TPN-PB fighters and security forces during combat. Security forces used helicopters and explosives against the TPN-PB in Nduga<sup>19</sup> and Puncak Jaya<sup>20</sup>, taking the risk that such attacks are less targeted and may harm civilians located in the combat area. On the other hand, the TPN-PB repeatedly attacked workers at the Freeport mine in the Tembagapura District<sup>21</sup> of Mimika

17 Inews (03.07.2018): 30 Polisi di Papua Gugur Akibat Ulah KKSBB dalam 10 Tahun Terakhir, available at <https://www.inews.id/daerah/papua/169757/30-polisi-di-papua-gugur-akibat-ulah-kksb-dalam-10-tahun-terakhir>

18 Bobby Anderson (18.04.2018): A new take on violence in Indonesian Papua, available at <https://www.lowyinstitute.org/the-interpreter/new-take-violence-indonesian-papua>

19 Papuan Central Highlands Coalition for Justice, Law and Human Rights & KontraS (20.12.2018): Pers Rilis: Hentikan Penyisiran dan Penyearangan Terhadap Warga Sipil di Nduga, Papua

20 Independent Human Rights Defender (October 2018): Telah Terjadi Penyerangan Udara dan darat Di Tinggimambut menyebabkan 5 Masyarakat Sipil Ditembak Dan 2 Anggota TPN OPM Ditembak Mati

21 Liputan 6 (17.01.2018): Bus Karyawan PT Freeport Kembali Ditembak Orang Tak Dikenal, available at <https://www.liputan6.com/news/read/3228839/bus-karyawan-pt-freeport-kembali-ditembak-orang-tak-dikenal>



regency and a road construction site in Nduga regency<sup>22</sup> as well as motorcycle taxi drivers in the regencies of Puncak Jaya<sup>23</sup> and Lanny Jaya.<sup>24</sup>

The data reveals that there has been a geographical shift in the areas where armed clashes occur. In 2014, the hotspots of armed clashes were the regencies of Puncak Jaya, Paniai, Lanny Jaya, and Puncak. The regency of Puncak Jaya remains a hot spot of armed conflict with ten armed clashes in 2018 and two clashes in 2017. A new hot spot of violent conflict is the Nduga Regency, where more than 17 armed clashes took place in 2018 and three armed attacks in 2017. The district of Tembagapura in the Mimika regency has as well become a new hot spot of separatist attacks in West Papua. A significant increase of guerrilla attacks against Freeport laborers, Freeport facilities and Indonesian security forces can be observed since September 2017, counting eleven armed attacks in 2018 and ten armed attacks in 2017.

This increase of armed attacks in the Mimika regency can be interpreted as the TPN-PB's response to negotiations between Freeport McMoRan and the Indonesian Government. On August 26, 2017, the Indonesian Minister for Energy and Mineral Resources Mr. Ignasius Jonan and the Indonesian Minister of Finance Mrs. Sri Mulyani announced at a press conference in Jakarta that the mining licenses of PT FI will be extended until 2041. Without an extension of the mining licenses, the contract –first signed in 1973 under President Suharto– was supposed to expire in 2021. In return, American major

shareholder Freeport McMoRan agreed to give up 41.64% of its stake in the Indonesian subsidiary. According to Mr. Richard C. Adkerson, CEO of Freeport McMoRan, the shares are to be sold at a fair market value to give the Indonesian government the opportunity to purchase 51% of the shares of PT FI.<sup>25</sup> The indigenous land rights holders of the tribes Kamoro and Amnugme were again excluded from the negotiations over their ancestral lands.<sup>26</sup>

The data for the period between 2010 and 2014 illustrates that the TPN-PB attacks were deadlier, targeting primarily the security forces.<sup>27</sup> The figures for 2017 and 2018 only partly confirm this observation. The 2017 and 2018 figures indicate that TPN-PB attacks more often caused casualties among civilians. TPN-PB attacks in 2017 caused the death of three security force members and three civilians, whereas security forces killed two TPN-PB fighters but no civilians. Throughout 2018, TPN-PB attacks led to significantly more casualties among civilians than those by security forces. The TPN-PB was responsible for the death of 25 killed civilians, while security force operations caused the death of 17 civilians. However, it should be noted that the death of 20 civilians who died due to indirect causes during armed conflict were all related to security force operations. Moreover, 19 out of the 25 killed civilians died in a single incident in the Nduga regency in December 2018. If one ignores the killing of 19 government contractors in the Nduga regency, the impression that the TPN-PB conducts more attacks against civilians than Indonesian security forces is misleading.

CNN Indonesia (05.06.2018): Teror Tembagapura, Karyawan Freeport Nyaris Kena Tembak, available at <https://www.cnnindonesia.com/nasional/20180605160205-20-303674/teror-tembagapura-karyawan-freeport-nyaris-kena-tembak>

22 Pena Negeri News (25.06.2018): Aksi Teror KKSBB Semakin Brutal di Nduga, available at <http://penanegeri.com/aksi-teror-kksbb-semakin-brutal-di-nduga/17663/>

23 Kompas (28.06.2018): KKB Tembak Mati Seorang Tukang Ojek di Puncak Jaya Papua, available at <https://regional.kompas.com/read/2018/06/28/06552861/kkb-tembak-mati-seorang-tukang-ojek-di-puncak-jaya-papua>

24 Suara Papua (4.11.2018): Jenazah Korban penembakan Sempat Ditahan dan Terjadi Baku Tembak, available from <https://suarapapua.com/2018/11/04/jenazah-korban-penembakan-sempat-ditahan-dan-terjadi-baku-tembak/>

25 Rambu Energy (30.08.2017): Freeport agrees to divest 51% shares to Indonesia, contract extended, available at <https://www.rambuenergy.com/2017/08/freeport-agrees-to-divest-51-shares-to-indonesia-contract-extended/>

26 Benar News (29.08.2017): Indonesia: Papuan Leaders Want a Say In Copper Mine Negotiations, available at <https://www.benarnews.org/english/news/indonesian/copper-deal-08292017161555.html>

27 Bobby Anderson (18.04.2018): A new take on violence in Indonesian Papua, available at <https://www.lowyinstitute.org/the-interpreter/new-take-violence-indonesian-papua>

Such a conclusion would also not be supported by the number of injured civilians during armed conflict. In 2017, nine civilians were injured by security force members, but only three by TPN-PB members. In 2018, security forces injured seven, TPN-PB fighters eight civilians.

Statistic figures suggest that security force members had a higher kill count than the TPN-PB throughout the reporting period. In 2017,

the number of reported casualties among both conflict parties were almost even with three killed security force members and two killed TPN-PB members, respectively. In 2018, Indonesian security forces conducted several military operations in the regencies Puncak Jaya and Nduga which involved attacks from the air. TPN-PB attacks led to eight casualties among security forces, while security forces killed twelve TPN-PB guerrilla fighters. (see Table 8.1-1).

## Recommendations



### The ICP recommends to the Government of Indonesia to:

- Engage in dialogue with the United Liberation Movement for West Papua (ULMWP) to allow for a peaceful resolution of the political and historical conflict.
- Immediately start a process of demilitarization in the provinces of Papua and Papua Barat, particularly in conflict regions where indigenous civilians have been severely affected by the presence of security forces.
- Enter into negotiations with the TPN-PB to negotiate an armistice in the regency of Nduga.
- Increase consultation and cooperation with the LIPI and the Papua Peace Network (JDP) to accelerate the process of conflict resolution and peaceful dialogue.
- Settle past and present human rights violations through establishment of truth commissions and human rights courts. The process should include the prosecution of perpetrators as well as the restitution and rehabilitation of victims.



### Recommendations by states:

- France, Portugal, Ukraine, Sierra Leone, Japan and Kazakhstan recommend to the Government to ratify the International Convention for the Protection of All Persons from Enforced Disappearance<sup>28</sup>
- Armenia recommends to the Government to ratify the Convention on the Prevention and Punishment of the Crime of Genocide and the Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes against Humanity<sup>29</sup>

28 Human Rights Council (05.07.2012): 3rd cycle of the Universal Periodic Review of Indonesia, available at: [http://ap.ohchr.org/documents/dpage\\_e.aspx?si=A/HRC/36/7](http://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/36/7)

29 Ibid.

- Guatemala recommends to the Government to “accede to the Arms Trade Treaty”<sup>30</sup>
- Germany recommends that the Government shall “immediately grant access to the delegates of ICRC to the Papua provinces in order for them to fulfil their mandate”<sup>31</sup>
- Solomon Islands therefore urges the Government of Indonesia to establish a constructive dialogue with indigenous West Papuans to address the root causes of these human rights violations.”<sup>32</sup>
- The Government of the Solomon Islands encourages “Indonesia to engage in more constructive dialogue, including with West Papua to find a way forward in addressing the aspirations of the people of West Papua.”<sup>33</sup>



## Recommendations by international human rights mechanisms:

### *The High Commissioner for Human Rights urges:*

- “The Indonesian Government to take steps towards accountability for the gross human rights violations of the past. This is a delicate but crucial undertaking.”<sup>34</sup>

### *The UN Special Rapporteur on the independence of judges and lawyers recommends that:*

- “(a) The Government should grant early and unimpeded access to areas of conflict to the relevant mechanisms of the Commission on Human Rights, and other national and international observers;  
(b) The Government should ensure that there is a minimum standard of justice functioning in areas of conflict, including qualified court and legal personnel”<sup>35</sup>

### *The UN Committee against Torture (CAT) recommends to the Government to:*

- “Ensure that crimes under international law such as torture and crimes against humanity committed in the past are investigated and, where appropriate, prosecuted in Indonesian courts”<sup>36</sup>

30 Ibid.

31 Human Rights Council (14.07.2017): 2nd cycle of the Universal Periodic Review of Indonesia, available at: <http://undocs.org/A/HRC/21/7>

32 Government representative of the Solomon Islands (19.09.2017), 36th Regular Session of the Human Rights Council, available at: <http://webtv.un.org/watch/item4-general-debate-contd-18th-meeting-36th-regular-session-human-rights-council-5581732708001/?term=#>

33 Prime Minister of the Solomon Islands (22.09.2017), Statement during 72nd session of the UN General Assembly, available at: <https://www.unmultimedia.org/avlibrary/asset/1977/1977321/>

34 High Commissioner for Human Rights (07.02.2018): Opening remarks by UN High Commissioner for Human Rights during his mission to Indonesia, available at: <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=22638&LangID=E>

35 UN Special Rapporteur on the independence of judges and lawyers (13.01.2003): Report of the Special Rapporteur on the Independence of Judges and Lawyers Dato' Param Cumaraswamy, submitted in Accordance with the Commission on Human Rights Resolution 2002/43, Report on the Mission to Indonesia, 15-24 July 2002, E/CN.4/2003/65/Add.2, p. 25, available at: <http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=4slQ6QSmIBEDzFEovLCuW0JehA%2Ffj8BhFpaBkMTxmJlmKJC%2bbiwwLBd12FstLK6yLwWbgRRelSJp5fPj5FWDKmmn285IkPfnAW9CUOq1PNZGR8xkuwX%2ffAwpbTdplwSDv%2F%2b0t1FB5JpXrizv3w%3d%3d>

36 UN Committee against Torture CAT (17.10.2002): Report of the Committee Against Torture, A/57/44(SUPP) paras. 36-46, p. 26, available at: [https://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=A%2F57%2F44\(SUPP\)&Lang=en](https://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=A%2F57%2F44(SUPP)&Lang=en)

## 8.2 Religious Confrontation

The vast majority of indigenous Papuans are Christians. Past transmigration programs and spontaneous migration have resulted in a demographic shift. Most of the immigrants from other parts of Indonesia are Muslims, owning the majority of businesses and trading venues in Papuan cities, while indigenous Papuans become increasingly marginalised in urban areas. Social envy, not only between indigenous Papuans and migrants, but also between Christians and Muslims, has led to horizontal tensions between these groups. Several large radical Islamist organisations –among them the militant organisation *Laskar Jihad*– have begun to implement their programs in West Papua, posing a threat to the religious diversity and inter-religious tolerance in West Papua. The programs shall not only facilitate the spreading of Islam among indigenous Papuans, but also weaken aspirations for political self-determination through the promotion of nationalist and patriotic values as ‘Indonesian Muslims’.

### Background

West Papua is one of the few areas in Indonesia where the majority of the population are Christians. Some exceptions exist. These are small areas in the west of Papua Barat Province, where a few ethnic groups in the regencies of Fak-Fak and Kaimana are estimated to have come into contact with Islam in the 15<sup>th</sup> Century through trade relations with the Tidore Sultanate of the Moluccans.<sup>1</sup> At the end of the 19<sup>th</sup> Century, missionaries brought Christianity to West Papua. Until today, the vast majority of indigenous Papuans are Christians. Since the integration of West Papua into the Indonesian state in 1969, government-driven transmigration programs have caused a shift in the religious composition of the population in West Papua. Today it is mainly spontaneous migration which has resulted in growing numbers of Muslims from other parts of Indonesia who have mainly settled down in the urban areas of West Papua.

### Islam and migration

A 1971 census indicates that 96% of the population at that time was composed of indigenous Papuans. Today, demographers believe that more than 50% of the population are immigrants from other parts of Indonesia –most of them Muslims. The exact ratio between indigenous Papuans and migrants from other islands was not published in the latest 2010 census because the Government considered the publication of religious and ethnic compositions as sensitive, bearing a high potential for horizontal conflict in the heterogenic Indonesia.<sup>2</sup>

The growing number of Muslims has brought about far-reaching changes in West Papua. Especially in the coastal cities of West Papua, where indigenous Papuans have already become a minority, Islam is becoming increasingly present. The vast majority of businesses and trading venues in Papuan cities are in the hands of immigrants, while indigenous Papuans are increasingly excluded from economic development. Social envy between indigenous Papuans and migrants, but also between

1 Malem Dhiwa: *Sejarah Peradaban Islam di Papua*, p.5f, available at [https://www.academia.edu/29769576/Sejarah\\_Peradaban\\_Islam\\_di\\_Papua.docx](https://www.academia.edu/29769576/Sejarah_Peradaban_Islam_di_Papua.docx)

2 Jim Elmslie (15.01.2017): The Great Divide: West Papuan Demographics Revisited; Settlers Dominate Coastal Regions but the Highlands Still Overwhelmingly Papuan, in *The Asia and Pacific Journal*, Volume 15 | Issue 2 | Number 1, available at <https://apjif.org/2017/02/Elmslie.html>

Christians and Muslims, has led to horizontal tensions between these groups. The growth of Muslim communities has also manifested in the cityscape of West Papuan cities. Nowadays, one may find mosques and Islamic boarding schools (so-called Pesantren) even in smaller cities in the central Papuan highlands.<sup>3</sup>

In the past five years, local churches have increasingly reported about activities by several radical Islamist groups who have started to operate in West Papua. Multiple religious leaders and local Government officials in West Papua have expressed particular concern over the presence of prominent Islamist leader Mr. Jafar Umar Thalib (JUT) in the regency of Keerom (see case studies below). Thalib is one of the founders of Laskar Jihad, a militant and radical-Islamist organisation in Indonesia. Churches in West Papua reported that JUT built an Islamic boarding school in Keerom and launched various programs for the spreading of Islam in West Papua.<sup>4</sup>

### Systematic Islamisation of indigenous Papuans

Besides Laskar Jihad, multiple other Islamic organisations<sup>5</sup> have reportedly started to implement programs for the conversion of ethnic Papuans to Islam. Apart from the promotion of Islam, the programs also pursue political targets. These programs shall weaken aspirations for political self-determination in West Papua and consolidate the Papuan peoples' sense of belonging to the Indonesian nation. For this reason, law enforcement institutions and government actors in many places ignore the

presence of Islamist groups, even though they pose a threat to the religious diversity and inter-religious tolerance in West Papua.<sup>6</sup>

The groups use various strategies for the conversion of indigenous Papuans to Islam – most of the approaches exploit humanitarian shortcomings, educational deficits and the economic marginalization of indigenous peoples. Thus, staple foods are distributed to indigenous communities and individuals on the premise of converting to Islam. A similar program called 'Thibbun Nabawi' offers free medical treatment under the promotion of Islamic values.

Another strategy of Islamization exploits the lack of understanding among many indigenous peoples and the poor educational situation in West Papua to send indigenous children to West Java, where they are educated in strict Islamic boarding schools. In practice, the implementation of such programs is similar to human trafficking. Parents are neither informed about the nature of the educational institutions and their curriculums, nor about the Islamic re-education of their children. After enrolment in the boarding schools, the children are forcibly held under strict supervision and any contact with the parents is prevented<sup>7</sup>. According to representatives of the organisation Al Fatih Kaafah Nusantara (AFKN) approximately 3,700 indigenous children from West Papua were brought to and 'transformed' in Islamic boarding schools in Western Indonesia as part of such programs<sup>8</sup>. He said the program should also strengthen the 'sense of belonging' to the Indonesian nation among indigenous Papuans<sup>9</sup>.

3 Wim Goissler (27.04.2018): Laporan: Islamisasi di Papua Semakin Mengkhawatirkan, available at <http://www.satuharapan.com/read-detail/read/laporan-islamisasi-di-papua-semakin-mengkhawatirkan>

4 JPIC-GKI (November 2018): HAM dan Isu Radikalisme di Tanah Papua

5 Among the organisations pushing for the spreading of Islam in West Papua are: Hizbut Tahrir, Jamaah Tabligh, Jamaah Ansharut Tauhid (allegedly maintains relations with Isis), Forum Umat Islam, Front Pembela Islam, Majelis Mujahidin Indonesia

6 JPIC-GKI (November 2018): HAM dan Isu Radikalisme di Tanah Papua

7 The Sydney Morning Herald (02.03.2014): Papuan children taken to Jakarta to be converted to Islam, available at <https://www.smh.com.au/world/papuan-children-taken-to-jakarta-to-be-converted-to-islam-20140301-33soq.html>

8 Hidayatullah.com (03.04.2018): Berdakwah Hampir 30 Tahun, Ustadz Fadlan juga Biyai Anak Nasrani Papua, available at <https://www.hidayatullah.com/berita/nasional/read/2018/04/03/139535/berdakwah-hampir-30-tahun-ustadz-fadlan-juga-biyai-anak-nasrani-papua.html>

9 Civilita.com (01.11.2015): AFKN: Hanya dengan Islam, Nuu Waar Tetap Bersama NKRI, available at <https://civilita.com/afkn-hanya-dengan-islam-nuu-waar-tetap-bersama-nkri/>

## Laskar Jihad

Laskar Jihad 'can be translated in a broad sense as 'warriors of Jihad' (holy war). Laskar Jihad was founded by the radical Islamic cleric Jafar Umar Thalib (JUT) in 2000. JUT was trained in Islamic schools in Pakistan and fought alongside the Mujahideen in Afghanistan. Laskar Jihad was repeatedly involved in armed attacks on Christians in the provinces of Maluku and Sulawesi. Shortly after its establishment in 2000, the organization recruited fighters in West Indonesia and brought them to East Indonesia to fight against Christians.<sup>10</sup> In October 2002, JUT announced the alleged dissolution of Laskar Jihad. However, the organisation allegedly continued to open and maintain offices, including in Sorong City, Papua Barat Province.

## Religious tensions between Christians and Muslims

Many Christians and human rights defenders in West Papua are critically observing the developments mentioned above. Social inequality between indigenous Papuans and Indonesian immigrants, as well as a growing fear of Islamization and the presence of radical Islamist groups are fueling tensions between Muslims and Christians. For example, in the past five years there have been repeated horizontal conflicts turning into outbreaks of violence. In April 2014, Muslims attacked the GKI Syalom congregation in Sorong City with slingshots, knives and other weapons after a Muslim preacher was beaten up by two drunks. Multiple attacks led to injuries among three Christian Papuans and damages to a church building<sup>11</sup>. In July 2015, a church festival in Tolikara regency ended with serious clashes between Christians and Muslims after the Christian organisers asked the Muslim community not to use speakers during the Idul Fitri prayers. The prayers were held inside a military base and were visited by numerous members of the security forces who belong to the Muslim faith. A subsequent shootout led to the death of a minor. Ten other indigenous

Papuans suffered gunshot wounds. In response to the shooting, Christians set the business of Indonesian migrants on fire. A mosque was damaged during the fire.<sup>12</sup>

### Case Studies:

#### ► *The building of mosques in Sentani and Jayapura.*

In 2015, a local Muslim community began to build a large mosque in the city of Sentani. Before the project started, negotiations between Christians and the Muslim community led to an agreement that the minaret towers of the mosque shall not be higher than the towers of the nearby Catholic and Protestant churches. However, as the construction proceeded, the contractors did not abide by this agreement. This breach of the agreement also resulted in a loss of trust and led to anger and multiple protests by Christian communities in 2017. Since then, local Christians and churches tried in vain to convince the Muslim community to lower the height of the towers.<sup>13</sup>

A similar case occurred in the neighbouring City of Jayapura, where local authorities planned to establish a small mosque (Musholla) at the Jayapura District Court, which was meant to

10 Badrus Sholeh (2006): Jihad in Maluku, in: Andrew T.H. Tan (ed.), A Handbook of Terrorism and Insurgency in Southeast Asia. Cheltenham: Edward Elgar, pp. 152–154

11 ICP (September 2015): Human rights in West Papua 2015, The fourth report of the International Coalition for Papua covering events from April 2013 until December 2014, p. 48f, available at <http://www.humanrightspapua.org/images/docs/HumanRightsPapua2015-ICP.pdf>

12 ICP (September 2017): Human rights in West Papua 2017, The fourth report of the International Coalition for Papua covering events from January 2015 until December 2016, p. 37 & 55f, available at <http://www.humanrightspapua.org/images/docs/HumanRightsPapua2017-ICP.pdf>

13 Viva News (17.03.2018): Melebihi Gereja, Menara Masjid Sentani Dituntut Dibongkar, available at <https://www.viva.co.id/berita/nasional/1017404-melebihi-gereja-menara-masjid-sentani-dituntut-dibongkar>

be used by Muslim employees. Contrary to the initial planning, the building was expanded and a proper mosque was created, which led to heavy protests and tensions between Muslims and Christians in the neighbourhood. The main point of criticism was that the construction violated the rule that no places of worship of a single religion shall be built on the sites of state institutions.<sup>14</sup>

► *Tensions between Christians and Muslims in Keerom Regency*

The first tensions between Christians and Muslims in Keerom Regency were already reported in 2015. On 9 December 2015, a violent clash between supporters of the radical Islamist leader Jafar Umar Thalib (JUT) and Christian youth in Keerom occurred. The reason for the conflict was a dispute over Christian songs which had been played aloud, as it is common in West Papua before and after Christmas celebrations.<sup>15</sup> A similar incident occurred on 27 February 2019, when JUT and seven of his supporters demolished the speakers of a private house in Keerom Regency. According to JUT and his men, the owner had played Christian songs too loud. JUT and his men allegedly attacked a minor during the incident, where upon the Papuan Regional Police initiated a criminal investigation against JUT and his followers. The police raised charges for the damaging of private property, physical assault and the possession of sharp weapons without permission.<sup>16</sup>



Image 8.2-1: Jafar Umar Thalib (Source: Jubi)

The regent of Keerom tried to take legal action against JUT. As tensions in the regency grew, the local government discovered several irregularities. JUT built an Islamic boarding school without a Building Permit (IMB) and did not have registration documents for the change of residence. Despite pressure from the local government, JUT refused to leave Keerom, arguing that he had the right to freely choose his place of residence.<sup>17</sup> Church leaders and other religious leaders in Papua province, including the Papuan leader of the largest Muslim association in Indonesia, Majelis Ulama Indonesia (MUI), expressed concerns that the presence of JUT could jeopardise religious tolerance in West Papua. They demanded that the local government take legal steps against JUT and his supporters.<sup>18</sup>

14 Siegfried Zöllner (24.01.2019): Der Islam provoziert in West Papua

15 ALDP Papua (03.03.2019): Jafar Umar Thalib (JUT) di Papua, available at <https://www.aldp-papua.com/jafar-umar-thalib-jut-di-papua/>

16 Pacific Post (01.03.2019): Jafar Umar Thalib Dijerat Pasal 120 KUHP Dengan Ancaman Lima Tahun Penjara, available at <https://www.pacificpost.com/item/32296-jafar-umar-thalib-dijerat-pasal-120-kuhp-dengan-ancaman-lima-tahun-penjara>

17 ALDP Papua (03.03.2019): Jafar Umar Thalib (JUT) di Papua, available at <https://www.aldp-papua.com/jafar-umar-thalib-jut-di-papua/>

18 Jubi (05.03.2019): Persatuan Umat Muslim Papua tolak Ja'far Umar Thalib di Papua, available at <https://www.jubi.co.id/persatuan-umat-muslim-papua-tolak-jafar-umar-thalib-di-papua/>

# Recommendations



## The ICP recommends to the Provincial Governments of Papua and Papua Barat to:

- Strengthen interreligious forums through financial support and include them in decision making process on inter-faith matters.
- Take firm legal measures against militant and radical religious groups in West Papua that violate child rights and pose a threat to a pluralistic community life.
- Closely monitor all programs aiming at conversion from one religion to another and prohibit those indicating any violation of the freedom of belief and/or human trafficking.

## 8.3 Decolonisation in the Pacific

In the Pacific Islands Region, the process of decolonization started later than in any other region of the world and it is still not completed as the United Nations' (UN) List of Non-Self-Governing Territories shows.<sup>1</sup> This recent history has a considerable impact on the view of Pacific societies and states on the West Papua case. Starting with Samoa's independence in 1962, at least 10 territories gained full independence up to 1994, when Palau was released into sovereignty. In contrast to some other regions, the process of decolonization was to a large extent non-violent, though not always without political conflict.<sup>2</sup> There were huge differences regarding the process and the exact date of independence between and sometimes also within Oceania's sub-regions of Melanesia, Polynesia and Micronesia (see Table 8.4-1). Generally, the process of decolonization was (much) less conflictual in the former British colonies, while both France and the United States of America were much more reluctant to grant independence or even more sovereignty to its dependencies and they still continue to administer a number of Pacific territories.<sup>3</sup>

### Melanesia

In Melanesia, the process of decolonization was generally more conflictual than in Polynesia and Micronesia, both regarding the relationship between the territory and the administrating

power and internal struggles like Vanuatu's 1980 Santo Rebellion. Compared to Polynesia and Micronesia with their comparatively small number of inhabitants and homogenous societies, decolonization was more complex in the much larger and more heterogenous Melanesian states.<sup>4</sup>

1 UN List of Non-Self-Governing Territories: <https://www.un.org/en/decolonization/nonselvgovterritories.shtml> (accessed: 14/6/2019)

2 Mückler, Hermann (2013): Entkolonialisierung und Konflikte der Gegenwart in Ozeanien. Kulturgeschichte Ozeaniens

3 Ibid.

4 Ibid.



**Table 8.3-1: Table with Pacific States gaining independence**

	Independence	Admission to UN	Former Administrator	Sub-Region
<b>Samoa</b>	1962	1976	New Zealand	Polynesia
<b>Cook-Islands</b>	1965	-	New Zealand	Polynesia
<b>Nauru</b>	1968	1999	Australia	Micronesia
<b>Tonga</b>	1970	1999	-	Polynesia
<b>Fiji</b>	1970	1970	UK	Melanesia
<b>Niue</b>	1974	-	New Zealand	Polynesia
<b>Papua New Guinea</b>	1975	1995	Australia	Melanesia
<b>Solomon Islands</b>	1978	1978	UK	Melanesia
<b>Tuvalu</b>	1978	1990	UK	Polynesia
<b>Kiribati</b>	1979	1999	UK	Micronesia
<b>Vanuatu</b>	1980	1981	UK/France	Melanesia
<b>FS Micronesia</b>	1986	1991	USA	Micronesia
<b>Marshall Islands</b>	1986	1991	USA	Micronesia
<b>Palau</b>	1994	1994	USA	Micronesia

All independent Melanesian states received independence between 1970 (Fiji) and 1980 (Vanuatu). As the territory was jointly administered by Great Britain and France, the situation in **Vanuatu** was most complex. The independence of Vanuatu was overshadowed on the one hand by the initial reluctance of France to release the country to full independence and on the other by the so-called Santo Rebellion, a national secessionist movement claiming the secession of some northern islands. Finally, the movement was defeated by soldiers from neighboring Papua New Guinea (formally under British and French command) on request by officials from Vanuatu. French soldiers deployed on Vanuatu did not intervene and France frustrated British plans to do so.<sup>5</sup> Until today, Vanuatu

remains the only (partly) French territory in the Pacific to be released to independence.

The most violent events relating to the process of decolonization took place in the French overseas territory of **New Caledonia**. Especially in the 1980s after the process of decolonization in the other Melanesian states was completed, there were violent clashes between French settlers, independence activists and French soldiers, culminating in the taking of gendarmes as hostages in the Ouvéa cave and the French military responses.<sup>6</sup> Despite the civil-war-like situation in the 1980s, the conflict in New Caledonia was transformed to a peaceful process with the Matignon Agreements (1988) and the Nouméa Accord (1998)<sup>7</sup> that resulted

5 Hassall, Graham (2007): Elite Conflict in Vanuatu. In: Security and Development in the Pacific Islands – Social Resilience in Emerging States (ed.: Brown, M. Anne); Mückler, Hermann (2010): Vanuatu. In: Die Außenpolitik der Staaten Ozeaniens. Ein Handbuch (eds.: Dittmann, Andreas et al.)

6 Lindemann, Peter (2016): Conflict Transformation, Sovereignty and State Building in New Caledonia. In: A Region in Transition. Power and Politics in the Pacific Islands Countries (eds.: Hasenkamp, Oliver et al.): [http://universaar.uni-saarland.de/monographien/volltexte/2016/143/pdf/holtz\\_final.pdf](http://universaar.uni-saarland.de/monographien/volltexte/2016/143/pdf/holtz_final.pdf) (accessed: 14/06/2019)

7 Ibid.; Maclellan, Nic (2007): Conflict and Reconciliation in New Caledonia. In: Security and Development in the Pacific Islands – Social Resilience in Emerging States (ed.: Brown, M. Anne)

in the 2018 independence referendum, in which independence was rejected.<sup>8</sup> Prior to the referendum there was a process of determining who was eligible to vote, considering the immigration of inhabitants with French heritage as well as peoples from Asia and other Pacific countries over recent decades.<sup>9</sup>

## Polynesia

The decolonization processes in the Polynesian states took place comparatively early and were the least conflictual ones in the Pacific region. There are still several Polynesian territories being administered by foreign powers until today. Being administered by New Zealand before, Samoa was the first Pacific Islands country that assumed independence in 1968.<sup>10</sup> The Cook Islands and Niue received full sovereignty for internal affairs in 1965 and 1974 respectively. Both countries remain in free association with New Zealand until today and thus are often not considered as fully independent states. Since their independence, they are full members of all regional organizations, but do not have membership status in international organizations such as the United Nations.<sup>11</sup>

**Tonga**, established as an independent state in its current form in 1970, is the only Pacific territory that never was a colony, but as a British Protectorate retained a certain degree of autonomy.<sup>12</sup> Being administered by Great Britain together with the Micronesian islands of Kiribati, Tuvalu declared its independence in 1978. While Tuvalu was the last Polynesian state that received independence, four of the currently six Pacific territories on the UN's list of Non-Self-Governing-Territories are in Polynesia, including the French overseas territories French Polynesia and Wallis

& Futuna, American Samoa, the British Pitcairn Islands and the New Zealand administered Tokelau. Further Polynesian territories include Hawaii and Rapa-Nui (Easter Islands).

## Micronesia

While **Nauru** (1968) and **Kiribati** (1979) received independence comparatively early, the **Federated States of Micronesia** (FS Micronesia), **the Marshall Islands** and **Palau** are the youngest formally independent Pacific states. Together with the *Commonwealth of the Northern Marianas* –which is still US-administered but not on the UN's List of Non-Self-Governing Territories –the three territories formed the United States Trust Territory of the Pacific Islands after the 2<sup>nd</sup> World War.<sup>13</sup> They were only released to independence after a non-violent but lengthy process and after they agreed to so-called Compacts of Free Association with the United States that provide the US military with extensive authority in the territories. While FS Micronesia and the Marshall Islands acquired independence in 1986, Palau was only granted independence in 1994, because the territory's inhabitants voted in six separate referenda for a nuclear ban to be included in the constitution in contradiction to the arrangements of the Compact of Free Association.<sup>14</sup> Palau and Guam, another US-administered Pacific territory, are on the UN's list of Non-Self-Governing-Territories.

## Conclusions

Based on the process of decolonization in the respective states, there are some basic assumptions that can be made concerning the countries' political alignments and stances towards other independence movements.

8 CNN (2018): New Caledonia votes to remain part of France: <https://edition.cnn.com/2018/11/04/asia/new-caledonia-independence-referendum-intl/index.html> (accessed: 13/6/2019)

9 Lindemann, Peter (2016): Conflict Transformation, Sovereignty and State Building in New Caledonia. In: A Region in Transition. Power and Politics in the Pacific Islands Countries (eds.: Hasenkamp, Oliver et al.)

10 Meleisea, Leasiolagi Malama et al. (2012): Samoa's Journey, 1962 – 2012. Aspects of History

11 Hasenkamp, Oliver (2016): The Pacific Island Countries and International Organizations: Issues, Power and Strategies. In: A Region in Transition. Power and Politics in the Pacific Islands Countries (eds.: Hasenkamp, Oliver et al.)

12 Koloamatangi, Malakai (2009): Tonga. In: Pacific Ways – Government and Politics in the Pacific Islands (ed.: Levine, Stephen)

13 Johnstone, Ian/Powles, Michael (2012): New Flags Flying

14 Ibid.; Hassall, Graham (2009): Palau. In: Pacific Ways – Government and Politics in the Pacific Islands (ed.: Levine, Stephen)

These assumptions have always to be seen in the context of the current government, though, as particularly in Melanesia there are regular government reshuffles due to no-confidence-votes in some countries.<sup>15</sup>

Most likely influenced by the comparatively difficult way to independence in the country, **Vanuatu** is known to be politically more socialist and confrontational towards larger actors compared to most of its neighboring states. The frustration about France's reluctance to grant independence to the country and to a lesser extent about Great Britain's inability to push France to speed up the process, Vanuatu started to look much earlier than its neighbouring countries on partners such as the Non-Aligned Movement. Vanuatu's foreign policy did not focus on the 'Western bloc', including the former European colonial powers, the USA, Australia and New Zealand.<sup>16</sup>

Consequently (and despite its internal Santo rebellion break-away movement experiences), Vanuatu was the strongest advocate for New Caledonia's *Kanak and Socialist National Liberation Front* independence movement and its admission to the sub-regional Melanesian Spearhead Group and for the independence movement in West Papua, even before the issue got on the agenda of other states in the region.<sup>17</sup>

**Tuvalu** is also known for being comparatively supportive of independence movements historically, but much less active in international politics. Even though Tuvalu was granted independence without opposition from Great Britain, its decision to split away from the larger and more populated Micronesian part of the

Ellice and Gilbert Islands left the new country with hardly any resources. The other part of the Ellice and Gilbert Islands –which later became the independent state of Kiribati– used to be the headquarters of the British administration and inherited a comparatively good infrastructure.<sup>18</sup>

Despite the complicated process of decolonization, **FS Micronesia**, the **Marshall Islands** and **Palau** continue to have a very close and ambiguous relationship with the United States. This relationship is on the one side shaped by the ongoing struggle for compensation for US nuclear testing in the Marshall Islands between 1948 and 1958, and on the other side by financial dependency on the US. A nearly 100% voting correlation with the US at the UN leads some observers to question the degree of true independence.<sup>19</sup>

**Membership of the United Nations** is considered as a final acknowledgement of political independence among many pacific states. At the same time, membership of international organization results in high costs, especially for small countries. Looking on the Pacific region, countries with a more conflictual process towards independence and the Melanesian countries in general joined the United Nations quicker after independence than e.g. some of the Polynesian countries.<sup>20</sup>

## The United Nations, the List of Non-Self-Governing Territories and the Committee of 24

Since its creation in 1945, the United Nations (UN) are formally committed to the idea of decolonization.<sup>21</sup> Established by 51 states,

15 Hassal, Graham (2016): Democracy in the Pacific: Tensions between System and Life-world. In: A Region in Transition. Power and Politics in the Pacific Islands Countries (eds.: Hasenkamp, Oliver et al.)

16 Mückler, Hermann (2010): Vanuatu. In: Die Außenpolitik der Staaten Ozeaniens. Ein Handbuch (eds.: Dittmann, Andreas et al.); Hasenkamp, Oliver (2016): The Pacific Island Countries and International Organizations: Issues, Power and Strategies. In: A Region in Transition. Power and Politics in the Pacific Islands Countries (eds.: Hasenkamp, Oliver et al.)

17 Ibid.; McLeod, Jason (2007): Self-Determination and Autonomy: The meaning of Freedom in West Papua. In: Security and Development in the Pacific Islands – Social Resilience in Emerging States (ed.: Brown, M. Anne)

18 Johnstone, Ian/Powles, Michael (2012): New Flags Flying

19 Hasenkamp, Oliver (2016): The Pacific Island Countries and International Organizations: Issues, Power and Strategies. In: A Region in Transition. Power and Politics in the Pacific Islands Countries (eds.: Hasenkamp, Oliver et al.)

20 Ibid.

21 Charta of the United Nations, Chapter XI

the organization today has 193 full members. However, there remain 17 territories to be decolonised according to the UN's list of Non-Self-Governing Territories as well as many more striving for sovereignty and independence without recognition by the United Nations. The List of Non-Self-Governing Territories<sup>22</sup> was introduced in 1946 subsequent to General Assembly Resolution 66 (I) of 14 December 1946 that contained a list of originally more than 100 non-self-governing territories. Most of these territories have now become independent or were deleted from the list after a change in status or incorporation into another country (see below).

## Committee of 24

In order to reaffirm its commitment to decolonization and to provide services to non-self-governing territories, the United Nations General Assembly adopted a number of further resolutions, including the Declaration on the Granting of Independence to Colonial Countries and Peoples (General Assembly Resolution 1514) on 14 December 1960. Subsequent to the adoption of the resolution, a *Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples* was created in 1961 and expanded in 1962 to assist in the implementation of the declaration, disseminate information to peoples in non-self-governing territories and to report and make recommendations to the General Assembly on the advancements in decolonization.<sup>23</sup>

Being the only UN body solely focused on decolonization and having a membership of 24 states, the Special Committee is often referred to as the *Committee of 24 (C-24)* or *Decolonization Committee*. It is a subsidiary of the UN General

Assembly, but may not be confused with the Fourth Committee of the United Nations General Assembly that is also referred to as “Special Political and Decolonization Committee”, which was responsible for trusteeship and decolonization-related matters before being merged with the Political Committee.<sup>24</sup>

The Committee of 24 meets annually to discuss developments in the non-self-governing territories by inviting elected representatives from the territories. It also dispatches missions to the territories and is organizing seminars for capacity-building and dissemination of information to territories' representatives. It then reports to the General Assembly and drafts resolutions that are introduced to the General Assembly on the situation in the respective territories and to renew the General Assembly's commitment to decolonization.<sup>25</sup>

Despite its name, since 2010 the Committee of 24 consists of 29 members approved by the General Assembly, currently including representatives from Indonesia, Fiji and Papua New Guinea from the Pacific region. The members can accede requests by UN member states to send additional observers to the Committee.<sup>26</sup>

## List of Non-Self-Governing Territories

As a subsidiary of the General-Assembly, the Committee of 24 cannot take any decisions about the scope of its mandate or the UN's List of Non-Self-Governing-Territories on its own, but only can make recommendations to the United Nations General Assembly regarding the territories inscribed on the list.<sup>27</sup>

Since the first listing of non-self-governing territories in General Assembly Resolution 66 (I)

22 UN List of Non-Self-Governing Territories: <https://www.un.org/en/decolonization/nonselgvtterritories.shtml> (accessed: 14/6/2019)

23 The United Nations and Decolonization: <https://www.un.org/en/decolonization/specialcommittee.shtml> (accessed: 14/06/2019)

24 United Nations (2017): Basic Facts on the United Nation

25 The United Nations and Decolonization: <https://www.un.org/en/decolonization/specialcommittee.shtml> (accessed: 14/06/2019)

26 Ibid.

27 Turner, Oliver (2013): 'Finishing the Job': the UN Special Committee on Decolonization and the politics of self-governance. In: *Third World Quarterly*, Volume 34

of 14 December 1946, only two territories were added (or more appropriate: re-inscribed) to the list. Both New Caledonia and French Polynesia were deleted from the list in 1947 –just one year after the introduction of the list– upon request by France after their statuses changed to overseas territories,<sup>28</sup> but were re-inscribed in 1986<sup>29</sup> and 2013<sup>30</sup> by General Assembly resolutions, respectively. The current entry of ‘Western Sahara’, was originally inscribed as ‘Spanish Sahara’ until 1976 when the Spanish presence in the territory ended and the territory was claimed by other states, including Morocco that now has occupied most of the territory.<sup>31</sup>

At the same time, many formerly listed territories were deleted from the list by the General Assembly over the decades after they gained independence or upon request by their administering powers after the territories concerned had a change in status, e.g. Hawaii, that gained statehood within the United States of America or the Cocos Islands that voted to be integrated with Australia.<sup>32</sup>

Among the territories that were deleted from the list were both “Portuguese Timor”, which was annexed through forceful intervention by Indonesian troops in 1975, as well as “Netherlands New Guinea” after Indonesia’s occupation<sup>33</sup> in the early 1960s and the New-York-Agreement based so-called ‘Act of Free Choice’ in 1969.<sup>34</sup>

## French Polynesia’s re-inscription

As French Polynesia’s re-inscription on the list shows, what is most important is to receive the support of a number of countries that introduce a draft resolution in the General Assembly and

the support of the majority of countries to vote in favour. In case of the re-inscription of French Polynesia, the first draft resolution was introduced by the Solomon Islands, Tuvalu and Nauru and the final resolution also sponsored by Samoa, Vanuatu and East Timor. As is often the custom in the General Assembly, resolution A/RES/67/265 was adopted unanimously without a formal vote, but in addition to France, Great Britain, the United States of America, Germany and the Netherlands disassociated themselves from the decision.<sup>35</sup>

The resolution refers to a number of decisions taken within French Polynesia and on a regional level to support the re-inscription of the territory to emphasise the proposals legitimacy, including:

- the “resolution of the Assembly of French Polynesia, adopted in Papeete, Tahiti, on 18 August 2011, in which it expressed its will that French Polynesia be re-inscribed on the United Nations list of Non-Self-Governing Territories”;
- “the decision taken by the Council of Ministers of the Government of French Polynesia on 15 June 2011 to call for the re-inscription”;
- the “decision of the Heads of State or Government of Pacific States taken [...] on 1 and 2 September 2011, to support the re-inscription of French Polynesia”;
- the “communiqué of the second Polynesian Leaders Group meeting [...], in which the Group affirmed its support for the inscription of French Polynesia on the United Nations”;
- the “decisions of the Pacific Islands Forum [...] to support the principle of the right to self-determination of the people of French

28 The United Nations and Decolonization: <https://www.un.org/en/decolonization/nonselvgovterritories.shtml> (accessed: 17/06/2019)

29 General Assembly Resolution A/RES/41/

30 General Assembly Resolution A/67/265; see below

31 General Assembly Resolution A/RES/45/21; The United Nations and Decolonization: <https://www.un.org/en/decolonization/nonselvgovterritories.shtml> (accessed: 17/06/2019)

32 The United Nations and Decolonization: <https://www.un.org/en/decolonization/nonselvgov.shtml> (accessed: 17/06/2019)

33 Wikipedia provides the definition of military occupation to be “effective provisional control by a certain ruling power over a territory, which is not under the formal sovereignty of that entity, without the violation of the actual sovereignty”

34 Wikipedia provides the definition of military occupation to be “effective provisional control by a certain ruling power over a territory, which is not under the formal sovereignty of that entity, without the violation of the actual sovereignty”

35 United Nations News Center (2013): General Assembly adds French Polynesia to UN decolonization list: <http://www.un.org/apps/news/story.asp?NewsID=44944&Cr=decolonization> (accessed: 14/06/2019)

- Polynesia”;
- and the “Final Document of the Sixteenth Conference of Heads of State or Government of Non-Aligned Countries [...], affirming the inalienable right of the people of French Polynesia to self-determination [...]”.

These credentials for the broad support from states from the region and beyond may be important vehicles to generate further support from countries that used not to have any self-interests or expertise on the matter.

At the same time, the example of French Polynesia also shows that inscription on the list is a long process that can hardly be stopped by the sometimes and somewhat sedate UN system, once the proposal has gained the support of a sufficient number of states: While French Polynesia’s pro-independence government called for the re-inscription, only weeks prior to the UN vote a new pro-France government was elected in French Polynesia and started to unsuccessfully advocate for withdrawing the resolution put forward by its Pacific neighbours.<sup>36</sup>

## Recommendations



### The ICP recommends to the Government of Indonesia to:

- **Allow the West Papuan people to express their cultural identity as Papuans and Melanesians and fully recognise their identity. West Papuans should be freely permitted to associate with other Melanesian countries based on their similarities and shared identities in addition to their right to self-determination and association.**

## 8.4 Government Position and Public Opinion

President Joko Widodo has repeatedly expressed his support for dialogue to resolve the West Papua conflict peacefully. Throughout 2017 and 2018, his Government failed to take meaningful steps for the implementation of such a dialogue. The Government has still not taken a clear position as to whether the sectoral dialogue shall include the separatist movement and whether it will touch sensitive issues such as the settlement of human rights violations and Papuan history. The death of the most prominent forerunner of a dialogue between Jakarta and West Papua, Father Neles Tebay, poses an additional obstacle for a dialogue to take place. While the majority of people in Indonesia consider a dialogue as important to resolve the long-standing conflict in West Papua, a survey by the Indonesian Institute of Sciences LIPI revealed

26 Maclellan, Nic (2013): “Hijacking decolonisation”: French Polynesia at the United Nations: <https://insidestory.org.au/hijacking-decolonisation-french-polynesia-at-the-united-nations/> (accessed:14/06/2019)

**significant differences in perception on the core issues in West Papua. While most Non-Papuans considered 'low education', 'alcohol and drug abuse' and 'infrastructure and transportation issues' as the most severe problems in West Papua, indigenous Papuans regarded 'human rights violations' (14%), 'low education' (10%) and 'corruption' as the most important issues.**

## **Government position on the conflict**

West Papua is looking back on a history dominated by an unresolved conflict of over 50 years. While President Joko Widodo (Jokowi) has repeatedly expressed his support for dialogue as a promising approach to resolve the West Papua conflict peacefully, there was no meaningful progress in the implementation of a dialogue throughout 2017 and 2018. On 15 August 2017, central government representatives including President Jokowi invited 14 Papuan civil society leaders to find common ground for a dialogue between West Papua and Jakarta. Both sides agreed on a 'Sectoral Dialogue' as a major outcome of the meeting. During the meeting President Jokowi re-affirmed his willingness to have a sectoral dialogue in 2017.<sup>1</sup>

The concept of 'Sectoral Dialogue' refers to a dialogue on a variety of different topics, e.g. a dialogue on infrastructure development, a dialogue on education, and a dialogue on health. The concept implies that many sub-dialogues between different stakeholders from the Government, religions, indigenous peoples, NGOs, experts and the private sector would also take place simultaneously. The dialogue parties for every sub-dialogue would vary in accordance with the respective administrative responsibilities and fields of expertise. The actors in every dialogue field shall identify the main issues, offer solutions, develop strategies and agree on targets for each sector. Every actor in one sector is supposed to be assigned particular tasks and targets which need to be reached.<sup>2</sup>

While this approach sounds promising, there have been major setbacks in the implementation of the dialogue. In the past, the dialogue was facilitated by the 'Papua Peace Network' (Jaringan Damai Papua, JDP) and the Indonesian Institute of Sciences (Lembaga Ilmu Pegetahuan Indonesia LIPI). Both organisations have lost their most prominent representatives, who had been working hard to establish trust among both sides. The JDP Coordinator, Father Neles Tebay, died at the St. Carolus Hospital in Jakarta on 14 April 2019, because of cancer. Under his leadership, JDP and LIPI throughout 2013 and 2016 conducted eight exploratory meetings attended by officials from the Central Government, and West Papuan civil society. Five years earlier, LIPI representative and JDP-Jakarta Coordinator, Muridan S Widjojo, also died due to illness.<sup>3</sup>

The LIPI Papua Study Team has tried to consolidate the JDP through the selection of a new JDP coordinator and development of a workplan. On May 23, 2019, JDP activists from various regions in Papua and Jakarta met in Jayapura and selected Father Jhon Bonay (Jayapura Diocese) as the new JDP Papua coordinator along with three Deputies, namely Latifah Anum Siregar (ALDP), Daniel Randongkir (ELSHAM), and Yan Christian Warinussy (LP3BH-Manokwari). In addition, the meeting also appointed the new JDP coordinator in Jakarta, Dr. Adriana Elisabeth (LIPI Papua Study Team) and her deputy, Dr. Cahyo Pamungkas (LIPI). The main task of the new JDP administrators is to continue the peacebuilding work through the establishment of a peaceful dialogue.<sup>4</sup>

1 Dr. Neles Tebay (12.09.2017): Dialog Sektoral – Apa itu?, available at: <https://suarapapua.com/2017/09/12/dialog-sektoral-papua-apakah-itu/>

2 Ibid.

3 Cahyo Pamungkas (07.07.2019): Update on the Papua Peace Network (JDP)

4 Ibid.

Despite these efforts to re-consolidate the JDP, there has been no indication of a willingness on the Government's side to implement a sectoral dialogue before September 2019. Many Papuan stakeholders are sceptical because the Government did not adopt a clear position as to whether the sectoral dialogue shall include the West Papua National Liberation Army (TPN-PB) and the United Liberation Movement for West Papua (ULMWP) or only effective communication between the Government and West Papuan civil society actors. Moreover, it is not clear whether the central Government will address all the key issues of the long-standing Papuan conflict in the dialogue agenda, namely, a common understanding regarding West Papua's history, unresolved human rights violations, racial discrimination and development shortcomings<sup>5</sup>.

Government programs and initiatives by the Jokowi Government underline the fact that Jakarta is holding on to a development-based perspective on the West Papuan conflict, leaving aside other core issues. Jokowi often visited West Papua, pushed the infrastructure projects in the region and unified the fuel prices in West Papua in order to accelerate economic development<sup>6</sup>. The Government did not make meaningful progress in the settlement of past human rights violations and the fight against widespread impunity. In addition, Government officials refused to enter into negotiations with the TPN-PB and the ULMWP. Hence, the Government continues to use a security-based approach to counter political mass protests and prevent armed attacks. High Government officials rejected repeated demands by Papuan civil society activists to withdraw troops from the Nduga Regency in order to bring an end to the ongoing humanitarian crisis in the regency<sup>7</sup>.

## Public opinion and differing perceptions

In December 2017, the 'Indonesian Institute of Sciences' (LIPI) in cooperation with 'Change.org' published an internet survey among 27,298 Indonesian citizens about their perceptions regarding West Papua. The majority of participants consisted of Non-Papuans (98%), most of them living outside of West Papua. The survey included multiple demographic entities, varying among levels of education, gender and age. The survey revealed the existence of significant differences in perception between Non-Papuans and indigenous Papuans regarding the situation in West Papua.<sup>8</sup>

While almost 70% of the indigenous Papuans considered the current condition of West Papua as 'worrying' or 'very worrying', 54% of Non-Papuans living in West Papua assessed the situation as 'good' or 'very good' (see image 8.4-1)<sup>9</sup>. LIPI researcher Cahyo Pamungkas stated in a press conference on 14 December 2017, that the difference in perception clearly shows that the heavy security force presence in West Papua results in safe conditions for Indonesian migrants in contrast to the indigenous population, who fear becoming victims of human rights violations.<sup>10</sup>

5 BBC Indonesia (30.08.2019): Papua-Papua Barat: Pemerintah klaim buka pintu dialog, termasuk dengan 'kelompok pro-referendum?', available at: <https://www.bbc.com/indonesia/indonesia-49520809>

6 Info West Papua (29.10.2018): Papua Separatism and Dialogue Approach of President Jokowi's Administration, available at: <https://infowestpapua.com/2018/10/29/papua-separatism-and-dialogue-approach-of-president-jokowis-administration/>

7 Detik News (15.08.2019): Tolak Tarik Pasukan, Menhan Sebut Operasi Militer di Nduga Tetap Lanjut, available at: <https://news.detik.com/>

berita/d-4667052/tolak-tarik-pasukan-menhan-sebut-operasi-militer-di-nduga-tetap-lanjut

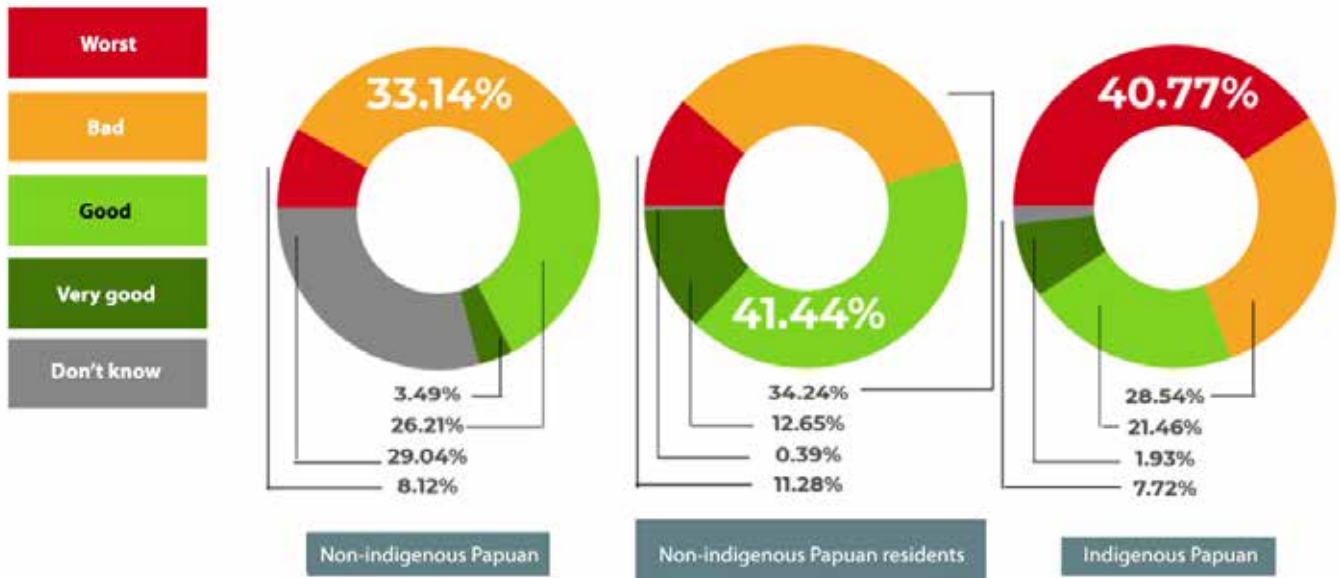
8 LIPI & Change.org (14.09.2017): Hasil Survei Persepsi Warganet Terhadap Isu Papua, p. 1ff

9 Ibid. p. 8

10 Satu Harapan (15.12.2017): Keinginan Merdeka Rakyat Papua Terungkap Dalam Survei LIPI, available at: <http://www.satuharapan.com/read-detail/read/keinginan-merdeka-rakyat-papua-terungkap-dalam-survei-lipi>



## In your opinion, what is the current condition in West Papua?

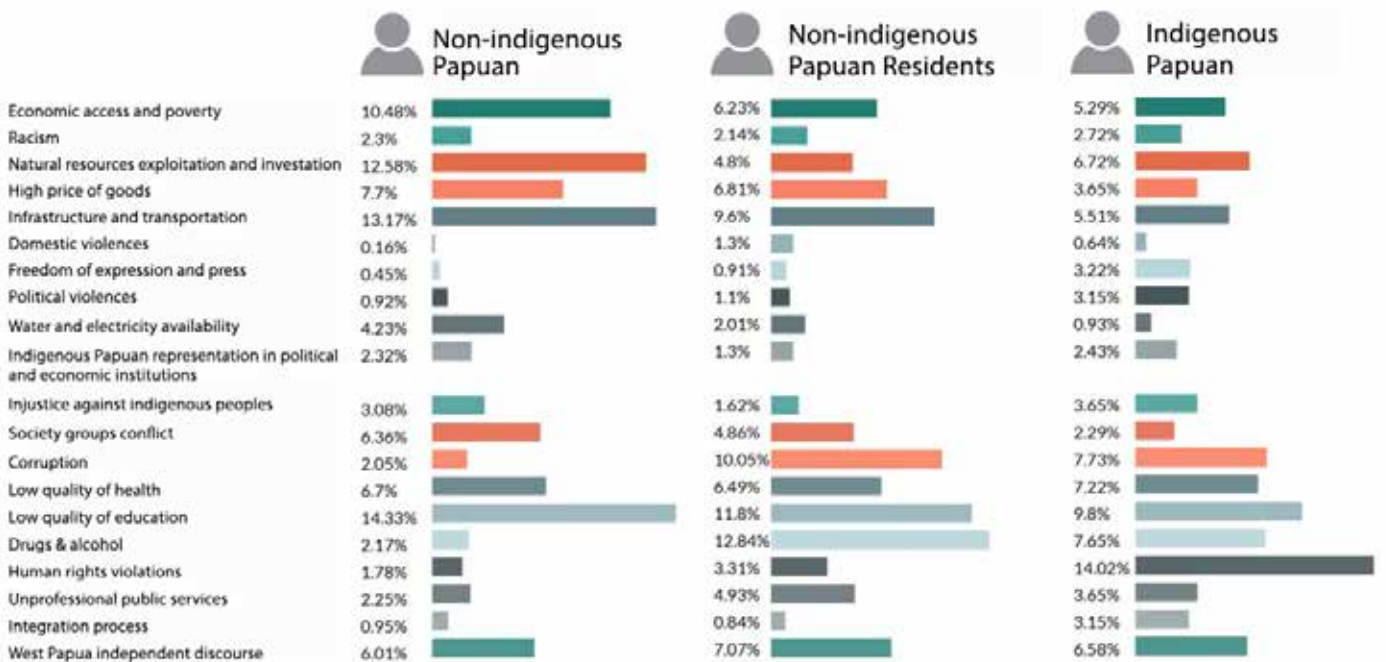


Graphic 8.4-1: Graphic illustrating the difference in perception among indigenous Papuans, non-Papuans living in West Papua and Indonesians living outside of West Papua (Source: LIPI)

Cahyo Pamungkas' interpretation is backed up by another finding. In response to the question- 'Which are the most severe issues in West Papua?', the top three answers among Non-Papuans were 'low education' (14%), 'alcohol and drug abuse' (12%) and 'infrastructure and transportation issues' (12%). In contrast, the top three answers among indigenous Papuans were

'human rights violations' (14%), 'low education' (10%) and 'corruption' (8%) (see image 8.4-2). The fact that 14% of the surveyed indigenous Papuans considered human rights violations as the top issue in West Papua clearly emphasises the need for a dialogue which covers more than just economic development.<sup>11</sup>

## In your opinion, what is the biggest problem in West Papua?



Graphic 8.4-2: Graphic illustrating the difference in perception among indigenous Papuans, non-Papuans living in West Papua and Indonesians living outside of West Papua (Source: LIPI)

Besides these differences in perception, the survey also illustrated several similarities among all survey participants. All survey participants stated that they would follow the approach to increase 'human resource capacities', if they would be given the authority to resolve the

major issues in West Papua. Another interesting finding was that indigenous Papuans as well as Non-Papuans in and outside of West Papua considered a dialogue as 'very important' (ranging between 62% and 73 %) to solve the ongoing Papuan conflict.<sup>12</sup>

## Recommendations



### The ICP recommends to the Government of Indonesia to:

- Adopt a policy for the settlement of human rights violations in order to break through the circle of violence in West Papua.
- Renounce a security-based approach in handling the ongoing conflict in West Papua.
- Immediately enter into dialogue with all fractions of Papuan Civil Society, including elements of the political independence movement such as the United Liberation Movement for West Papua (ULMWP) and the West Papua National Liberation Army (TPN-PB) to discuss a dignified resolution of the West Papua conflict.

## 8.5 West Papua at the United Nations and other International Government Organisations (IGOs)

State lobbying and other advocacy efforts in the past five years have opened up a path for discussions on the human rights situation in West Papua in multiple international fora. Throughout 2017 and 2018, a number of states raised the issue of human rights violations in West Papua at the United Nations. Several Pacific states, particularly Vanuatu and the Solomon Islands, expressed support for the right to political self-determination of the Papuan people and addressed the human rights situation at United Nations General Assemblies and Human Rights Council sessions. Human rights violations in West Papua were also raised in various UN human rights mechanisms, for example during Indonesia's 3<sup>rd</sup> cycle of the Universal Periodic Review (UPR) and by multiple mandates of the Special Procedures of the Human Rights Council. Throughout 2018, the UN High Commissioner for Human Rights directly referred to the human

<sup>12</sup> Ibid. p. 12

rights situation in West Papua on three different occasions. Civil society actors and a group of Pacific states have also been advocating for human rights in West Papua and the right to political self-determination of the Papuan people in other inter-governmental organisations such as the European Union (EU) and Africa Caribbean Pacific Group of States (ACP).

## West Papua at the United Nations

### *The General Assembly*

During the 72<sup>nd</sup> session of the UN General Assembly in New York, three Pacific states raised concerns regarding ongoing human rights violations in West Papua and spoke in support of political self-determination for West Papua, namely the Solomon Islands, Vanuatu and Tuvalu. A milder statement with reference to the human rights situation in West Papua was delivered by Saint Vincent and the Grenadines. It was the first time that a Caribbean state addressed the issue of West Papua in its speech at the General Assembly. Indonesia promptly responded to these statements using its right of reply. The Indonesian delegation claimed that the statements were based on false allegations from separatist groups who intend to exploit the issue of human rights for their political agenda. While the statement failed to present any meaningful proof of progress in the field of human rights, Indonesia's delegation used its common response to criticism of its human rights record in West Papua by referring to the development progress in the region<sup>1</sup>.

In his speech, the prime minister of the Solomon Islands, Mr. Manasseh Sogovare, condemned ongoing human rights violations in West Papua, emphasizing that "the peoples of West Papua were never allowed the proper act of self-determination guaranteed by the inalienable

right to self-determination as expressed in UN Human Rights Covenants [...] Only international action –by individual countries and from the leading organizational bodies of the international system, especially the United Nations General Assembly - can pave the way for the recognition of a people whose right to self-determination had been denied for nearly fifty years."<sup>2</sup>

A second specific statement during this same General Assembly session was delivered by the prime minister of the Republic of Vanuatu, Mr. Charlot Salwai Tabimasma. The prime minister urged the human rights council to investigate allegations on ongoing human rights violations in West Papua. He called on "...counterparts throughout the world to support the legal right of West Papua to self-determination and to jointly with Indonesia put an end to all kinds of violence and find common ground with the nationals putting together a process which will enable them to freely express their choice."<sup>3</sup>

The Pacific state of Tuvalu followed the example of Solomon Islands and Vanuatu in its statement. Prime minister Mr. Enele Sosene Sopoaga represented the view that "the people of West Papua should be enabled to exercise their fundamental right, with the intervention of this responsible body, to allow them to determine their own development aspirations and future. [...] The violation of human rights in West Papua is a constant matter of great concern to us. Tuvalu strongly believes the UN must engage in setting

1 United Nations General Assembly (25.09.2017): Indonesia - 1st Right of Reply, 72nd Session, available at: <http://webtv.un.org/topics-issues/watch/indonesia-1st-right-of-reply/5586181926001/?term=>

2 United Nations General Assembly (22.09.2017): Solomon Islands -Prime Minister Addresses General Debate, 72nd Session, available at: <https://www.unmultimedia.org/avlibrary/asset/1977/1977321/>

3 United Nations General Assembly (21.09.2017): Vanuatu - Prime Minister Addresses General Debate, 72nd Session, available at: <https://www.unmultimedia.org/avlibrary/asset/1976/1976046/>

a clear pathway to addressing these issues and the issue of self-determination of the people”<sup>4</sup>

Saint Vincent and the Grenadines, represented through its Deputy Prime Minister, Mr Louis Straker, explained that his government was a strong supporter of the world-wide decolonisation process and “has great sympathy for the legitimate aspirations of the people of West Papua for freedom and independence through legitimate political means to cover themselves and guide their own destiny.”<sup>5</sup>

During the 73<sup>rd</sup> session of the United Nations General Assembly in September 2018, four states again addressed the human rights situation in West Papua. All four were Pacific states, namely Vanuatu, Solomon Islands, Tuvalu and the Marshall Islands. One could observe that the sections referring to West Papua were much shorter than during the 72<sup>nd</sup> General Assembly session. Contrary to the 72<sup>nd</sup> General Assembly, the issue of political self-determination was only mentioned in the statement of Vanuatu, while the statements by Solomon Islands, Tuvalu and Marshall Islands were vaguer on the issue of political self-determination, primarily containing references to conflict resolution and the human rights situation in West Papua.

The most explicit statement among the four Pacific countries was again delivered by Vanuatu. Prime minister, Mr. Charlot Salwai Tabimasmās, urged the UN Human Rights Council to investigate allegations on human rights violations in West Papua. “We also call on our fellow leaders of the world to pay greater attention to these inhuman acts and together with Indonesia put an end to all forms of the violence and find common ground with the

population to establish a process that will allow them to freely express their choice”, said Mr. Tabimasmās.<sup>6</sup>

Indonesia delivered a counter statement, in which the Indonesian delegation diplomatically attacked Vanuatu, arguing that accusations on human rights violations in West Papua were “not only undermining the sanctity of friendly relations among nations and non-interference but also violating the principles of the UN charter”. However, the Indonesian delegation failed to disprove these allegations. Instead, Indonesia’s counter statement pointed out short comings in Vanuatu’s human rights record, arguing that Vanuatu cooperates with criminal groups with the goal to challenge the integration of West Papua into Indonesia, as approved through General Assembly Resolution 2504 of 1969.<sup>7</sup>

The prime minister of the Solomon Islands, Mr. Ricky Nelson Houenipwela, emphasised that his government fully “recognises and respects Indonesia’s sovereignty over its territorial boundaries [and] commits to work with the Government of Indonesia on areas of mutual interest including human rights concerns in Papua and West Papua.”<sup>8</sup> Tuvalu’s prime minister asked the United Nations to “engage with the people of West Papua to find lasting solutions to their struggles.”<sup>9</sup> The president of the Marshall Islands, Mrs Hilda Heine, stressed the importance of the Pacific Islands Forum, “... recognizing the constructive engagement by Forum countries with Indonesia with respect to elections and human rights in West Papua, and the commitment to continue dialogue in an open and constructive manner.”<sup>10</sup>

4 United Nations General Assembly (21.09.2017): Tuvalu - Prime Minister Addresses General Debate, 72nd Session, available at: <https://www.unmultimedia.org/avlibrary/asset/1975/1975843/>.

5 UN General Assembly (22.09.2019): Saint Vincent and the Grenadines - Deputy Prime Minister Addresses General Debate, 72nd Session, available at: <https://www.unmultimedia.org/avlibrary/asset/1977/1977498/>

6 UN General Assembly (28.09.2018): Vanuatu, H.E. Mr. Charlot Salwai Tabimasmās, Prime Minister, 73rd Session, available at: <https://gadebate.un.org/en/73/vanuatu>

7 UN General Assembly (28.09.2018): Indonesia - 1st Right of Reply, 73rd Session, available at: <https://www.youtube.com/watch?v=zZVOv6NluE&t=317s>

8 UN General Assembly (28.09.2018): Solomon Islands, H.E. Mr. Ricky Nelson Houenipwela, Prime Minister, 73rd Session, available at: <https://gadebate.un.org/en/73/solomon-islands>

9 UN General Assembly (27.09.2018): Tuvalu, H.E. Mr. Enele Sosene Sopoaga, Prime Minister, 73rd Session, available at: <https://gadebate.un.org/en/73/tuvalu>

10 UN General Assembly (25.09.2018): Marshall Islands, H.E. Mrs. Hilda Heine, President, 73rd Session, available at: <https://gadebate.un.org/en/73/marshall-islands>

### *Human Rights Council*

Throughout 2017 and 2018, statements with reference to the human rights situation in West Papua were delivered during the 34<sup>th</sup>, 36<sup>th</sup> and 39<sup>th</sup> Regular Sessions of the UN Human Rights Council. The statements were delivered by the Solomon Islands and Vanuatu, who were the most outspoken countries on the issue of West Papua in international forums throughout this time period. It should be noted that Vanuatu delivered the statement during the 34<sup>th</sup> regular session also on behalf of six other Pacific nations, namely Tonga, Nauru, Palau, Tuvalu, the Marshall Islands, and the Solomon Islands. Vanuatu addressed the issue of Papua in the high-level segment of the session – previous statements were usually delivered during the general debate item on ‘Human rights situations that require the Council’s attention’.

The joint statement by the seven Pacific states listed a number of recent cases which had been raised by special procedures mandate holders as well as the UN Committee on the Elimination of Racial Discrimination. The Pacific states highlighted the ongoing impunity for perpetrators among security forces in West Papua, criticizing the strong demographic shifts leading to the marginalization of indigenous Papuans and the Indonesian Government’s shortcomings with regard to its reporting compliances to various UN treaty bodies. Accordingly, the statement demanded “full and unreserved cooperation with the High Commissioner in the fulfilment of this mandate, including provision by Indonesian authorities of complete access to any persons in West Papua deemed appropriate to meet in the compilation of this report.”<sup>11</sup>

The Indonesian delegation used its right of reply to the statements on the issue of West Papua during the 34<sup>th</sup> and the 36<sup>th</sup> Regular Session, accusing Vanuatu and the Solomon Islands of politicising human rights to push for the separation of West Papua from Indonesia. Moreover, the statement attempted to counter the allegations of human rights violations by emphasizing Indonesia’s cooperation with multiple UN human rights mechanisms, such as the Universal Periodic Review (UPR) and visit by various special procedures mandate holders to Indonesia, including West Papua.<sup>12</sup>

The Solomon Islands delivered a statement on the freedom of opinion and of expression and the rights to peaceful assembly and of association in West Papua during the 36<sup>th</sup> Regular Session of the UN Human Rights Council. The statement referred to a series of political arrests between July and August 2017, as well as the ongoing reports of extra-judicial killings and high impunity. The Solomon Islands urged the Government of Indonesia to “establish a constructive dialogue with indigenous West Papuans to address the root causes of these human rights violations. We also call on the UN Special Rapporteur on the Rights of Indigenous Peoples and the Special Rapporteur on Extra-judicial, Summary and Arbitrary Executions to visit West Papua.”<sup>13</sup>

In 2018, Vanuatu again delivered two statements during the 39<sup>th</sup> Regular Session of the Human Rights Council. The first statement on 12 September 2018 addressed the strong restrictions to the freedom of expression, and freedom of peaceful assembly and association, including the arrest and prosecution of a Polish national and a Papuan student. A second statement delivered

11 UN Human Rights Council (01.03.2017): Vanuatu, High-Level Segment – 7th Meeting, 34th Regular Session Human Rights Council, 34th Regular Session, available at: <http://webtv.un.org/meetings-events/watch/vanuatu-high-level-segment-8th-meeting-34th-regular-session-human-rights-council-/5341236808001>

12 UN Human Rights Council (19.09.2017): Item:4 General Debate (Cont’d) - 18th Meeting, 36th Regular Session Human Rights Council, Indonesia (Right of Reply), available at: <http://webtv.un.org/watch/item4-general-debate-contd-18th-meeting-36th-regular-session-human-rights-council-/5581732708001/?term=#player>

13 UN Human Rights Council (19.09.2017): Item:4 General Debate (Cont’d) - 18th Meeting, 36th Regular Session Human Rights Council, Solomon Islands, Mr Barrett Salato, 36th Regular Session, available at: <http://webtv.un.org/watch/item4-general-debate-contd-18th-meeting-36th-regular-session-human-rights-council-/5581732708001/?term=#player>

on 19 September 2018 drew the attention of the Human Rights Council to a number of violations against indigenous peoples in West Papua including the attempted criminalisation and attacks against human rights defenders trying to expose these violations. Vanuatu asked the Special Rapporteur on Indigenous Peoples to pay attention to "reports of NGO's of human rights violations of the indigenous people of West Papua as well as information which might contribute to the study on free and prior consent by EMRIP".<sup>14</sup>

### ***3<sup>rd</sup> Cycle of the Universal Periodic Review (UPR) of Indonesia***

On 3 May 2017, Indonesia underwent the 3<sup>rd</sup> cycle of the Universal Periodic Review (UPR) mechanism of the United Nations Human Rights Council. This review was significantly different from previous reviews. The past Indonesian UPR delegations of 2008 and 2012 had tried to avoid speaking about the human rights situation in West Papua, focussing on human rights issues of national relevance. During the 3<sup>rd</sup> cycle review, the Indonesian delegation presented information on various state efforts which President Joko Widodo's Government had undertaken to improve the human rights situation in West Papua. The majority of recommendations during this UPR cycle referred to national human rights issues, such as protection from discrimination

against women, LGBTI persons (Lesbian, Gay, Bisexual, Trans and Inter-sex), religious minorities and people living with disabilities, as well as the abolishment of the death penalty during this third review. Surprisingly, the Pacific countries pushing the agenda on human rights in West Papua at the international level neither asked questions nor proposed recommendations to the Indonesian Government during the UPR review.

Nine countries - namely Mexico, Australia, Austria, Switzerland, United Kingdom of Great Britain and Northern Ireland, United States of America, Netherlands, Germany and New Zealand - addressed the human rights situation in West Papua, either expressed through questions to the delegation of Indonesia, or by statements or recommendations during the review process. Most of these references mentioned the deterioration with regard to the freedom of expression and assembly, the protection of human rights defenders, widespread impunity, protection of minority rights such as women and indigenous peoples or demanded the opening of West Papua to foreign journalists. Four recommendations with a particular reference to the human rights situation in West Papua by the delegations of Mexico, New Zealand, Germany and Australia have been examined by Indonesia and enjoy the government's support.

### ***List of statements, recommendations and questions during the 3<sup>rd</sup> cycle of Indonesia's UPR process with particular focus on the human rights situation in West Papua<sup>15</sup>:***

- "Extend an invitation to the Special Rapporteur on the rights of Indigenous Peoples to visit Indonesia, including Papua, in line with the opening of Indonesia to collaborate with special procedures." (Mexico)
- "How does Indonesia ensure that human rights defenders are protected and allowed to conduct their work without hindrance, intimidation or harassment? What measures have been taken to cease intimidation or repression against human rights defenders, journalists and NGOs including in West Papua?" (Mexico)

14 Both statements delivered by Vanuatu during the 39th regular session of the human rights council are available at: [http://www.humanrightspapua.org/resources/210-international-debate-on-west-papua#R2Reply\\_Indo\\_HRC34](http://www.humanrightspapua.org/resources/210-international-debate-on-west-papua#R2Reply_Indo_HRC34)

15 The core documents with questions, statements and recommendations are available at: <https://www.ohchr.org/EN/HRBodies/UPR/Pages/IDindex.aspx>

- "We welcome Indonesia's demonstrated commitment to economic development in the Papua provinces and recent efforts to investigate human rights cases there. Australia recommends Indonesia finalise the investigation of all human rights cases in Papua." (Australia)
- "Finalise the investigation of all human rights cases in Papua." (Australia)
- "Austria remains however concerned about the reports and findings of UN Treaty Bodies and Special Procedures as well as CSOs which highlight various human rights issues in the country, including [...] restrictions to the right to freedom of opinion and expression, [...] lack of accountability for human rights violations committed by security forces in Papua and violence against women including domestic violence." (Austria)
- "The United States of America expressed concern about, inter alia the lack of an accountability framework for abuses by the military and police and restrictions on freedoms of expression and peaceful assembly, including in Papua and West Papua." (United States of America)
- "What progress has the Government of Indonesia made in implementing its plan announced by the Coordinating Minister for Political, Legal and Security Affairs in May and October 2016 to investigate and address human rights violations in Papua such as the Paniai, Wasior and Wamena incidents in order to end impunity and guarantee effective prosecution of human rights violations?" (Switzerland)
- "What progress has been made by the Government of Indonesia with regard to allowing free access for foreign journalists to Papua since President Jokowi announced the opening of Papua to foreign journalists in 2015?" (United Kingdom of Great Britain and Northern Ireland)
- "We welcome the policy of the Government of Indonesia to increasingly focus on the eastern part of Indonesia, and the frequent visits of President Joko Widodo to, among others, Papua. Can you elaborate what have been the results in the field of human rights of these efforts?" (Netherlands)
- "Improve training and administrative instructions for police and local authorities to ensure that the right to peaceful assembly is universally respected, including in the Provinces of Papua and West Papua." (Germany)
- "Which measures were taken to improve the working conditions of journalists working on human rights related issues, and to lift restrictions on reporting on issues affecting West Papua, including the announcement to allow access to foreign journalists to West Papua?" (Germany)
- "What progress has been made with regard to the plan to resolve past cases of human rights violations in Papua, which was announced by the Coordinating Minister for Political, Legal and Security Affairs in May 2016?" (Germany)
- "Ensure human rights obligations in Papua are upheld, respected and promoted, including freedom of assembly, freedom of the press and the rights of women and minorities" (New Zealand)

### *Special Procedures of the UN Human Rights Council*

Throughout 2017 and 2018, two special procedures mandate holders conducted visits to Indonesia. The UN Special Rapporteur on the Right to Food met with human rights defenders

and victims from West Papua but did not travel to West Papua during her mission in April 2018. The Special Rapporteur on the Right of everyone to the highest attainable standard of physical and mental health visited the Province of Papua to observe the situation on the ground and meet with representatives from the local

government and civil society. Both mandate holders addressed the human rights situation in West Papua in their End of mission statements<sup>16</sup> and the final reports<sup>17</sup> (See chapters 4.2 on the Right to health and chapter 4.3 on the right to food).

Throughout 2017 and 2018, a number of different special procedures mandates issued three communications in response to human rights violations in West Papua. The Indonesian Government replied to all three communication letters. On 17 March 2017, the mandates on Torture and extrajudicial executions issued a communication with the Indonesian Government in relation to the alleged torture and cruel, inhuman and degrading treatment of Mr. Edison Hesegem by police officers of the Jayawijaya District Police.<sup>18</sup> A further communication in relation to excessive use of force by police officers during protests, including against children, against Papuan villagers located in Oneibo Village was issued by the mandates on minority issues, freedom of opinion and expression, freedom of peaceful assembly and of association, and on human rights defenders<sup>19</sup>. On 7 December 2018, the mandates of extrajudicial

executions, indigenous peoples, racism, torture and water and sanitation processed a further communication regarding the multiple cases of extrajudicial killings through either torture, intentional killing or excessive use of force of five indigenous Papuans by the police and the military.<sup>20</sup>

### *UN High Commissioner of Human Rights*

The former UN High Commissioner for Human Rights, Mr. Zeid Ra'ad Al Hussein, visited Indonesia in February 2018. During the visit, he organised a special meeting particularly for human rights defenders and victims of human rights violations from West Papua. The high commissioner stated in a press conference on the 7 February 2018, "I am also concerned about increasing reports of the excessive use of force by security forces, harassment, arbitrary arrests and detentions in Papua."<sup>21</sup>

Mr. Zeid Ra'ad Al Hussein made two other statements in which he addressed the human rights situation in West Papua, namely during the 'High Commissioner's global update of human rights concerns' in March 2018<sup>22</sup> and June 2018. Particularly, the human rights update

- 16 Preliminary Observations of the Special Rapporteur on the Right to Food, Ms. Hilal Elver, on her mission to Indonesia 9-18 April 2018 (14.04.2018), available at: <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=22949&LangID=E> & Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health Mr. Dainius Pūras, Country Visit to Indonesia, 22 March to 3 April 2017, Preliminary observations (03.04.2017), available at: <https://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=21472&LangID=E>
- 17 United Nations, Human Rights Council, Report of the Special Rapporteur on the Right to Food, Ms. Hilal Elver, on her mission to Indonesia (28.12.2018), A/HRC/40/56/Add.2, available at: [http://ap.ohchr.org/documents/dpage\\_e.aspx?si=A/HRC/40/56/Add.2](http://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/40/56/Add.2) & United Nations, Human Rights Council, Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, Mr. Dainius Pūras on his mission to Indonesia (5 April 2018), A/HRC/38/36/Add.1, available at: [http://ap.ohchr.org/documents/dpage\\_e.aspx?si=A/HRC/38/36/Add.1](http://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/38/36/Add.1)
- 18 Human Rights Council, Mandates of the Special Rapporteur on extrajudicial, summary or arbitrary executions and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment (17.03.2017), AL IDN 1/2017, available at: <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gld=23024>

- 19 Human Rights Council, Mandates of the Special Rapporteur on minority issues; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on the rights to freedom of peaceful assembly and of association and the Special Rapporteur on the situation of human rights defenders (08.09.2017), AL IDN 6/2017, available at: <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gld=23322>
- 20 Human Rights Council, Mandates of the Special Rapporteur on extrajudicial, summary or arbitrary executions; the Special Rapporteur on the rights of indigenous peoples; the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance; the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment and the Special Rapporteur on the human rights to safe drinking water and sanitation (07.12.2018), AL IDN 7/2018, available at: <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gld=24202>
- 21 Office of the UN High Commissioner for Human Rights (07.02.2018): Opening remarks by UN High Commissioner for Human Rights Mr. Zeid Ra'ad Al Hussein at a press conference during his mission to Indonesia, available at: <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=22638&LangID=E>
- 22 Office of the UN High Commissioner for Human Rights (07.03.2018) Mr. Zeid Ra'ad Al Hussein: High Commissioner's global update of human rights concerns, 37th session of the Human Rights Council, Item 2: Annual Report and Oral Update by the High Commissioner for Human Rights on the activities of his Office and recent human rights developments, Statement by the UN High Commissioner for Human Rights, Mr. Zeid Ra'ad Al Hussein, available at: <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=22772>



in June 2018 caused the indignation of the Indonesian Government because the UN High Commissioner had criticised the Indonesian Government for lack of cooperation with his office. He noted: "In Indonesia, I am concerned that despite positive engagement by the authorities in many respects, the Government's invitation to my Office to visit Papua –which was made during my visit in February– has still not been honoured"<sup>23</sup>.

### ***Civil Society Involvement***

In 2017 and 2018, several human rights NGOs raised the issue of violation of human rights in West Papua through delivering oral statements and organising parallel events during the Human Rights Council sessions. Prior to country mission of the Special Rapporteur on Health to Indonesia, a joint NGO statement in March 2017 pointed out the failure of the Indonesian government in addressing the low standard of mental and physical health of the indigenous Papuans in comparison with other ethnic groups in Indonesia.

In June 2018, responding to the presentation of the mission report, another joint statement was delivered supporting the finding of the Rapporteur on challenges with regard to the issue of poverty and preventable diseases in Papua, especially in the highlands. It expressed concerns on the difficulties and discriminatory situations of public health services and that the culture of corruption in the health sector has prevented the indigenous West Papuan population to enjoy access to quality health services. Accordingly, it recommended to the Indonesian government allowing the international community to access and observe the human rights situation in West

Papua. In the same session, a side event was also organised focusing on the issue of right to life and right to health in West Papua.

In September 2017, following the adoption of the outcomes of the UPR Indonesia, a joint NGO statement was delivered in welcoming the acceptance of two specific recommendations on West Papua while regretting the rejection of recommendations on access for UN mechanisms to West Papua and the investigation into violations in West Papua. The statement also addressed the case of extrajudicial execution of an Indigenous Papuan by Indonesian security force.

### **West Papua at the European Union**

Civil society actors successfully lobbied members of the European parliament to raise concern over various human rights developments in Indonesia, including West Papua. On 19 January 2017, the European Parliament adopted Resolution 2017/2506(RSP) on Indonesia as a response to the blasphemy case against former Jakarta governor Basuki Tjahaja Purnama, also known as Ahok, and the case against two political activists Mr. Hosea Yeimo and Mr. Ismael Alua. The political activists were charged with treason under Articles 106 and 110 of the Indonesian Criminal Code (KUHP) for participating in peaceful Indonesian-wide demonstrations in support of the United Liberation Movement for West Papua (ULMWP). Both activists were released on bail on 11 January 2017 while legal proceedings in the case continued.

The resolution acknowledged President Joko Widodo's commitment in support of 'an open dialogue for a better Papua', as well as his decision

23 Office of the UN High Commissioner for Human Rights (18.06.2018): Opening statement and global update of human rights concerns by UN High Commissioner for Human Rights Mr. Zeid Ra'ad Al Hussein at 38th session of the Human Rights Council, available at: <https://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=23206&LangID=E>

to release several Papuan long-term detainees. However, the European parliament condemned “all acts of violence, harassment and intimidation against minorities, as well as impunity for such acts, and condemns the increased abuse of existing regulations in order to discriminate, prosecute and imprison members of religious minorities, traditional religions, and ethnic and sexual minorities”. The European legislators encouraged the Government of Indonesia to ensure that the rights of peaceful activists are protected and asked Indonesian authorities to “consider dropping the charges against Mr. Hosea Yeimo, Mr Ismael Alua and other prisoners of conscience against whom charges have been brought for peacefully exercising their right to freedom of expression.”<sup>24</sup>

### West Papua at the Africa Caribbean Pacific Group of States (ACP)

A Group of Pacific island states have been advocating for human rights in West Papua and the right to political self-determination of the Papuan people at the Africa Caribbean Pacific Group of States (ACP), whose member states almost entirely consist of former colonies. Vanuatu, the Solomon Islands, Tonga, Tuvalu, Nauru, Palau and the Marshall Islands delivered a joint statement on 3 May 2017 at the Council of Ministers of the 79-member Africa Caribbean Pacific Group of States (ACP), in which they voiced concerns over present and past human rights

violations –including crimes against humanity– in West Papua. The Pacific nations also called for a resolution that includes support of the right of West Papuan political self-determination. The statement was read aloud by Mr. Johnny Koanapo, Parliamentary Secretary for the Office of the Prime Minister, who was heading the delegation from Vanuatu. He called on the ACP member states for support of such a resolution. Koanapo explained that the Pacific states regard Indonesia’s take over in West Papua as an act of colonization, in which the Papuan people “were passed from one coloniser to another.”<sup>25</sup>

On 7 April 2017, a representative of the United Liberation Movement for West Papua (ULMWP) had conducted an advocacy meeting with the deputy speaker of the Ugandan Parliament, Mr. Jacob Oulanyah. Oulanyah said the parliament of Uganda was ready to support the ULMWP’s cause for the right to self-determination of the Papuan people, opening up the possibility of using its relations with parliaments in other countries. “We will do whatever our parliament and the nation can to ensure that by the end of June this year the resolution is heard and discussed at the United Nations.[...] The Parliament can also identify different legislators to propose the motion, support and debate it in House. We can send the resolutions to the other East African Parliaments including the intergovernmental Authority on Development (IGAD) in Eastern African countries.”<sup>26</sup>

24 European Parliament (19.01.2017): European Parliament resolution of 19 January 2017 on Indonesia, notably the case of Hosea Yeimo and Ismael Alua and the Governor of Jakarta (2017/2506(RSP)), at: <http://www.europarl.europa.eu/sides/getDoc.do?type=TA&reference=P8-TA-2017-0002&language=EN&ring=P8-RC-2017-0072>

25 Republic of Vanuatu (03.05.2017): Statement by Hon Johnny R Koanapo, Head of the Vanuatu Delegation to the 105th ACP ministerial Session, Brussels, Belgium, available at: <https://www.gov.vu/attachments/article/188/StatementToThe105thACPMinisterial.pdf>

26 The New Vision (07.04.2017): Uganda parliament pledges support for West Papua independence, e-document available at: [http://www.newvision.co.ug/new\\_vision/news/1450567/uganda-parliament-pledges-support-west-papua-independence](http://www.newvision.co.ug/new_vision/news/1450567/uganda-parliament-pledges-support-west-papua-independence)

# Recommendations



## The ICP recommends to the Government of Indonesia to:

- Provide access to the UN Office of the High Commissioner for Human Rights to West Papua.
- Extend a standing invitation to all Special Procedures, and ensure that any requests for visits are enabled without obstruction or delay, including unlimited access to and within the Papuan provinces. Cooperation with the following mandates must be a priority, given the current situation in West Papua:
  1. The UN Special Rapporteur on extra-judicial, summary or arbitrary executions.
  2. The UN Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression.
  3. The UN Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment.
  4. The UN Special Rapporteur on the situation of human rights defenders.
  5. The UN Special Rapporteur on the rights of indigenous peoples –this mandate should be allowed to visit and assess the situation in West Papua.
  6. The UN Special Rapporteur on the independence of judges and lawyers.
  7. The UN Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance to visit and assess the situation of human rights in West Papua.
  8. The UN Special Rapporteur on violence against women, its causes and consequences.
- Accept that international human rights definitions and standards on Indigenous Peoples are applicable within Indonesia, and ensure the protection of these rights, notably for Indigenous Papuans.
- Invite a delegation from the Committee on the Elimination of Racial Discrimination (CERD) to look at all aspects of discrimination within society as racial discrimination is a key underlying problem in the practices of the security forces, the criminal justice process and the provision of public services such as health and education.
- Ratify the:
  1. Rome Statute of the International Criminal Court.
  2. Optional Protocol on the Convention against Torture, Cruel, Inhuman and Other Degrading Treatment.
  3. Optional Protocols 1 and 2 of the International Covenant on Civil and Political Rights.
  4. Optional Protocol to the International Covenant on Economic, Social and Cultural Rights.
  5. Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict.

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



## Recommendations by states:

- **The Government of Vanuatu calls on “the human rights council to investigate these human rights abuses [and] leaders of the world to pay greater attention to these inhuman acts and together with Indonesia put an end to all forms of the violence and find common ground with the population to establish a process that will allow them to freely express their choice.”<sup>27</sup>**
- **The Government of Tuvalu represents the view that the “United Nations must engage with the people of West Papua to find lasting solutions to their struggles.”<sup>28</sup>**
- **“Solomon Islands therefore urges the Government of Indonesia to establish a constructive dialogue with indigenous West Papuans to address the root causes of these human rights violations. We also call on the UN Special Rapporteur on the Rights of Indigenous Peoples and the Special Rapporteur on Extra-judicial, Summary and Arbitrary Executions to visit West Papua.”<sup>29</sup>**
- **The Government of Vanuatu calls “on the UN Human Rights Council to request the High Commissioner for Human Rights to produce a consolidated report on the actual situation in West Papua.”<sup>30</sup>**
- **The Government of the Solomon Islands encourages “Indonesia to engage in more constructive dialogue, including with West Papua to find a way forward in addressing the aspirations of the people of West Papua. I urge the UN to proactively engage in these dialogues as well.”<sup>31</sup>**
- **“Tuvalu strongly believes the UN must engage in setting a clear pathway to addressing these issues [human rights violations] and the issue of self determination of the people”<sup>32</sup>**

27 Prime Minister of Vanuatu (28.09.2018), Statement during 73rd session of the UN General Assembly, available at: <https://gadebate.un.org/en/73/vanuatu>

28 Prime Minister of Tuvalu (27.09.2018), Statement during 73rd session of the UN General Assembly, available at: <https://gadebate.un.org/en/73/tuvalu>

29 Government representative of the Solomon Islands (19.09.2017), 36th Regular Session of the Human Rights Council, available at: <http://webtv.un.org/watch/item4-general-debate-contd-18th-meeting-36th-regular-session-human-rights-council-/5581732708001/?term=#>

30 Government representative of Vanuatu (01.03.2017), 34th Regular Session of the Human Rights Council, available at: [http://www.humanrightspapua.org/images/docs/FINAL\\_DRAFT\\_STATEMENT\\_TO\\_34TH\\_SESSION.pdf](http://www.humanrightspapua.org/images/docs/FINAL_DRAFT_STATEMENT_TO_34TH_SESSION.pdf)

31 Prime Minister of the Solomon Islands (22.09.2017), Statement during 72nd session of the UN General Assembly, available at: <https://www.unmultimedia.org/avlibrary/asset/1977/1977321/>

32 Prime Minister of Tuvalu (21.09.2017), Statement during 72nd session of the UN General Assembly, available at: <https://www.unmultimedia.org/avlibrary/asset/1975/1975843/>

# Glossary

ABRI	( <i>Angkatan Bersenjata Republik Indonesia</i> ) – Indonesian Armed Forces.	BPKP	( <i>Buku Pelajaran Kontekstual Papua</i> ) – Papuan Contextual Text-books.
ACP	Africa, Caribbean and Pacific Group of States.	BPS	( <i>Badan Pusat Statistik</i> ) - Indonesian Center for Statistics.
AMDAL	( <i>Analisis Dampak Lingkungan</i> ) - Environmental Impact Analysis (EIA).	BRIMOB	( <i>Brigade Mobil</i> ) - Mobile Brigades – Police Special Forces.
AIDS	Acquired Immune Deficiency Syndrome.	C-24	– ‘UN Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples’, consisting of 24 member states.
AJI	( <i>Aliansi Jurnalis Independen</i> ) - Indonesian Association of Independent Journalists.	CLA	– Collective Labor Agreement.
AMP	( <i>Aliansi Mahasiswa Papua</i> ) - Papuan Student Alliance.	CoW	– Contract of Work.
APS	( <i>Angka Partisipasi Sekolah</i> ) - School participation number.	DALMAS	( <i>Pengendalian Massa</i> ) – Police Crowd Control Unit.
ART	Anti-Retroviral Treatment.	DAP	( <i>Dewan Adat Papua</i> ) - Papuan Customary Council.
ARV	Anti-Retro Viral.	DENPOM	( <i>Detasemen Polisi Militer</i> ) – Military Police Detachment.
AURI	( <i>Angkatan Udara Republik Indonesia</i> ) – Indonesian Air Force.	DINAS	- Government agencies acting as sub-institutions of ministries in Indonesia.
BAP	( <i>Berita Acara Pemeriksaan</i> ) – Police Investigation Report.	DISNAKERTRANS	( <i>Dinas Tenaga Kerja dan Transmigrasi</i> ) - Department of Manpower and Transmigration.
BAPPEDA	( <i>Badan Perencanaan Pembangunan Daerah</i> ) - Special Planning Agency.	DPD	( <i>Dewan Perwakilan Daerah</i> ) - Regional Representative Council.
BAPPENAS	( <i>Badan Perencanaan Pembangunan Nasional</i> ) - Indonesian Ministry of National Development Planning.	DPR	( <i>Dewan Perwakilan Rakyat</i> ) - People’s Representative Council.
BARESKRIM	( <i>Badan Reserse Kriminal</i> ) - Criminal Investigation Unit.	DPRP	( <i>Dewan Perwakilan Rakyat Papua</i> ) – Papuan Provincial Parliament.
BIN	( <i>Badan Intelijen Negara</i> ) - National Intelligence Agency.	ECREA	– Ecumenical Center for Research for Education and Advocacy.
BKO	( <i>Bawah Kendali Operasi</i> ) - Operationally Assigned Units.	EGRA	– Early Grade Reading Assessment.
BKPM	( <i>Badan Koordinasi Penanaman Modal</i> ) - Indonesian Investment Coordinating Board.	EJK	– Extra-judicial Killings.
BPJS	( <i>Badan Penyelenggara Jaminan Sosial Kesehatan</i> ) – Government Health Insurance Scheme.	EU	– European Union.
		FKPPA	( <i>Forum Konsultasi Para Pemimpin Agama</i> ) - Religious Leaders’ Consultative Forum.

FKUB	( <i>Forum Kerukunan Umat Beragama</i> ) - Forum for Religious Cooperation.	IUPHHK-HA	( <i>Izin Usaha Pemanfaatan Hasil Hutan Kayu – Hutan Alam</i> ) - Natural forest products usage permits.
FMJ-PTP	( <i>Forum Masyarakat Jayawijaya-Pegunungan Tengah Papua</i> ) - Papuan Central Highlands and Jayawijaya Society Forum.	IUPHHK-MHA	( <i>Izin Usaha Pemanfaatan Hasil Hutan Kayu – Masyarakat Hukum Adat</i> ) - Customary Forest Concession Licencing Scheme for Indigenous Peoples.
FMN	( <i>Front Mahasiswa Nasional</i> ) – National Student Front.	JAMSOSTEK	( <i>Jaminan Sosial Tenaga Kerja</i> ) – Social Security Scheme for Workers.
FPI	( <i>Front Pembela Islam</i> ) – Islamic Defenders’ Front.	JAPH-HAM	Pegunungan Tengah Papua ( <i>Jaringan Advokasi Penegakan Hukum dan Hak Asasi Manusia</i> ) – Papuan Central Highlands Advocacy Network for the Enforcement of Law and Human Rights.
FPIC	– Free Prior and Informed Consent.	JDP	( <i>Jaringan Damai Papua</i> ) - Papua Peace Network.
FRWP	– Federal Republic of West Papua (see also NFRPB).	KDRT	( <i>Kekerasan Dalam Rumah Tangga</i> ) – Domestic Violence.
FRI-WP	( <i>Front Rakyat Republik Indonesia untuk West Papua</i> ) - Indonesian Peoples’ Front for West Papua.	KKSB	( <i>Kelompok Kriminal Separatis Bersenjata</i> ) or KKB ( <i>Kelompok Kriminal Bersenjata</i> ) – Term often used by the Indonesian police for armed criminal (separatist) groups.
GARDA Papua	( <i>Gerakan Rakyat Demokratik Papua</i> ) - Papua People’s Democratic Movement.	KNPB	( <i>Komite Nasional Papua Barat</i> ) - West Papua National Committee.
GEMPAR	( <i>Gerakan Mahasiswa, Pemuda dan Rakyat</i> ) - Movement for University Students and the Papuan People.	KODAM	( <i>Komando Daerah Militer</i> ) - Military Area Command.
GGD	( <i>Guru Garis Depan</i> ) - Indonesian Government program for teachers in rural or remote areas.	KOMNAS HAM	( <i>Komisi Nasional Hak Asasi Manusia</i> ) – National Human Rights Commission.
GPMI	( <i>Gerakan Pelajar dan Mahasiswa Indonesia</i> ) - Indonesian Pupils and Students Movement.	KOMPOLNAS	( <i>Komisi Polisi Nasional</i> ) - National Police Commission.
HDI	– Human Development Index.	KOPASSUS	( <i>Komando Pasukan Khusus</i> ) – Special Forces Unit of the Indonesian Military.
HIV	– Human Immunodeficiency Virus.	KOREM	( <i>Komando Resor Militer</i> ) - Military Region Command.
ICP	– International Coalition for Papua.	KPP	( <i>Konferensi Perdamaian Papua</i> ) - Papua Peace Conference.
ICRC	– International Committee of the Red Cross.	KPK	( <i>Komisi Pemberantasan Korupsi</i> ) - Commission for the Eradication of Corruption.
IDPs	– Internally Displaced Persons.	KPU	( <i>Komisi Pemilihan Umum</i> ) - Election Commission.
ILWP	– International Lawyers for West Papua.		
IPK-MA	( <i>Izin Pemungutan Kayu Masyarakat Adat</i> ) - Timber Utilisation Permit for Indigenous Peoples.		
IPWP	– International Politicians for West Papua.		
ITE Law	– Law on Electronic Information and Transaction.		
IUPHHK-HTI	( <i>Izin Usaha Pemanfaatan Hasil Hutan Kayu – Hutan Tanaman Industri</i> ) – Industrial timber estate permits.		

KP3U	(Kesatuan Pelaksana Pengamanan Pelabuhan) – Airport Security Executive Unit.	MRPB	(Majelis Rakyat Papua Barat) - Papuan People's Council of West Papua Province.
KSAD	(Kerja Sama Antar Daerah) – Cooperation between provinces or regencies in Indonesia.	MSG	– Melanesian Spearhead Group.
KSP	(Kantor Staf Presiden) – Staff of the Presidential Office.	MUI	(Majelis Ulama Indonesia) - Indonesian Ulema Muslim Council
KSU	(Koperasi Serba Usaha) – All-round Cooperative.	NFRPB	(Negara Federal Republik Papua Barat) - National Federal Republic of West Papua.
KTM	(Kota Terpadu Mandiri) – 'Independent Integrated City' in transmigration areas.	NGO	– Non-Governmental Organization.
KUHAP	(Kitab Undang-Undang Hukum Acara Pidana) - Indonesian Criminal Procedure Code.	NKRI	(Negara Kesatuan Republik Indonesia) - Unitary State of the Indonesian Republic.
KUHP	(Kitab Undang-Undang Hukum Pidana) - Indonesian Criminal Code/Penal Code.	OPM	(Organisasi Papua Merdeka) - Papua Freedom Organization.
KWI	(Konferensi Waligereja Indonesia) - Bishops Conference of Indonesia.	ORMAS	(Organisasi Massa) – Mass Organization.
LANUD	(Pangkalan TNI-Angkatan Udara) - Air Force Base.	OTSUS PLUS	(Otonomi Khusus Plus) – Special Autonomy Plus Law for Papua.
LBH	(Lembaga Bantuan Hukum) – Legal Aid Institute.	P2TPA	(Pusat Pelayanan Terpadu Perempuan dan Anak) - Integrated Service Center for Protection of Women and Children.
LGBTI	– Lesbian, Gay, Bisexual, Trans and Inter-sex.	PANGDAM	(Panglima Komando Daerah Militer) - Commander of a Military Command Area.
LIPI	(Lembaga Ilmu Pengetahuan Indonesia) - Indonesian Institute of Social Sciences.	PASKHAS	(Pasukan Khas) – Special Forces.
LKIN	(Lembaga Koordinasi Intelijen Negara) - State Intelligence Coordinating Agency.	PDSM	– Pacific Decolonization Solidarity Movement.
LMA	(Lembaga Masyarakat Adat) - Indigenous People's Associations.	PERDASI	(Peraturan Daerah Khusus) - Special Provincial Bye-laws.
MFCI	– Media Freedom Committee Indonesia.	PERDASUS	(Peraturan Daerah Provinsi) - Regular Provincial Bye-laws.
MIFEE	– Merauke Integrated Food and Energy Estate.	PERPRES	(Peraturan Presiden) - Presidential Regulation.
MIREE	– Merauke Integrated Rice and Energy Estate.	PERPU	(Pemerintah Pengganti Undang-Undang) - Government Regulation in Lieu of Law.
MP3EI	(Masterplan Percepatan dan Perluasan Pembangunan Ekonomi Indonesia) - Master Plan for Indonesia's Acceleration of Economic Development.	PCC	– Pacific Council of Churches.
MPR	(Majelis Permusyawaratan Rakyat) – Peoples' Consultative Assembly.	PGGP	(Persekutuan Gereja-Gereja Papua) - Association of Churches in Papua.
MRP	(Majelis Rakyat Papua) - Papuan People's Council.	PIANGO	– The Pacific Islands Association of Non-Governmental Organizations.
		PIFS	– Pacific Islands Forum Secretariat.
		PNG	– Papua New Guinea.
		PNWP	(Parlemen Nasional West Papua) – West Papuan National Parliament.
		POLDA	(Polisi Daerah) - Regional Police.

POLRESTA	( <i>Kepolisian Resor Kota</i> ) - Municipality Police.	SKM3T	( <i>Sarjana Mendidik di Daerah Terluar, Terdepan, Tertinggal</i> ) - Special training program for teachers working in remote or rural areas in Indonesia.
POLRI	( <i>Polisi Republik Indonesia</i> ) – National Police of the Republic of Indonesia.	SPM	– Suspended Particular Matter.
POLSEK	( <i>Kepolisian Sektor</i> ) – Sub-district Police.	STTP	( <i>Surat Tanda Terima Polisi</i> ) - Police Acknowledgement Letter.
POM	( <i>Polisi Militer</i> ) – Military police.	TEU	– Twenty-foot Equivalent Unit for shipping containers.
POMDAM	( <i>Polisi Militer Daerah Militer</i> ) - Military Area Command Military Police.	TNI	( <i>Tentara Nasional Indonesia</i> ) – Indonesian National Military.
PP	( <i>Peraturan Pemerintah</i> ) – Government Regulation.	TNI-AD	( <i>Tentara Nasional Indonesia Angkatan Darat</i> ) – Indonesian Infantry.
PROLEGDA	( <i>Program Legislasi Daerah</i> ) - Local Legislation Program.	TNI-AL	( <i>Tentara Nasional Indonesia Angkatan Laut</i> ) – Indonesian Navy.
PROPAM	( <i>Profesi dan Pengamanan</i> ) – Internal Police Investigative Body.	TNI-AU	( <i>Tentara Nasional Indonesia Angkatan Udara</i> ) – Indonesian Air Force.
PROVOST	– Special Unit for Security, Military Discipline and Criminal Investigation.	TPN-PB	( <i>Tentara Pembebasan Nasional Papua Barat</i> ) – Armed wing of the Papua Freedom Organisation or West Papua National Liberation Army.
PTC	– Pacific Theological College.	ULMWP	– United Liberation Movement for West Papua.
PTSD	– Post Traumatic Stress Disorder.	UN	– United Nations.
PT	( <i>Perseroan Terbatas</i> ) – Limited Liability Company.	UPR	– Universal periodic Review.
PUSTU	( <i>Pusat Kesehatan Masyarakat Pembantu</i> ) – Health Service Point.	UUITE	( <i>Undang-Undang Informasi dan Transaksi Elektronik</i> ) – Law on Electronic Information and Transaction.
PUSKESMAS	( <i>Pusat Kesehatan Masyarakat</i> ) – Health Center.	UU OTSUS	( <i>Undang-undang Otonomi Khusus</i> ) – Special Autonomy Law.
RASKIN	( <i>Beras Miskin</i> ) – Indonesian food aid program named ‘Rice for the Poor’	UU P3	( <i>Undang-undang Pembentukan Peraturan Perundang-undangan</i> ) - Law on the Formation of Legislative Regulations.
RAWP	– Revolutionary Army of West Papua.	VCT	– Voluntary Consultation and Testing (for HIV/AIDS)
RKT	( <i>Rencana Kerja Tahunan</i> ) – Annual Work Plan.	WAN-IFRA	– The World Association of Newspapers and News Publisher.
RKU	( <i>Rencana Kerja Usaha</i> ) – Business Work Plan.	WHO	– World Health Organization.
RRI	( <i>Radio Republik Indonesia</i> ) – Radio station of the Republic of Indonesia.	WIT	( <i>Waktu Indonesia Timur</i> ) – East Indonesia Time (EIT).
SATPOL PP	( <i>Satuan Polisi Pamong Praja</i> ) – Municipality Police Unit for Enforcement of Public Order.	WPNA	– West Papua National Authority.
SIPUHH	( <i>Sistem Informasi Penatausahaan Hasil Hutan</i> ) - Information System for Administrative Governance of Forestry Products.	WPNCL	– West Papua National Coalition for Liberation.
SKJM	( <i>Solidaritas Korban Jiwa Mbua</i> ) – Solidarity Movement for the Victims in Mbua District, Nduga Regency in Papua Province.		







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

The International Coalition for Papua works to address the serious human rights condition in West Papua and supports a peaceful solution to the conflict there. West Papua (Papua) refers to the 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 marginalization and discrimination undermine Papuans' living conditions. The heavy presence of the Indonesian security forces, a lack of access for international observers such as journalist, 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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