

Human Rights in West Papua

This dossier has been prepared for the hearing of the European parliament subcommittee on human rights on January 23, 2014. It is the joint work of the following human rights organisations:

- The Alliance of Independent Journalists (AJI) - Jayapura
- National Papuan Solidarity (NAPAS)
- Tapol
- The Asian Human Rights Commission (AHRC)
- Human Rights and Peace for Papua (ICP)
- West Papua Netzwerk (WPN)

1. Human rights in the Republic of Indonesia

While Indonesia has been undergoing several important reforms since the end of Suharto's New Order regime in 1998, little progress was made to ensure accountability of perpetrators. In particular members of the military that commit violence against civilians continue to enjoy a very high degree of immunity. The most pressing human rights issues in Indonesia currently include: a range a serious violations in West Papua, freedom of religion and religious violence, and the ongoing application of the death penalty. Human rights defenders and journalists continue to face intimidations, persecution or killings. Indonesia has ratified most major human rights treaties and plays a supportive role in the long term development and improvement of an ASEAN regional human rights mechanism. While civil society in Jakarta has managed to claim considerable open space, the civil rights climate in some remote regions of the country stretching over more than 5000 km is among the worst in Asia.

2. Human rights in West Papua

Heavy presence of the military and other security forces (police, special forces, intelligence) strongly affect public life in West Papua. Local human rights organisations continue to report cases of extrajudicial killings. Torture of alleged separatists and other civilians is widespread.

The lack of respect for freedom of expression in West Papua is an urgent and pressing concern. At the end of 2013, there were more than 70 political prisoners in Papuan prisons presenting a serious increase compared to the previous year. Demonstrations and rallies are frequently dispersed violently resulting in injured persons, mass arbitrary arrests and even deaths, in particular when political dissent or aspirations for independence are peacefully voiced. Local journalists receive threats and are pressured not to report on politically sensitive issues, or are being killed. The number of such cases in 2013 has also increased considerably compared to 2012. This illustrates how the Indonesian government is trying to decrease political activism and the democratic space available in Papua.

West Papua suffers from the highest HIV infection rate within Indonesia and ranks among the highest in Asia. Poverty and racial discrimination in areas of education, health care and economics harden social divisions among indigenous Papuans and Non-Papuans. Papuans (Christians or animist, ethnically Melanesian) feel and are becoming demographically, economically and culturally marginalized by the ongoing influx of predominantly trans-

migrants from other parts of Indonesia (Muslims, ethnically Malaysians), with the Papuan population share having shrunk from about 90% some 30 years ago to now less than 50%. Based on current trends, by 2030 indigenous Papuans will comprise around 15% of the Papuan population.

Indigenous Papuans struggle for the protection of their vast natural resources and their cultural survival against Indonesian and transnational enterprises that erode natural resources and harm the environment. In the absence of effective complaint mechanisms, impartial courts, fair trials, and sufficient access to legal aid and in the deeply ingrained context of racial discrimination against Papuans that affects most institutions, many activists find no chance to voice criticism against companies, local or provincial governments or the repressive practices of security forces without risking their own security and that of their family members. This dynamic challenges traditional indigenous culture while Papuans demand their right to self-determination.¹

In this context, support from international human rights mechanisms, other independent observers like human rights organisations and media scrutiny is key to ending the conflict cycle and the related human rights violations. However, Indonesia keeps its resource richest region isolated by effectively blocking free access of foreign journalists, UN Special Procedures, development cooperation organisations and diplomats. Melanesian neighbour state Vanuatu has withdrawn from its plan to visit West Papua after Indonesian authorities were not willing to allow access to civil society in this planned joint mission with other Melanesian nations in January 2014.

3. Jakarta's approach to the situation in West Papua

The implementation of special autonomy law (No.21/2001) and the division of the Papuan Provinces through Presidential decree no.1/2003 has worsened the Papua-Jakarta relations. Without any participatory evaluation of the current policies, the government has formed the Unit for the Acceleration of Development in Papua and West Papua (UP4B) in 2011 and later agreed to the suggestion of Lucas Enembe, Papua governor, to *special autonomy plus* (2013) which merely means the expansion of the governors authority. Democratic rights and participation are lacking in this process.

Until today Papua comprises the resource richest provinces but shows the highest poverty rates and the lowest Human Development Index (HDI) of the country. Jakarta claims that addressing the economic problem through infrastructure, health and education sector development would sufficiently address the grievances of Papuans. However the uncontrolled inflow of development project funds in the widely military controlled province has only spurred corruption and widened the gap between rich and poor.

After 15 years of Indonesian reform, there is no fundamental change in approach by the government to deal with the Papuan issues. Military deployment and repression coined during the Suharto dictatorship in order to crush pro independence groups and to secure corporate power is continuing without real civilian control in Indonesia reform era. A peaceful dialog as a mean to negotiate and find a solution and compromise, as proclaimed by President Yudhoyono in 2010 and proposed by many stakeholders in Papua, is less and less popular within Jakarta's administration. For Jakarta, dealing with injustice and poverty in Papua is to

¹ The 92-page report *Human Rights in West Papua 2013* is available for download at www.humanrightspapua.org/hrreport/2013.

eradicate, often arbitrarily labled pro independence groups and dividing civil society through intelligence operations, dividing administrative regions against the law and the consent of the Papuan people, and pouring in money that spurs corruption and benefits mostly elites and transmigrants. Jakarta's approach to Papua so far is widely considered as having failed due to its lack of participatory design and the focus on economic than rights aspects.

All eyes are on Eastern part of Indonesia nowadays, and Papua is the star. More investments are expected to go there through the latest economic investment scheme, the Master plan for Acceleration and Expansion of Indonesia's Economic Development (*MP3EI*). The European Union as Indonesia's 4th largest trading partner after Japan, China and Singapore and as the second largest investor in the Indonesian economy is likely one of them.

4. Key Recommendations

To ensure the protection of freedom of expression and opinion the Government of Indonesia (GoI) should:

- End the practice of charging persons engaged in peaceful political activities with criminal offences such as treason and conspiracy under Articles 106 and 110 of the Indonesian Criminal Code and possession of weapons under Emergency Law 12/1951; and
- Order the unconditional release of West Papuan political prisoners as part of a comprehensive policy aimed at ending the punishment of free expression and creating the conditions for meaningful dialogue with Papuan leaders.

In order to end the ongoing conflict and find a sustainable solution for Papua, the GoI should

- Actively engage in a peaceful dialogue with Papuans under neutral mediation as demanded by the Papua Peace Network
- Ensure wide participation of the Papuan civil society in policy making on Papua

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

- Ensure that prosecutions are carried out within the human rights court and the ad-hoc human rights court for all gross violations of human rights, including the Wasior case from 2001/2002 and the Wamena case from 2003;
- Reduce the number of military forces deployed in Papua and ensure the compliance by the security forces with Indonesia's obligations under international human rights laws and standards;
- Take effective measures to eradicate corruption in the judicial system and ensure the independence of the judiciary from political control and interference by government officials;
- Ensure effective civilian oversight of the military by reforming the Military Court Law to ensure that perpetrators of human rights violations from the military are held accountable through trials in civilian criminal courts;
- Develop independent and effective complaint mechanisms for victims concerning human rights violations by the security forces, which can ensure follow-up, independent investigations and prosecutions of perpetrators and provide adequate remedies to victims;

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

- Implement the recommendations made by the Special Rapporteur of the Secretary General on the Situation of Human Rights Defender, after her visit to West Papua in 2007;

- Cease the intimidation, harassment and physical violence that is being perpetrated against human rights defenders and journalists in Papua, and ensure that all such cases are effectively and impartially investigated and that the perpetrators of such acts are brought to justice.

The GoI should undertake Legal Reforms and:

- Ensure that the Criminal Code is reviewed:
 - ~ to include the crime of torture as defined in the UN Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, which was ratified by Indonesia in 1998;
 - ~ in regard to Articles 106 and 110 on treason, as well as Article 160 on incitement;
- Revise the Social Conflict Management Law regarding the deployment of the military to ensure that the military is only involved in issues of external threats and not in internal social conflicts, in accordance with human rights principles.

To Ensure the Protection of Indigenous People’s Rights, the GoI should:

- Urge companies operating in Papua to respect the principle of *Free, Prior and Informed Consent* and to comply with the UN guiding principles on business and human rights;
- Modify existing legislation and practices which discriminate against and violate the rights of indigenous peoples, especially Investment Law No 25/2007 and Presidential Regulation 65/2006;

To Ensure the Effective Provision of Public Services for the Protection of Economic, Social and Cultural Rights, the GoI should:

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

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

- The government should extend a standing invitation to all Special Procedures. Cooperation with the following mandates must be a priority, given the situation in Papua:
 - ~ the UN Special Rapporteur on Extra-judicial, Summary or Arbitrary Executions;
 - ~ the UN Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression
 - ~ the Special Rapporteur on the situation of human rights defenders
 - ~ the UN Special Rapporteur on the rights of indigenous peoples
 - ~ the UN Special Rapporteur on violence against women, its causes and consequences;
- The GoI should accept that international human rights definitions and standards on Indigenous Peoples including the ILO Convention 169 and UN Declaration on the Rights of Indigenous Peoples (UNDRIP) are applicable within Indonesia, and ensure the protection of these rights, notably for Indigenous Papuans in this case;
- End the practice of isolation of Papua from international scrutiny and provide unrestricted access to Papua to all human rights organisations, humanitarian organisations, international journalists, foreign parliamentarians and other relevant human rights and humanitarian observers;
- Provide access to places of detention in Papua for human rights monitoring institutions including the International Committee of the Red Cross.

5. Freedom of Expression: Threats and Intimidations against Journalists in West Papua

Until today, journalists continue to face coercion, intimidations, threats or violence when covering politically sensitive issues including mass demonstrations, corruption issues, self-determination demands or elections. In 2010, journalist Ardiansyah Matra'is was killed. Several media report face pressure on their reporting in recent years. During the year 2013, the Alliance of Independent Journalists (AJI) Jayapura noted 20 cases of intimidation and violence against journalists in Papua. This presents a significant increase compared to the previous year. Most perpetrators of violence are members of the police, who enjoy wide impunity. Of the 20 cases recorded by AJI in 2013, four cases occurred in the West Papua Province and 16 cases occurred in the Papua Province. The number of these cases showed a significant increase compared to the year 2012, in which only 12 cases were reported. The pattern mostly includes direct verbal and physical intimidation such as threats and insults, vandalism, beatings and the illegal entering into editorial offices without permission. Perpetrators were police, civil society groups who are believed to support public officials and family members of public officials.

Perpetrators of violence

As in the previous years, 2010-2012, police officers are the perpetrators of most violence cases with 8 out of the 20 recorded cases in 2013. While improvement of police relations with journalists is reported, the number of cases of police violence has doubled compared to 2012. Civil society groups, who committed another six recorded cases of violence are understood to have likely been acting with the aim of defending the interests of certain officials. In this context, media organizations point at the need for more dissemination of the Basic Press Law to the public and public officials.

AJI Jayapura sees the lack of professional legal procedures in the law enforcement as the reason for the increase of violations against media freedom. As a result, perpetrators of violence against journalists enjoy impunity and violations are being repeated.

The Papua Regional Police has made noteworthy efforts in establishing communication and relationships between journalists and the police. Higher ranking police officials have gained understanding of the function and role of journalists as well as the present condition of the media business. However, this understanding is still limited to police commissioned and above ranking officers only, as evidenced by the high number of cases.

Example cases

Until today, the police refuses to disclose details of the case of the assault against Flood Ambarita, *Bintang Papua* and *Viva News* journalist.

During the dispersal of a demonstration on November 26, 2013, police committed violence against three journalists. While it is appreciated that the Head of Police of the City of Jayapura immediately apologized to journalists, his statement should be followed by legal sanctions against the perpetrators and leadership in this aspect in the police to ensure non-repetition.

On May 21, 2013, 15 members of the Mobile Brigade of the Papua Police illegally entered the office of the newspaper *Papua Post* without permission without explaining their motivation. They took several pictures inside the office and left. Present staff understood the event as a

form of intimidation.

On July 3, 2013, the *Pelita Papua Magazine* was banned by the Jayapura Police.

On November 26, 2013, members of the Jayapura City Police intimidated three Papuan journalists through verbal and physical assaults. The three journalists are Emil Wayar, reporter from *tabloidjubi.com*, Micelle Gobay, journalist for *Suluh Papua* and Arnold Belau, reporter for *Suara Papua*.

On December 11, 2013, a local legislator with a group of public supporters destroyed the home of a freelance journalist of *Metro TV*. The police did not respond to the case as an attack against a journalist by invoking the Press Law, but by looking at it as a normal criminal case only.

On December 19, 2013, the former regent of Merauke, who continues to enjoy support from several interest groups and his supporters prohibited the coverage of a corruption trial by journalists. Police took no action in the case.

Professionalism of the media

In three cases perpetrators appear to have misused a press ID card for libel or extortion without having an office, a clear editorial relationship or a journalistic product. Another group of fake journalists are believed to be paid undercover informants or agents of the police, military or the intelligence body.

According to human rights activist and journalist Andreas Harsono, “official documents leaked in 2011 indicate that the Indonesian military employs around two dozen Papua-based Indonesian journalists as informers, raising doubts about their reporting. The military has also financed and trained journalists and bloggers, warning them about alleged foreign interference in Papua, including by the US, the UK, Australia and the Netherlands.”²

With the increase of the use of social-media and other online media, AJI also noted an increase of hobby journalists as opposed to full-time employed reporters. This has benefited the plurality of perspectives and information available and given the public more choice.

National parliamentary and presidential elections will be key media events in 2014. In past cases, like the last provincial governor election, the level of impartiality of the media during the election process has not met the expectations of the society. Active participation of the community in putting ethical and professionalism demands forward to the press are a key factor to achieve democratic expectations.

6. Freedom of Expression: Political arrests and political prisoners

Indigenous Papuans are regularly arrested and detained for peaceful actions, such as raising the Papuan Morning Star flag or attending demonstrations and public events critical of the government or expressing independence aspirations. They are frequently charged with treason under Article 106 of the Indonesian Criminal Code and conspiracy or incitement to commit treason under Articles 106 and 110. If convicted, they can face lengthy prison sentences. Police are also increasingly charging activists and demonstrators with possession of weapons

² Harsono, Andreas, Indonesia’s forbidden Island, Jakarta Globe – October 2013

under Emergency Law 12/1951 if they are found to possess a penknife, tools or other items often used for farming, fishing and daily needs in West Papua.

The issue of freedom of expression in West Papua was last raised before this Subcommittee in November 2011 by the UK-based human rights organisation, TAPOL.³ Since then, there has been no improvement in the situation and an analysis of data provided by Papuans Behind Bars suggests a significant deterioration in 2013. Peaceful protestors were arrested on mass and some were made to strip, one activist had his head forcibly shaved, several developed mental illnesses after heavy beatings, and a number of people were injured and killed by police firing into crowds. Activists and peaceful protestors were routinely subjected to surveillance, threats, harassment and beatings, and sometimes killed or disappeared.

The Papuans Behind Bars data indicates a 143% increase in political arrests⁴ compared to 2012 and a 22% increase in the number of those ultimately charged. The number of persons charged with conspiracy or incitement to commit treason jumped substantially from 2 to 29.

There was also a major deterioration in respect for the rights of political prisoners during 2013. Reported cases of torture and ill-treatment in detention tripled while the number of cases involving denial of access to lawyers or unfair trials doubled. The lack of access to appropriate healthcare and the intimidation of detainees and their lawyers are also key concerns.

As at the end of December 2013, there were at least 70 political prisoners in West Papuan jails. An intense period of activity towards the end of the year, including 112 political arrests in November, appeared to be part of a trend in which the police responded to increasingly well-organised and coordinated demonstrations across West Papua with mass arrests and excessive force aimed at preventing the public expression of criticism or political aspirations.

In May 2013, the UN High Commissioner for Human Rights, Navi Pillay, issued an unprecedented statement condemning the ongoing suppression of freedom of expression in West Papua after the police shot dead three activists and made numerous arrests in a crackdown against peaceful protestors marking the 50th anniversary of the administrative transfer of West Papua to Indonesia in 1963.

“During my mission to Indonesia last November, I expressed concern over Papuan activists being imprisoned for the peaceful exercise of freedom of expression,” said Pillay. *“It is disappointing to see more people arrested for peacefully expressing their views and I call upon the Government to release all prisoners in custody for crimes that relate to their freedom of expression.”*⁵

7. Right to Life and Violence

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

³ See TAPOL’s statement to the Subcommittee at <http://tapol.org/briefings/statement-european-parliament-subcommittee-human-rights>.

⁴ Defined by Papuans Behind Bars as ‘...arrests which appear to be politically motivated, and can include arrests which happen in political contexts such as demonstrations or places used by politically active organisations and people; arrests of politically active people or their relatives; arrests of people because of their alleged political affiliations; arrests for political activities such as raising a flag or engaging in civil resistance activities, mass arrests, and politically-motivated arrests under manipulated criminal charges.’

⁵ See ‘Pillay concerned about persistent violence and abuses in Papua (Indonesia)’ at <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=13287&LangID=E>.

of the government. In all cases recorded by local human rights groups in recent years, where people have been killed by the security forces in Papua, the Indonesian government and judicial system have failed to effectively prosecute and provide appropriate sentences to the perpetrators of these acts. The increase of cases of threats of abduction and killings of pro-independence in particular during 2012,⁶ indicates that such methods are still regularly being used by the intelligence, military and police forces to eliminate people who have adopted a critical position towards the government and state policies. Members of the KNPB pro-independence movement have in particular become the victims of extra-judicial killings in the last two years.

Torture and ill-treatment remain an endemic problem in Papua. Such practices are often used in conjunction with and following arbitrary arrests. Throughout the year 2013, human rights organizations and human rights defenders have frequently reported new cases of such violations. Many arrests are made based on persons being accused of having family or other ties to activists and supporters of the independence movement or on suspicion of providing them with support. While the Indonesian authorities have been seen to resort to excessive use of force as part of police and military operations, including the repression of demonstrations, ill-treatment and torture are also used, both during arrest and interrogation to force suspects to make confessions and during detention as a means of punishment.

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

A significant proportion of the extra-judicial killings that are carried out are thought to take place in remote areas and are not reported due to a lack of accessibility and communication. This is especially the case in conflict-affected areas such as Tingginambut (Puncak Jaya Regency) and Enarotali (Paniai Regency), where Indonesia's military forces have repeatedly carried out sweeping operations in which extra-judicial killings take place. These areas are being deliberately kept in isolation in order to avoid scrutiny concerning these acts.

Furthermore, there have been many reported cases of people having been killed by unknown perpetrators without any clear motive. The circumstances of most these incidents lead to the assumption that these killings were not related to criminal acts or personal conflicts, but indicate the involvement of State-agents. The police failed to provide results of criminal investigations but instead frequently accuse the West Papua National Committee (KNPB) of being responsible for cases of civilian violence without providing any evidence.

Impunity

While research for 2013 has not concluded, no case of 2012 is known in which perpetrators from the police or military have been prosecuted for extra-judicial killings. This is evidence of a system of impunity for even the most egregious human rights violations. Furthermore, perpetrators from the military do not undergo trials in civilian courts, as should be the case

⁶ See introduction to the violations of civil and political rights at the beginning of section 2 for more details on the wave of violence that occurred in Spring 2012

where human rights violations against civilians are concerned. Military tribunals lack transparency and contribute to providing inadequate outcomes in such cases, which assists in the provision of impunity. Perpetrators who are found guilty are transferred to military correctional facilities, where it is difficult to monitor whether they really serve their sentences.

Ill-treatment and Torture

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

Research conducted into the use of torture and ill-treatment in Tanah Papua, published by the legal aid NGO LBH Jakarta in 2012, shows that ill-treatment and torture occur during all stages of the law enforcement process: arrest, interrogation, detention. The researchers also investigated the level to which tolerance concerning the use of torture has risen as part of the wider problem of increased violence in Papua. According to the research, a significant proportion of both civilians and members of law enforcement accept that torture is a normal aspect of police work.⁷ This is an indicator of the impact of the protracted and high level of violence being used by the authorities on civilians in Papua.

In the cases reported, the police figure most frequently as the perpetrators of torture, notably during arrests, interrogation and detention. Threats, intimidation, ill-treatment and torture are used by the police to extract information and confessions. The cases documented by local human rights organisations show that punishment becomes the most dominant motive for the use of torture in prisons.

8. Isolating Papua: Access for foreign journalists, UN mechanisms and diplomats

(Excerpts from the article Papua: Indonesia's Forbidden Island by human rights activist and journalist Andreas Harsono.)

The Indonesian government effectively blocks foreign media from freely reporting in Papua by limiting access to only those foreign journalists who get special official permission from the Ministry of Foreign Affairs to visit the provinces. The government rarely approves applications for foreign media access to Papua or delays processing for such applications, hampering efforts by journalists to report on breaking events or on issues in Papua altogether. Those foreign journalists who do get official permission are invariably shadowed by official minders who strictly control their movements and access to interviewees.

During the Universal Periodic Review of Indonesia at the UN Human Rights Council on May 23, 2012, several countries raised the situation of abuses in Papua and access of journalists human rights monitors. France called on Indonesia to ensure free access for civil society and journalists to Papua.

⁷ Qisa'i, Ahmad; Dadang Trisasongko, Laode M. Syarif (ed.): *Penyiksaan di Bumi Cenderawasi*, 2012, p. 44f, p. 43 f

Application procedure for foreign journalists

Specifically, journalists must apply to the Department of Foreign Affairs for permission to travel, giving information about who they will interview, when and where. Their application is then considered at a so-called "clearinghouse" meeting, involving 18 Indonesian government departments, including the police and military. Most applications for serious reporting are rejected. Even diplomats accredited to Indonesia must seek permission from the Department of Foreign Affairs to visit the region.

The "clearing house" process remains the only legal route to West Papua, as confirmed by Fairfax Media with the Indonesian Department of Foreign Affairs.⁸ Journalists who travel without permission face being put on a blacklist banning them from future visits to Indonesia, and correspondents resident in Indonesia confront the possibility that their immigration status may be revoked

Provincial perspectives on foreign journalists

As the Alliance of Independent Journalists (AJI) – Jayapura and national media had reported in 2013, the Governor of Papua had in September 2013 made a statement of invitation to foreign journalists and international organizations to enter Papua and explained that there are no restrictions in place, the reality for access applications looks different. While the provincial Papuan government does indeed not cause any access restrictions and the raising of the issue by the governor is being appreciated, the authority to issue such access permits is instead not in local Papuan but in the hands of the national government, through a Clearing House procedure in Jakarta.

AJI also reported that the Head of Police of Papua Province alleged in an interview with national media that foreign journalists and researchers could be part of foreign intelligence activities, as this would be an effective disguise for intelligence operations. It gives a concerning picture about the authorities perspectives.

Example cases

Reporters trying to apply for official permits face bureaucratic hurdles. In 2013, two journalists from New Zealand, reported that they applied for their coverage in Papua, but did not get any response from the Indonesian government. It was not possible for them to obtain clear information about the requirements by the Indonesian government to obtain permission to report from West Papua.

Those who have their application for access to Papua denied usually do not challenge the decision out of fear to lose their access to Indonesia permanently or being blacklisted.

In the few cases where access is permitted, the journalist is permanently accompanied by a minder, usually from the intelligence. The minder will be present throughout the time in Papua and will effectively obstruct free and independent reporting. In 2011, AFP journalist, Aubrey Belford came to West Papua accompanied by a member of the National Intelligence Body. Aubrey said that all of the accommodation and transportation cost for intelligence staff had to be paid by her.

Foreign Journalists who decide to enter Papua without a minder need to travel on tourist visa. In 2012, Hayden Cooper and Lisa Main, two ABC journalists from Australia, tried travelling to Papua. After not being able to get a guarantee for permission from the Indonesian

⁸ Michael Bachelard, October 2013 in *West Papua to remain closed to outside world*, url: <http://www.smh.com.au/world/west-papua-to-remain-closed-to-outside-world-20131011-2vdy4.html>

government to do journalism work in Papua, they decided to travel on a tourist visa. Travelling on a tourist visa as a journalist bears the high risk of arrest, deportation or even being blacklisted for future immigration. In March 2009, Indonesian immigration in Papua deported Gabriela Babette, Peter Mariaw Smith and Ronald Wigman, journalists of the Dutch TV NRC for allegedly misusing their visa.

In May 2010, Indonesian immigration in Papua, deported two journalists, Baudoin Koenig , a producer for Arte TV and Helene Calol Lorthois, for allegedly violating the licenses granted to them .

Access for UN Mechanisms

After their visit to Papua in 2007, the UN Special Representative on human rights defenders and the UN Special Rapporteur on Torture gave disturbing reports to the UN Human Rights Council. Following these reports, no access was given to UN human rights mechanisms to Papua until today. While Indonesia had accepted the recommendation to invite the UN Special Rapporteur on the freedom of expression and opinion to Indonesia during the Council's Universal Periodic Review (UPR) in May 2012, it withdrew from that commitment and postponed the invitation to him indefinitely. This happened after he explained his intention to visit Papua, the region most affected by violations of freedom of expression in Indonesia.

The EU added its voice to the concerns when the High Representative/Vice President, Catherine Ashton, in a statement in August 2013, pressed Indonesia to invite the UN Special Rapporteur on Freedom of Expression to visit Indonesia, including West Papua.⁹

Access for diplomats

After the Melanesian Spearhead Group, a regional body of Melanesian nations who are in support of the human situation in West Papua decided to visit West Papua to meet with civil society representatives their, the Indonesian authorities only prepared a tour to industry and trade related projects in West Papua in January 2014. As a result of this access restriction Vanuatu withdrew from the visit as it felt the pre-arranged tour would not meet the purpose.

Access for parliamentarians and other foreign mandate holders that plan to meet with human rights defenders and other civil society representatives are usually blocked out.

Humanitarian and development cooperation organisations face similar restrictions. Several have been banned from working in Papua and are only given permission to operate in Indonesia when limiting their work to areas outside Papua.

9. Current Health and Education situation: no sense of urgency

Health care

Access to health care and education for indigenous Papuans remains poor. Both the Special Autonomy Law (OTSUS) as well as the Department for Acceleration of Development in Papua and West Papua (UP4B) provide funds for the development of both sectors but the efforts do not appear to increase access to these services. While health care centre and school buildings are constructed and employment of workers and teachers appears to grow on paper, classes do not take place and health care centres remain empty investment constructions

⁹ See 'EU concerned about freedom of expression in Papua' at <http://tapol.org/news/eu-concerned-about-freedom-expression-papua>.

without health care workers present. Many of these employees prefer receiving their salary while living in the cities without appearing at work rather than by working in remote inconvenient areas.

The money allocated to the healthcare sector is still minimal compared to what was mandated by the Special Autonomy law and required by WHO standards. The health care budget amounts to only 5,74% of the provincial and 11.31% of the Special Autonomy Law budget in 2009. In the absence of evaluations, also the increase of these budgets was not able to substantiate in more access to basic services.

With 26 areas nationally classified as underdeveloped, the Papua region is one of the worst in the national Indonesian context. Only 1 doctor is available for every 3 healthcare centres¹⁰. The National Development Body (Bappenas) reported last year that malnutrition in 2010, had reached 26,5% of the children in the Papua Province and 63% in the West Papua province. Child and maternal mortality rate in 2013 were higher than in past years.

The poor health care facilities have resulted in high casualties, For example, In April 2013, 95 people died¹¹ of diseases and 535 people got sick in the Kwor District, Tambrauw Region, West Papua province between November 2012 - February 2013. From 15 January to March 2013, 61 people died at Semenage district, Yahukimo region, Papua province. All of them died for unknown and untreated diseases, from malnutrition to diarrhea, intestinal worms and asthma. Activists and priest working in those areas confirmed that the lack of healthcare service availability or expired medicine were the reasons for this problem.

The activists and priests who documented and reported about the situation to the media were charged with criminal offences on request by the major of Tambrauw. The case has not been concluded.¹² Dept. of health in Jakarta made a quick response back in April last year by visiting to what they called a very remote and difficult territory by helicopter but only did modest treatment without investigation. There is no further investigation on the diseases causing the high number of deaths up until now. After media stopped covering the issue, the central government stopped their visits and the health rights activists were also charged with criminal offences.

Education

Illiteracy rate in Papua ranks with 36,31%¹³ as highest in Indonesia while school participation rate in 2012¹⁴ ranked lowest in the national context. The lack of primary to intermediate school infrastructures, teachers, books is contrasted with large amounts of money made available for university scholarships. Typically family members of government officials happen to be recipients of such scholarships.

A report from Detik media explained that in four exemplary primary schools visited in Papua, namely in Seiya village, Sun village, Mosun village, and Konja the lack of any or sufficient teachers, books or school buildings itself were the reason for poor education results¹⁵.

¹⁰ This data is from 2006 journal: <http://kebijakankesehatanindonesia.net/sites/default/files/file/SDM/Artikel/--DETERMINAN%20DISTRIBUSI%20DOKTER%20SPELIALIS%20DI%20KOTA-KABUPATEN%20INDONESIA.pdf> but cases on the field confirmed the lack and uneven healthcare services and doctors up until now: <http://www.irinnews.org/report/99247/free-healthcare-overwhelming-indonesia-s-papua>

¹¹ Government reports allege only 15 such deaths

¹² The report made by NAPAS correspondence at Kwor, Tambrauw region.

¹³ Cited from: <http://www.jpnn.com/read/2012/09/13/139656/Tiga-Provinsi-Punya-Angka-Buta-Huruf-Tertinggi->

¹⁴ Survey from: http://www.bps.go.id/tab_sub/view.php?kat=1&tabel=1&daftar=1&id_subyek=28¬ab=6

¹⁵ Excerpt from: <http://travel.detik.com/read/2013/10/05/101400/2084547/1025/3/potret-pendidikan-pedalaman-papua-barat-yang-tak-seindah-alamnya>

Failure of the UP4B program

UP4B is an integrated policy of the Master plan for Acceleration and Expansion of Indonesia's Economic Development (MP3EI) as explained by UP4B head Darmono.¹⁶ It is to prepare Papua for new investment. UP4B was equipped with large sums of the national budget allocations for infrastructure and transportation projects such as road and airport development¹⁷. As a result 33 trillion IDR¹⁸ 14 trillion IDR were respectively allocated for the Papuan provincial and the West Papua provincial budget in 2013. The very low human development index in Papua is acknowledged by the special development department UP4B as a priority¹⁹.

While information on the causes and reasons for the health care and education crisis in Papua are widely known, delays in curbing the main problems appear to be open negligence. The UP4B budget supports industry development, civil servant education in different sectors and infrastructure projects.²⁰ Since the UP4B department does not address issues of civil and political rights in Papua and fails to succeed in the issues of health care and education which it does take up, UP4B is widely considered as a failed central government program that has only worsened corruption and the gap between rich and poor.

The governor of the Institute of National Defence (Lemhanas) Budi Susilo Soepandji, said that MP3EI and UP4B are “strategic *soft power policies* to harmonize Papua with the *NKRI* ideology of a united Indonesia without forgetting the *hard power* approach.”²¹

MIFEE project – deforestation and land grabbing for agricultural industry projects

Part of the national economic development process is the Merauke Integrated Food and Energy Estate project (“the MIFEE project”) in the south of the Papua Province. This state-initiated, agro-industrial mega-project implemented by a variety of corporate entities that, to-date, encompasses around 2.5 million hectares of traditional indigenous lands in Merauke cause serious harm to the environment and indigenous communities. The affected indigenous peoples have already lost a considerable area of their lands due to acquisition by these companies and conversion to plantations. This process destroys the livelihood of indigenous peoples in which forest still plays a central role for obtaining living resources like food. The irreparable harm they have already experienced continues to expand and intensify as more companies commence operations. It is estimated that between 2 - 4 million workers will be moved into Merauke – a migration process that has already commenced – in order to provide labour for the MIFEE project, overwhelming and further threatening the rights and well-being of the indigenous Malind people who number approximately 52,000 persons. Indigenous Papuans have been and will be hired only as low wage labourers or not given any form of employment at all. Even if employed, it is highly unlikely that they would have freely chosen such employment over the continuance of their traditional economy.²²

10. History of violence

Since the arrival of Indonesian troops in the early 1960s in Papua, indigenous Papuans had to witness decades of unspeakable military violence under Suharto. After the fall of Suharto,

¹⁶ Lihat di: <http://www.slideshare.net/uppppb/peran-up4b-dalam-percepatan-pembangunan-papua-dan-papua-barat>

¹⁷ See: <http://www.jayapurakab.go.id/blog/up4b-segera-atasi-dualisme-proyek/>

¹⁸ Indonesian Rupiah

¹⁹ See: <http://www.up4b.go.id/index.php/prioritas-p4b/7-pendidikan/item/642-otsus-belum-bisa-menjawab-dilematika-ipm-dan-pendidikan-di-papua>

²⁰ Cited from: <http://www.up4b.go.id/index.php/berita/media-massa/item/351-presiden-alokasikan-dana-khusus-rp-1-koma-tiga-trilyun-untuk-pembangunan-papua>

²¹ MP3EI dan UP4B Strategis Atasi Persoalan Papua: <http://www.jurnas.com/halaman/4/2011-11-10/188516>

²² Cited from MIFEE CERD report 2013: <http://www.forestpeoples.org/topics/un-human-rights-system/news/2013/10/indonesia-renewed-appeal-un-cerd-suspension-miffee-project> and <https://awasmiffee.potager.org/?p=564>

human rights courts were established to address past and current cases of gross violations of human rights – cases of widespread and systematic nature.

Documented cases

In 2001 in Wasior and in 2003 in Wamena,²³ military operations resulted in numerous deaths and victims of torture. There is only one legal chance available at national level to bring justice to the victims of human rights violence, that is through Wasior and Wamena case. The investigation files as a result of an ad hoc team of pro-justicia investigators of the National Commission on Human Rights (KOMNAS HAM) detail the systematic violence. The Commission sees the criteria of gross human rights violations as met in both cases.

However, the Attorney General refused to initiate prosecution and returned the files to the Commission with the allegation that they would be incomplete and not fulfilling certain formalities and evidence requirements. On December 29, 2004, the Commission on Human Rights returned the files back to the Attorney General arguing they would be in compliance with Law No. 26, 2000, on Human Rights Courts. Since then the case is in a dead lock between these two institutions.

Unaccounted mass violence and Genocide allegations

The majority of mass violence remains unaddressed by human rights mechanisms. One of the most serious events in Papua history includes the mass killing in the Papuan highlands between 1977 and 1978 as detailed in a recent report by the Asian Human Rights Commission.²⁴ Responding to the uprisings which surrounded the 1977 general elections in Papua, several military operations were launched in the Papuan highlands around Wamena. The response caused a further breakdown in the Papuan–Indonesian relations which had fallen apart at that time. The operations resulted in mass killings of, as well as violence against civilians. The stories of survivors recall unspeakable atrocities including rape, torture and mass executions. Estimations of the number of persons killed range from 5,000 up to tens of thousands. The research done in the AHRC’S report is consistent with these numbers, although restricted access to the area and ongoing intimidation of witnesses makes it difficult to confirm an upper limit of the number of victims. The AHRC sees the criteria of genocide as being met and the Indonesian government should launch a full investigation and ensure protection of the survivors in the process.

As these violations remain part of the Papuan history narrative but are being denied by Jakarta, their impact continues to shape the current conflict in Papua.

²³ Background of the case: Cases of human rights violations in Wasior originated from conflicts amongst the local people who claim compensation for land rights that was taken by forest concession holders. During the people's action at the end of March 2001, a sudden "unknown armed group" shot dead three employees of PT. DMP. Post-shooting, Papua Police with the support of Military Command XVII TRIKORA conducted "Operation Tuntas Mataoa".

This operation led to casualties among civilians. Based on the Commission on Human Rights report, the human rights violations occurred in the form of: Murder (4 cases); Torture (39 cases), including the cause of death (dead in custody); Rape (1 case); and Enforced disappearances (5 cases); Based on the investigation of PBHI (Indonesian Legal Aid Association), forcible displacement occurs, the cause of death and disease, and Loss and destruction of property.

Cases of human rights violations in Wamena associated with the military response to an incident of unidentified group break and enter into the Military base 1702/Wamena District Military Command Headquarters on April 4, 2003. This burglary cost the lives of two military and one critically injured. The attackers allegedly carried off a number of weapons and ammunitions. In response from the security forces for the perpetrators, both the military and police officers conducted search, arrest, torture and killing of civilians, thus creating fear amongst the society in Wamena. Based on Commission on Human Rights report, human rights violations have occurred in the form of: Murder (2 cases); Forcible expulsion of the cause of death and disease (10 cases); Other physical deprivation of liberty in an arbitrary manner (13 cases); Removal and destruction of property (58 cases); Torture (20 cases); shooting (2 cases); 9 people become political prisoners (detainees).

²⁴ Asian Human Rights Commission – the Neglected Genocide, 2013, url: <http://www.humanrightspapua.org/hrreport/genocidereport>

11. Human right to self determination: Failure of autonomy

Since 2001, Papua was given Special Autonomy on Paper through Law no. 21/2001. The law established special political bodies for indigenous Papuans and rights of these bodies. The law has frequently been violated, such as during the split up of the West Papua Province into the West Papua Province and the Papua Province without agreement of the Autonomy bodies in Papua. At the same time an improvement of the situation of indigenous peoples rights or the human rights situation can not be noted. Papuans and their political representatives have therefore rejected the special autonomy law and do no longer see it as a way to implement the right to self determination. While there has been no responsible evaluation of special autonomy, the central government starts developing a new scheme of what they call 'development approach'. Political analysts see this as an admission of the failure of special autonomy also from the central governments side.

Jakarta now plans Autonomy Plus (OTSUS Plus). Starting another follow up approach without evaluation of the old one and without comprehensive participation in its design by indigenous Papuans and civil society is destined to fail in the isolated conflict region. This lack of public participation in its design has already been the main criticism for the UP4B development programme that failed to improve access to health care, education or improve the human rights situation. Even though the Jakarta based NGO IPAC²⁵ described it as an “opportunity” to strengthen local authority and to have a bigger portion of the resources’ revenue, the closed drafting process of OTSUS Plus ensures that the approach will aim at protecting Jakarta’s interests mainly.

The majority of Papuans do not see a future within the Indonesian state, in which their rights and their dignity will be protected. On the other hand the expansion of the public administration has brought more Papuans into positions of public offices, in which they become less critical about the shortcoming the majority of Papuans need to face.

12. Peace for Papua: Dialogue and the Papua Peace Network

An alternative to the closed door development process for an Autonomy Plus programme is the Dialogue as promoted by the Papua Peace Network (PPN) and the Indonesian Institute of Sciences (LIPI). The process of participation and dialog conducted by the Papua Peace Network (PPN), aims at a wide public discourse about a peaceful Papuan future in which indigenous and human rights can be protected. This dialog idea that aims at creating a Papua as a land of peace was initiated by a group of religious leaders. This dialog process aims to conclude what Papuan people (indigenous, mixed and transmigrants) see and want related to the future of Papua.

A solution to the conflict and violations in Papua can only be sustainable if it is drafted in consultation with the majority of the people, civil society organizations, religious and indigenous groups and leaders, legal provincial bodies such MRP and DPRP.

Jakarta is in a position of no or low interest to the proposed Jakarta-Papua dialog for two reasons: the framework of 'NKRI (Indonesian Unity) not being negotiable' and an increasing climate hostile to human rights highlighted by the absence of fair investigation and trial to any

²⁵ Institute for Policy Analysis of Conflict. See IPAC report:

http://file.understandingconflict.org/file/2013/11/IPAC_Otsus_Plus_The_Debate_over_Enhanced_Special_Autonomy.pdf

human rights violations cases²⁶. These two reasons are important indicators to see the possible change of approach by the central government to Papua. Even though President Yudhoyono has in the past promised his support for a dialogue, these statements have so far not substantiated to a process that Papuans see a progressing.²⁷

Through discussions and consultations facilitated by the Papua Peace Network have prepared themselves for such a dialogue process. In a peace conference in July 2011 in Jayapura, Papua, 500 representatives and 300 observers participated. The recommendations of this Papuan conference was clear: to continue the peace dialog with the objectives of guaranteeing civil and political rights, addressing economic concerns of Papuans, social and cultural rights of Papuan and the discussion of the history of Papua²⁸.

Since Jakarta does not open room for negotiation, no dialogue on an end to violence and militarisation in Papua has so far begun.

A growing international concern for the situation in Papua was voiced at the Universal Periodic Report (UPR) in 2012²⁹, and from the Pacific nations through the Melanesian Spearhead Groups (MSG).³⁰

The military may worry to be a loser in any change of the status quo in Papua and the central government in Jakarta is still largely blocking progress. It is therefore important to continue encouraging the central government side to honour its commitments and to show a visible progress in resolving the conflict peacefully in light of the upcoming national elections between April and August 2014.

An end to human rights violations are the pre-condition to a peaceful and sustainable end of the conflict in Papua that continues to cause the suffering of civilians.

²⁶ We can get the picture from a report by Asian Human Rights Commission in 2012: <http://www.scribd.com/doc/127730188/The-State-of-Human-Rights-In-Ten-Asian-Nations>

²⁷ See: <http://jdp-dialog.org/kolom/opini-publik/531-jakarta-papua-dialogue-between-a-rock-and-a-hard-place> and <http://www.thejakartapost.com/news/2012/02/01/sby-promises-help-improve-welfare-papuans.html>

²⁸ See the declaration: <http://www.humanrights.asia/news/forwarded-news/AHRC-FST-041-2011>

²⁹ See: <http://www.thejakartapost.com/news/2013/12/11/human-rights-recommendations-indonesia.html>

³⁰ See: <http://www.thejakartapost.com/news/2014/01/06/what-s-next-papua-after-msg-diplomacy.html>