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**Human Rights Violations in Papua**  
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**International Coalition for Papua (ICP)**  
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**I. Introduction**

1. KontraS is a national human rights non-governmental organization based in Jakarta, Indonesia and was established in 1998. Its main activities are geared towards support for the victims of human rights violations. It seeks to improve respect and protection for human rights within Indonesia through advocacy, investigations, campaigns, and lobbying activities.
2. The International Coalition for Papua (ICP) was established in March 2003. The ICP is an international coalition of faith-based and civil society organisations in Europe, Australia and Asia addressing the serious human rights condition in West Papua and supporting a peaceful solution to the conflict there.
3. The Justice, Peace & Integrity of Creation Desk of the Papuan Tabernacle Church (JPIC Kingmi Papua) Kingmi Papua carries out investigations and advocacy on environmental and human rights abuses in West Papua as part of its duty to protect God's creation on earth. Kingmi Papua is a Papuan church with its synod office based in Jayapura, Papua Province.
4. Jakarta Legal Aid Institute (LBH Jakarta) was established in 1971 to provide legal assistance to people who are unable to fight for their rights, especially poor and marginalized people who have been evicted, marginalized, ignored, and had their human rights violated.
5. Centre for Study, Documentation and Advocacy on Peoples' Rights (PUSAKA) was established in 2001 by social, legal, and environmental activists who were involved in advocating the rights of indigenous peoples and local communities around forest areas, agrarian reform, and the environment.

6. The World Council of Churches is a fellowship of 352 churches from more than 120 countries, representing over 580 million Christians worldwide. Through ecumenical advocacy, the WCC encourages and supports engagement of member churches and their partners in the reporting mechanisms of the UN human rights system, speaking out against injustice and discrimination, being a voice for the voiceless, and amplifying unheard voices.
7. Geneva for *Human Rights – Global Training* (GHR) is a training organization. It aims at human rights implementation in the countries, GHR prioritizes the strengthening of national protection mechanisms and the empowerment of all those involved in human rights promotion and protection. With its *Global Training Department (GTP)*, it conducts dozens of Courses in Geneva and in the regions. Its *Human Rights Policy Studies Department (HPS)* supports these training activities by monitoring the UN human rights system. GHR has consultative status with ECOSOC.

## II. Overview

4. In the last cycle of Universal Periodic Review in 2017, Indonesia supported five recommendations regarding the human rights situation in Papua. The main concerns of these recommendations are the guarantee of human rights, settlement of human rights cases, cooperation with the Special Rapporteurs, and protection of indigenous peoples in Papua.

5. These recommendations were not implemented yet. The violence in West Papua<sup>i</sup> is ongoing, while the government has not made any significant progress in the settlement of past human rights cases. The police and the military are still the dominant perpetrators of the violations. Despite the basic human rights training carried out by the National Commission on Human Rights for 150 members of the Mobile Brigade unit in September-October 2017 in four regions in Papua, human rights violations such as arbitrary arrests, torture, and extra-judicial killings continue to occur as part of law enforcement or military operations in West Papua.

6. On the other hand, United Nations' human rights mechanisms and institutions have repeatedly expressed concerns regarding the human rights situation in West Papua. The UN Special Procedures have brought attention to the armed conflict in Intan Jaya, the enforced disappearance of two indigenous Papuans ([IDN 2/2021](#)), the killing of a pastor and a church worker ([IDN 5/2020](#)), and the internal displacement of 50,000 Papuans in Intan Jaya and other provinces ([IDN 1/2020](#)). The Indonesian Government continues to restrict access to West Papua for international humanitarian organizations, human rights observers, and foreign journalists. A suggested invitation to West Papua by Zeid Ra'ad Al Hussein, the former UN Commissioner for Human Rights, was never seriously followed-up by the government.

### Violence and racism

#### Extra-judicial killings and enforced disappearances

7. Extra-judicial killings (EJKs) frequently occurred in all parts of West Papua over the past four years in relation to armed conflict or crowd control and other law enforcement operations. During 2017-2021, the number of EJKs has been increasing. In 2017, there were only ten cases. While in 2018, it increased to more than twenty cases. The majority of cases in 2019 and 2021 (more than sixty cases in total) were related to security force operations against the West Papua National Liberation Army (TPNPB), many of which were carried out in the remote central Papuan highlands. Accordingly, EJKs were committed by members of the military and the police. In contrast to EJKs, cases of enforced disappearances (EDs) are limited to conflict areas with a high military presence. The evidence and witness testimonies in all reported ED cases between 2018 and 2021 indicate that

the crimes were invariably committed by military members.

8. Both, EDs and EJKs, have significantly increased since the aggravation of the armed conflict in West Papua in early December 2018, as members of the TPNPB killed at least 19 road workers in the regency of Nduga, Papua Province. This observation is particularly worrying, given the rampant impunity enjoyed by police and military members in West Papua.

9. At least half of the cases of EJKs in the past three years were committed by joint security forces during raids against the TPNPB. The operations are carried out with the utmost brutality, which has also resulted in the killing of children. In 13.8% of reported EJK cases in 2019 and 2020, the victims were minors. Operations by joint security forces make it difficult for witnesses to clearly distinguish the affiliation of perpetrators, which facilitates impunity. The police and military have separate internal procedures if complaints of torture or extra-judicial executions are brought against their members.

10. All victims of documented EJKs and EDs between 2018 and 2021 – with one exception – were indigenous Papuans.<sup>ii</sup> The statistics mirror the widespread racial discrimination faced by indigenous Papuans in Indonesia. Military and law enforcement personnel often consider indigenous Papuans as lazy, trouble makers and supporters of political independence. Particularly, the stigma of indigenous Papuans being members of the TPNPB is a common pattern found in relation to EJKs and EDs. The number of EJKs in West Papua is significantly higher than in any other region in the country.

11. Case patterns in the past decade indicate a strong co-relation between torture and EJKs. Many killed victims died as a result of injuries which they sustained during torture by security force members. In some of these cases, the perpetrators disappeared the victims' bodies to destroy evidence.<sup>iii</sup>

### **Torture and ill-treatment**

12. The overall data on cases and victims do not suggest any reduction in acts of torture<sup>iv</sup> and ill-treatment<sup>v</sup> in the past five years. While the number of victims strongly varies between years, the number of reported cases of torture and ill-treatment in West Papua remains consistent. The widespread use of torture and ill-treatment is closely linked to the impunity granted to perpetrators in the police and the military. This situation is aggravated through the lack of a legal definition of torture in the current Criminal Code (KUHP) in accordance with the International Convention against (CAT) Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, which Indonesia already ratified in 1998. The difficulty of accessing information to and from Papua is often misleading in cases that occur there.

13. Police officers committed almost 52% of all reported cases throughout 2019 and 2020. The average percentage for the involvement of police officers in such acts was even higher with 66% between 2017 and 2018. Both figures strongly illustrate that the police are the top perpetrators of torture and ill-treatment in West Papua. A study of cases of the past five years revealed that torture and ill-treatment were most commonly applied as a punishment or during crowd control operations.

14. Similar to cases of EJKs and EDs, case patterns between 2017 and 2021 mirror the racial discrimination in the Indonesian law enforcement apparatus and the military. The vast majority of victims of torture and ill-treatment were indigenous Papuans. The annual statistical figures for this period vary between 89% and 100%. The data also shows that about five percent of the victims during this period were below the age of 18 years.

### **Impunity**

15. The national human rights system in Indonesia includes various mechanisms which may be used to file a complaint. The most important mechanisms consist of semi-independent institutions such as the National Human Rights Commission (Komnas HAM), the National Police Commission (Kempolnas) 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 result 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,<sup>vi</sup> while the internal mechanisms within the military and the police lack transparency and impartiality.

16. Law No. 39 of 1999 gives Komnas HAM the authority to receive complaints from victims 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. Such courts do not include other internationally recognised crimes such as torture, extrajudicial executions, enforced disappearances, or war crimes.

17. Komnas HAM has carried out 15 preliminary judicial investigations into allegations of gross human rights violations, including three cases in West Papua. To date, the Attorney General has refused to initiate full judicial investigations and proceed with prosecution, with the exception of the Paniai Case which occurred on 8 December 2014 in the Papua province.<sup>vii</sup>

18. Complaints against police officers may be filed to an internal division of the Police named Propam,<sup>viii</sup> that is supposedly responsible for maintaining its officers’ accountability. Propam departments are only situated at the Police Headquarters in Jakarta (Mabes Polri) or the Provincial Police Headquarters (Polda) in Jayapura (Papua Province) or Manokwari (Papua Barat Province). Given the vast territory of West Papua, combined with inadequate public transportation, it is challenging for victims to access the Propam mechanism.

19. The main concern of the internal police mechanism under Propam is that most allegations of police misconduct in the context of human rights violations only result in internal disciplinary sanctions. This practice disregards Indonesia’s Police Law (No. 2/2002), according to which any police officers suspected of committing a criminal offence should be prosecuted in a civilian court. Written reports on the results of the internal police process are not made available to the victims, their relatives, or the public.

20. Under Indonesia’s criminal justice system, military personnel can only be tried in military courts. All parties in the military criminal justice system – from the judges and prosecutors to legal defence – are military officials, although the military court system has been integrated into Indonesia’s judiciary institutions. The military court mechanism lacks transparency from the investigation process to the prosecution stage and often results in lenient sentences compared to the gravity of the crimes, implicating low-rank personnel while excluding the responsible commanders.

21. The police and the military have issued internal investigations into allegations of human rights violations in West Papua. However, the internal accountability mechanisms resulted in sanctions against the perpetrators in only seven cases since 2017. Not a single case was brought to a civilian court. The vast majority of cases remained unaddressed. Most military-internal investigations into alleged human rights violations in West Papua were never followed-up through tribunals.

### **Racial discrimination in law enforcement**

22. Law enforcement officers such as police, prosecutors, and judges still treat Papuans who are placed as suspects or defendants in Jakarta with discrimination and tend to be racist. Discriminatory attitudes are seen when there are differences in treatment of Papuans in the law enforcement process. This is not a new thing considering that it has happened in previous years. However, with repeated incidents, we must question how law enforcement officers treat Papuans as human beings who are equal to others. On August 28, 2019, there were arrests of 6 Papuan activists namely Charles Kossay, Surya Anta, Ambrosius Begint, Dano Tabuni, Isay Wenda, and Arina Elopere who expressed their opinions peacefully in public as a form of protest against racism and discrimination constantly happening to Papuans in front of the Presidential Palace. The six Papuan activists were arrested by

unlawful means, without an arrest warrant, and at gunpoint. The police searched them without showing permission from the local district court as required by law and forcibly reserved property belonging to the six activists. Whereas freedom of opinion is guaranteed by the 1945 Constitution and the action has complied with the provisions of Law No. 9/1998 regarding Freedom of Expression and Opinion in Public by carrying out an orderly and peaceful action preceded by a mass act notification letter to the Police. However, from the beginning of the arrest to the examination, the six activists were immediately determined and examined as suspects without a summons as a witness and without conducting a case. Even before the examination was conducted, legal counsel was not permitted to meet and provide assistance. The actions of the Metro Jaya Regional Police investigator clearly violated a series of laws and regulations.

23. In 2021, cases of obstruction of Papuan student demonstrations in Jakarta will still occur. At least, there are 2 actions that get blocked and proceed to legal cases. These actions were the Reject the Special Autonomy action in February 2021 and the Rome Agreement Commemoration action in August 2021. Both actions were blocked by the Police and the National Military Forces (TNI) at the demonstration location so that Papuan students could not continue the action on the grounds of the Covid-19 Pandemic. Even though in this action, the participants have tried their best to carry out health protocols such as wearing masks, keeping a distance, and providing hand sanitizers for personal protection. In preventing the action and disbanding, law enforcement officers did several things that violated the law, including: a) Sexual harassment of women participating in the action during the disbandment and when they were forced to get into police trucks; b) Physical violence at the time of disbandment, such as being forced into a truck by being pushed and making the participants jostle.

24. During the August 2021 action, participants in the action were arrested and taken to the Central Jakarta Police for 1 night. They were questioned regarding their involvement in the action. The examination is not groundless because the actions of Papuan students conducting demonstrations are basically a form of freedom of expression which is protected by laws such as Law no. 39 of 1999 concerning Human Rights and Law no. 9 of 1998 concerning Freedom to Express Opinions in Public. Moreover, in this action, Papuan students did not do things that violated the law.

25. In the process of legal assistance, a discriminatory attitude is also still shown by Law Enforcement Officials. In the case of Ruland and Kevin that we handled in February-August 2021, there were several discriminatory treatments. The right to health for Papuan students is not given. One of the Papuan students, Ruland, needs medicine for his illness and must be taken regularly and through a doctor's prescription. The team of attorneys has asked the panel of judges and prosecutors for permission so that doctors can check them so they can get medicine, but this was not done by the prosecutor who is responsible for this case. Even the Legal Team had submitted a ban for Ruland, who was also affected by Covid 19, but the Panel of Judges did not respond to the request for dismissal. We have reported this to the Prosecutor's Commission and the Judicial Commission, but the response from the two institutions is not favorable to the law enforcement process in this case.

26. The defense or plea from Ruland-Kevin and the Team of Lawyers was ruled out by the Panel of Judges to formulate a decision, even though many important points were presented as legal facts. The interval between the reading of the plea and the reading of the verdict which was only one day apart was a deliberate reason not to include the defense in the consideration of the decision.

### ***Recommendations***

- a. Increase the efficiency of the national complaint mechanisms for victims of torture, ill-treatment, extra-judicial killings and enforced disappearances 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;

- b. 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;
- c. Issue policies that will end the arbitrary stigmatization of Papuans as separatists or terrorists.

## **Implications of the security approach on human rights conditions in Papua**

### **Internally displaced persons**

27. Since its aggravation in December 2018, the armed conflict in West Papua has spread over the seven regencies Intan Jaya, Pegunungan Bintang, Mimika, Nduga, Maybrat, Yahukimo, Puncak and Kepulauan Yapen. Security force operations accompanied by human rights violations have resulted in a great number of internal displacements over the past three years. The total number of internally displaced persons (IDPs) is estimated to reach more than 60,000 IDPs, as of February 2022 (see table below). The Papuan People's Solidarity Rejecting State Violence (SORAKPATOK) documented a total number of 13,687 new displacements between January and November 2021, alone.

28. The Government of Indonesia continues to deploy troops to the conflict areas in an attempt to prosecute the perpetrators and demonstrate its military strength against the TPNPB. However, the deployment of additional security forces has turned out to perpetuate the circle of violence in West Papua. Therefore, the internal displacements in West Papua must be understood in the context of the long-standing political conflict in West Papua. As a result of the deployments, indigenous Papuans flee their homes in fear of being killed during armed clashes between conflict parties or security force raids.<sup>ix</sup>

29. The majority of IDPs in West Papua have not returned to their homes due to the heavy security force presence and ongoing armed clashes in the conflict areas.<sup>x</sup> Many continue to live in temporary shelters where they have no access to food and are exposed to the harsh weather conditions in the Papuan central highlands, without humanitarian access. The conditions in the shelters particularly affect pregnant women, children and elderly people. Hundreds of IDPs died as a result of sickness, malnutrition, exhaustion, and hypothermia. Others stay with relatives in other districts or regencies which they consider as safe. Most displaced children do not have access to education after fleeing their villages.<sup>xi</sup> Apart from isolated initiatives to provide aid deliveries,<sup>xii</sup> The central government ignores the presence of IDPs in West Papua, while deploying additional troops to West Papua.

### **Security approach and military interests behind Intan Jaya mining operations**

30. Many non-organic military members have been deployed to West Papua without following legal government procedures. Article 7 (2) and (3) of Law No.34/2004 on the Indonesian Military stipulates that all military operations which are not related to warfare, including overcoming armed separatist movements, overcoming armed rebellions, securing borders, and securing national vital objects, must be based on state policies and political decisions. Neither the president nor the parliament has officially adopted policies regarding ongoing military operations in West Papua. Recent findings indicate that the deployments may also serve the purpose to secure extractive industrial activities and interests.

31. Human rights organisations identified links between the military and extractive mining businesses in Intan Jaya Regency, Papua Province. These links indicate that the military deployments should pave the way for gold mining operations in the Papuan regency Intan Jaya. Through spatial analysis, NGOs found four companies which may potentially profit from the presence of the police and military, namely PT Freeport Indonesia (PTFI)<sup>xiii</sup>, PT Madinah Qurrata'Ain,<sup>xiv</sup> PT Nusapati Satria, and PT Kotabara Mitratama<sup>xv</sup>.

32. Not all companies identified in Intan Jaya appear to have links with the police and military forces. NGOs found links with security forces at PT Freeport Indonesia (PTFI) and PT Madinah Qurrata’Ain (PTMQ). In the PTMQ case, there are at least three officials who are involved with the companies, namely Mr Rudiard Tampubolon (RT; a retired police officer), Paulus Prananto (a retired TNI official), and a former military general who now holds the office of the Coordinating Minister of Maritime and Investment Affairs, Mr Luhut Binsar Panjaitan (LBP). RT is a commissioner at PTMQ. Even West Wits Mining<sup>xvi</sup> (a PTMQ shareholder) believes that his leadership and experience have successfully paved the way towards the commencement of the mining operation. Besides holding the commissioner position, another company he leads, PT Intan Angkasa Aviation, also owns 20% shares in PTMQ.

33. The presence of retired and active security force members in the mentioned companies indicated a more profound interest<sup>xvii</sup> in a series of illegal military operations in Intan Jaya. Also, many identified security force members joined the campaign team of the incumbent president, Joko Widodo. It is likely that former security officials are now sitting in important positions in these companies to secure and guarantee the companies’ economic interests behind the series of armed violence in Intan Jaya. Whilst the conflict in Intan Jaya was ongoing, the Indonesian Minister of State-owned Enterprises, Mr. Erick Thorir, announced in late September 2020 that he is planning to permit the Indonesian mining company PT ANTAM to exploit extensive gold resources under the Wabu Mountain in the Intan Jaya Regency.

### **Implications of terrorist labelling towards Papuan Civil Armed Group**

34. On April 29, 2021, the Coordinating Minister of Political, Law, and Security Affairs, Mahfud MD, officially labelled the West Papua National Liberation Army (TPNPB) as a ‘terrorist group.’ This act is supported by the Indonesian Law No. 5 of 2018 on Terrorism. Article 43I stipulates that the National Military is allowed to tackle terrorism acts. It resulted in the escalation of hostile armed conflict between the group and the Indonesian National Army (TNI). Non-organic military members have been deployed many times, even before the labelling. Despite Mahfud saying that the presence of the military in Papua has been meant to chase down TNPB instead of harming civilians, innocent Papua civilians are often subjected to the military's repressive violence.

35. The deployment of military forces in Papua is indeed violating the criminal justice model of a democratic state. The state should have provided a mechanism for handling and tackling terrorism through a transparent and uphold criminal justice model, human rights, and peaceful mechanism through the role of law. The involvement of military forces will only put justice in Papua on the brink. Not only that but also will perpetuate and worsen the situation in Papua.

36. Furthermore, the labeling of terrorists against the Civil Armed Group (KKB) can invite public suspicion of the practice of covert Military Operation District (Daerah Operasi Militer – DOM) in Papua. In fact, the DOM status in Papua has been revoked since 1998 or when the New Order regime collapsed. So that the issuance of DOM status for Papua is not legally valid. Basically, humanitarian law has determined differences in status in situations of armed conflict. The status of civilians in non-international armed conflicts is that civilians are the party that must be protected. The status of such protection is clearly regulated in the 1945 Geneva Conventions and their Additional Protocols as well as customary international humanitarian law. What happened in the eradication of terrorism in Poso should not be repeated. Since the beginning of the operation, many people have not been protected. In fact, residents around the area of operation must also be a priority for protection.

37. The Indonesian government's decision will continue to criminalize Papuan people, and everyone could be suspected as a member of KKB if they do not comply with the *status quo* Government. Frequently, wrongful arrest, wrongful detainment, and even executions—killings are no longer rare. This happens as if it has been the norm and the standard way of approaching the conflict in Papua. This, too, could target the civilians in Papua and be accused of KKB's affiliation to criminalize them. It is undoubtedly an act of violation of human rights, not only that but also the rule of law itself. If this still happens, it will further harm and a more profound psycho-social implication towards the society in Papua. This short-term policy to label KKB as a terrorist group to legitimize the continuous

deployment of military forces in Papua will not solve the conflict in Papua.

### ***Recommendations***

- a. Engage in dialogue with the United Liberation Movement for West Papua (ULMWP) to allow for a peaceful resolution of the political and historical conflict;
- b. Immediately start a process of demilitarization in the provinces of Papua and West Papua, particularly in conflict regions where indigenous civilians have been internally displaced and severely affected by the presence of security forces;
- c. Allow humanitarian access for the International Commission of the Red Cross (ICRC) to West Papua;
- d. Withdraw all military apparatus in the region and start to address socio-cultural problems in Papua;
- e. Conduct evaluation and supervision regarding the military deployment;
- f. Revoke the definition of terrorist operation that causes civilians as casualties;
- g. The alleged civil armed groups shall be put into court to reduce the civilians' conflicts;
- h. The government of Indonesia shall be transparent and accountable in opening the public information related of military deployment;
- i. Open transparency and accountability regarding the public officials' involvement in mining operations in Papua that cause human rights abuses as well as to conduct a mining moratorium in Papua.

### **Protection of human rights defenders in Papua**

38. Pusaka Bentala Rakyat Foundation (PUSAKA) documented cases of violence, arrests, property destruction, internal displacement, intimidation and death threats experienced by indigenous peoples and environmental human rights defenders, namely: the Moskona indigenous community in Teluk Bintuni Regency (April 2020), the community Aifat customs in Maybrat Regency (April – May 2020), Environmental Human Rights Defenders in Ikana Village, Kais Darat, South Sorong Regency (June 2020), indigenous peoples in Kali Kao, Jair District, Boven Digoel Regency (June 2020), Papua Province. Violence by the police against one of the awyu tribe residents in Getentiri in Boven Digoel (2021).<sup>xviii</sup> It is recorded that throughout 2021, there have been 30 cases of human rights (Human Rights) violations in Papua, including 4 (four) cases of violence and 2 (two) cases of terror threats related to business activities in Papua, which openly involve state security forces. as well as non-state actors, who are suspected of having a motive for securing business and silencing the voices of indigenous community activists and environmental human rights defenders.<sup>xix</sup>

39. Some of these cases were repeated acts of violence against victims of Environmental Defenders. These cases relate to the attitude of indigenous peoples and environmental defenders in voicing, defending and defending their basic rights, rights to life, rights to land, rights to the environment, rights to food, rights to their livelihoods, which are threatened with disappearance and confiscated for corporate interests and capital accumulation in oil palm plantations and logging.

40. Among these cases, Indigenous Women have become objects of direct or indirect threat, especially when they are involved in efforts to defend land rights. Indigenous women – whose relatives or families, such as husbands, children, brothers or sisters, are involved in the defense of environmental human rights – also become targets of violence. One of the indigenous women of the Awyu tribe in Boven Digoel received violence and verbal threats from a 'pro' company community group. He is considered to have hindered plans for investment in oil palm plantations and hindered progress in his village. In addition, as a woman, she is also considered not to have the right to talk about customary land, because she does not have ownership rights attached to her. This causes women defenders of environmental human rights in Papua to face enormous challenges in defending their rights.

41. Violence that occurs against indigenous peoples is contrary to the provisions stipulated in the United Nations Declaration on the rights of indigenous peoples which states that indigenous peoples



are equal to all other communities, the right to self-determination freely to determine their political status, develop economic, social and economic progress. culture including autonomy in self-government with regard to internal and local affairs.

### ***Recommendations***

- a. The Government of Indonesia is obliged to recognize, empower and protect Human Rights Defenders, including Women Environmental Human Rights Defenders and other parties working for the advancement of Human Rights in Papua, by taking effective measures and developing protection policies, stopping security approaches and military operations, as well as prosecuting and stopping investment. businesses suspected of and involved in violating human rights and committing environmental crimes;
- b. The Government of Indonesia continuously performs the function of monitoring and enforcing the law on licensing and company activities that violate the rights of women and indigenous peoples, and urges business actors to carry out their responsibilities to respect human rights through evaluating company policies, formulating commitments and business activities for prevention and treatment. cases of human rights violations in the business area, including the protection of environmental human rights defenders.

### **Isolation of Papuan rights from international sphere**

42. One of the big problems as well as the main issue for the deteriorating condition in Papua is the throttling or the process or activity of limiting the bandwidth of electronic communication devices as Papua has experienced this situation back in the 21st August until 4th September of 2020.<sup>xx</sup> One other problem is the prohibition of foreign journalists to give Papua coverage.

43. First, the throttling was done by the President of Indonesia and the Ministry of Communication and Information Technology was based on “securing the designated area from hoax”. Throttling was done by limiting the internet access to several points in Papua. Although this has been settled by the Administrative Court of Jakarta by sentencing the two actors mentioned, this didn’t really resolve the case. Since the act was seen as discriminatory and did not engage accountability that should be one of the main responsibilities from the state. The act has also yet to be reassuring that the throttling will not happen again in the future.

44. Not being able to access the internet means hampering the access for information for the people of Papua, thus resulting in the violation of Indonesia’s Article 28F of the 1945 Constitution. The article stated one of the essentials of rights for the people, which is the right to know, namely every citizen has rights to communicate and obtain information. While in this case, the state hampers the process for 2 weeks, leaving the people of Papua unnoticed, uninformed, and left behind through new information, and discriminated against.

45. Another case which underlined the deteriorating state of human rights in Papua is the prohibition of foreign journalists to give Papua coverage. This is ironic since the Indonesian government has stated in the early stage of his governance (2019) that the government will open access to foreign journalists to give Papua coverage. But it is unfortunate to see that the promise stopped in the middle of 2019, as it stopped only in front of the media.

56. We perceive the case above as threatening to the People of Papua. Whereas the government is ‘willing’ to protect Papua, especially from hoax, but this resulted in actually hampering the process of information and communication coming to the designated area. This has also resulted in the government to hamper voices of Papua people to state their current human rights condition to journalists.

## ***Recommendations***

- a. Halt the implementation of internet throttling and open the access of information for Papuan people;
- b. Open the access for journalists as committed by President Joko Widodo in 2015 to cover the actual situation in Papua.

## **Right to self-determination and freedom of expression**

### **Restrictions and inconsistent implementation of Papuan Special Autonomy**

57. The Indonesian government agreed on a special autonomy status (Otsus) for the Papua Province in 2001,<sup>xxi</sup> after aspirations for self-determination significantly increased in West Papua, following the downfall of military dictator Suharto in 1998. NGOs, Papuan churches and other civil society groups argue that the special autonomy has failed to bring prosperity for indigenous Papuans and improve the human rights situation in West Papua.<sup>xxii</sup>

58. Article 34 (3) of the special autonomy law contains a provision according to which the special autonomy funds will be allocated for 20 years. The expiration of the legally established timeframe for allocating special autonomy funds in 2021 triggered a public discourse about the fate of the Papuan special autonomy. In 2020, civil society groups publicly rejected a ‘prolongation’ of special autonomy in public protests. Many groups demanded that the government allow the Papuan People to exercise their right to self-determination through a referendum.

59. In accordance with its mandate,<sup>xxiii</sup> The Papuan Peoples’ Assembly (MRP) launched a series of consultation hearings (Rapat Dengar Pendapat or RDP) to determine the aspirations of the Papuan people regarding a prolongation of Special Autonomy funding in November 2020. The hearings were prevented by the police and non-state actor groups. MRP members were arbitrarily arrested, detained, intimidated and obstructed in the presence of security force members.<sup>xxiv</sup> There were indications that the non-state actors – among them civil militias – were facilitated by security forces and local government representatives.<sup>xxv</sup>

60. The Indonesian Parliament unilaterally [revised the Special Autonomy Law for Papua on 15 July 2021](#). By doing so, the government ignored the voices of the Papuan provincial parliaments, the Papuan Peoples Assemblies (MRP & MRPB) and thousands of West Papuans protesting against the revision of the law. The amendments concerned articles regulating the allocation of special autonomy funds and the formation of new autonomy regions. Others, such as establishing a Papuan human rights court and Truth & Reconciliation Commissions (KKR), were left aside. Security forces dispersed protests against the revised law in various parts of Indonesia, claiming that protesters violated COVID-19 health protocols.<sup>xxvi</sup>

### **Restriction of political activism promoting the right to self-determination through peaceful means**

61. There are many groups inside and outside of the Provinces Papua and Papua Barat promoting political self-determination for West Papua through peaceful means<sup>xxvii</sup>. Accordingly, repression is directed not only against West Papuans, who live in and outside their home land, but also Indonesians who support their cause<sup>xxviii</sup>. They are at constant risk of being arrested and criminalised<sup>xxix</sup>, tortured<sup>xxx</sup> or even killed<sup>xxxi</sup>. The authorities particularly target the leaders of such groups to break the peaceful resistance and silence criticism of government<sup>xxxii</sup>.

62. Security forces commonly disperse peaceful demonstrations, arrest the protesters and detain them for less than 24 hours. Criminal charges are mainly pressed against members of movement organisations promoting the right to self-determination.

63. Indonesian law enforcement institutions employ vague legal provisions to prosecute activists.<sup>xxxiii</sup> Reports on the conditions of political detainees or prisoners indicate that they are often subjected to ill-treatment and torture throughout all stages of the law enforcement process. Human rights observers documented multiple cases<sup>xxxiv</sup> in the past years in which law enforcement institutions and officers ignored the health issues experienced by political activists during detention<sup>xxxv</sup>.

### *Recommendations*

- a. Commence a dialogue and hearing with every Papuan stakeholder to solve the occurring conflict;
- b. Provide access for the people of Papua to basic needs and fundamental rights, including the position in the political bureaucracy
- c. Prevent further violence within a meaningful and inclusive platform to evaluate the Special Autonomy Law.

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<sup>i</sup> The term West Papua in this submission refers to Indonesia's easternmost provinces of Papua and Papua Barat.

<sup>ii</sup> On 21 January 2019, [members of the Sorong District Police shot dead a non-Papuan student](#), Indra Wijaya Taran, in Sorong. Evidence indicates that Indra Wijaya Taran was a drug user and was trying to escape as officers wanted to arrest him.

<sup>iii</sup> [Apianus Zanambani and Luter Zanambani had been reported missing](#) since 21 April 2020. Witnesses saw military personnel arresting them during a military raid in Sugapa, Intan Jaya. A military internal investigation revealed that army members had tortured both men, resulting in their deaths. The perpetrators then burnt the bodies at the military base and disposed of the ashes into a river.

<sup>iv</sup> Definition as stipulated in CAT (Article 1).

<sup>v</sup> The term 'ill-treatment' is used for procedural violations – often characterised by arbitrary acts or the use of excessive force – that do not match the legal definition of torture in international human rights law but cause mental and physical suffering to a person.

<sup>vi</sup> Komnas HAM, Kompolnas and Ombudsman can only issue reports and provide recommendations, both of which are not legally binding.

<sup>vii</sup> On 3 December 2021, the Office of the [Attorney General gave the official order to form a team](#) which shall investigate allegations of gross human rights violations in Paniai. A special team formed by the Attorney General collected evidence and interviewed about 40 witnesses, including six civilians. Most of the witnesses were affiliated with the police and military. The results of the investigation have not been shared with the public as of March 2022.

<sup>viii</sup> Propam stands for 'Divisi Profesi dan Pengamanan' in Indonesian language, literally the Division of Profession and Security.

<sup>ix</sup> In September and October 2021, IDPs from Pegunungan Bintang alleged Indonesian military forces of [dropping mortar grenades from helicopters](#) on indigenous settlements, destroying houses and gardens.

<sup>x</sup> The situation is particularly worse for [IDPs from Nduga](#), who have been living in displacement since December 2018. Most of them have moved to other Papuan regencies where they do not receive relief supplies and continue to lack access to free health care. The lack of coordination between the local government in Nduga and other local governments has caused the exclusion of Nduga IDPs from public healthcare services as many have lost their documents. According to solidarity groups, 400 IDPs died between December 2018 and November 2020 in the Jayawijaya Regency alone as a result of diseases and other strains. The number has reportedly risen to 621 as of November 2021.

<sup>xi</sup> Military members occupied a school in the Hitadipa District, Intan Jaya Regency, and used it as a military outpost, causing the collapse of education services in the district.

<sup>xii</sup> In July 2019, the Indonesian Ministry for Social Affairs (Kementerian Sosial RI) prepared aid deliveries worth €44,079 (IDR 740,449,000) for IDPs from Nduga. The deliveries included 50 tonnes of rice, toys, school

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supplies, sports supplies, and supplies for vulnerable groups.<sup>96</sup> Representatives of the Ministry came to the town of Wamena to coordinate the distribution of humanitarian goods. On 29 July 2019, a meeting between representatives of the local government, Ministry for Social Affairs, and the military was held at the KODIM 1702 military base. However, the humanitarian goods because the Ministry of Social Affairs insisted on distributing the products through the military, whom the IDPs regard as “enemy”. Their culture forbids them from receiving help from an enemy.

<sup>xiii</sup> PTFI has a mining business permit. While its main concessions are located in Mimika District, it has long carried out gold exploration in the Sugapa District, Intan Jaya. Its exploration in Blok Wabu revealed a gold reserve of more than 116 million tonnes of gold ores. The concession location in Blok Wabu is near Hitadipa Preparatory Military Sub-District Command.

<sup>xiv</sup> PT Madinah Qurrata’Ain holds a mining business permit with a concession area of 23,150 ha. This company’ soperations are still at the phase of gold exploration. PTMQ stepped into an agreement with an Australian company, West Wits Mining, that held 64% shares in the mentioned company. In 2016, West Wits Mining also gave 30% of its shares to Tobacom Del Mandiri (TDM), a Toba Sejahtera Group subsidiary, as a token of a business alliance agreement. PTMQ concessions are located near several security posts such as the Sugapa Sub-district Police Station, the Intan Jaya District Police Station, and the Intan Jaya Preparatory Military District Command.

<sup>xv</sup> Although administratively located in Paniai District, Papua Province, the company’s concessions that control a total area of 40,116 ha are located precisely at the boundary of Intan Jaya. Its business permit was issued in 2010 through Paniai District Head Decree No. 017.

<sup>xvi</sup> West Wits Mining also shared 30% of its Derewo River Gold Project with TDM, whose president is Mr Paulus Prananto, a retired member of the army. West Wits Mining explicitly mentioned that TDM was responsible for forestry permits and safe access to project locations in its publications. TDM itself is a subsidiary of the PT Toba Sejahtera Group, in which Mr Luhut Binsar Pandjaitan is a shareholder. Mr Prananto and Mr Pandjaitan, were both voluntary members of President Joko Widodo’s 2014 and 2019 campaign teams (Bravo Lima).

<sup>xvii</sup> Concerning the planned gold mining in Blok Wabu, the research found links with five police and military officials affiliated with three different companies, all subsidiaries of MIND ID, an Indonesian mining company. Mr Hinsar Siburian (HS; a retired military official) works as commissioner with PTFI, the previous owner of the concession at Blok Wabu. In 2015-2017, HS was a Military Area Command C-in-C of Regional Military Base XVII/Cendrawasih Papua. He was also involved in President Joko Widodo’s campaign team in 2019 as a voluntary member (Cakra 19). PT ANTAM was appointed to operate the PTFI concession in Blok Wabu after the Indonesian government took over the concession. In PT ANTAM, the researchers found two further security force members, namely Mr Agus Surya Bakti (a retired military member) and Mr Bambang Sunarwibowo (Commissioner General of Police). Mr Bakti holds the position of President Commissioner, while Mr Sunarwibowo is a Commissioner. Mr Sunarwibowo is still currently holding the position as the Main Secretary of the Indonesian State Intelligence Agency. Even in MIND ID, there are names of retired and incumbent security force members, such as Mr Doni Monardo (President Commissioner) and Mr Muhammad Munir (Independent Commissioner), who is still holding the position as the Head of Strategic Analysis Board of Indonesian State Intelligence Agency.

<sup>xviii</sup> See more: PUSAKA. 2022. Ancaman Kepada Pembela HAM Lingkungan Papua Tahun 2020. The documents can be accessed at: <https://pusaka.or.id/ancaman-kepada-pembela-ham-lingkungan-papua-tahun-2020/>. Or it can be accessed at: <https://pusaka.or.id/catahu-pusaka-2020-tak-surut-meski-pandemi/>.

<sup>xix</sup> See more: PUSAKA. 2022. Catahu PUSAKA 2021: Kemenangan Masyarakat Adat. The documents can be accessed at: <https://pusaka.or.id/catahu-pusaka-2021-kemenangan-masyarakat-adat/>.

<sup>xx</sup> See more: KontraS. Annual Human Rights Report 2020. The document can be accessed at: [https://kontras.org/wp-content/uploads/2021/01/Cahaham-2020\\_Indo-Vers.pdf](https://kontras.org/wp-content/uploads/2021/01/Cahaham-2020_Indo-Vers.pdf).

<sup>xxi</sup> The legal foundation of the Papuan special autonomy is Law No 21/2001 on the Special Autonomy for the Papua Province. The law mandates that local governments regulate and manage the interests of the local people, at its own initiative through the enactment of bye-laws and greater authority to decide over revenues raised in the provinces Papua and Papua Barat.

<sup>xxii</sup> There is widespread rejection of the Papuan special autonomy among many indigenous Papuans as the law was never fully implemented. The central government blocked the enactment of bye-laws which were considered as contradicting national interests, among them a bye-law on the establishment of political parties

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in West Papua. A human rights court and the KKR were never established. Violations of the principle of free, prior, and informed consent (FPIC) of indigenous communities regarding development projects on customary land are common despite special autonomy provisions requiring investors and local governments to uphold the principles.

<sup>xxiii</sup> Article 77 of law No. 21/2001 provides the legal foundation for “any proposals regarding the amendment of the Law”. It mandates the MRP to hold RDP hearings across West Papua.

<sup>xxiv</sup> On 17 November 2020, [local police officers arbitrarily arrested 55 persons](#), including MRP members, resource persons and civil society representatives who had come to the town of Merauke to participate in the RDP meeting. The officers searched hotels and seized documents, banners and other materials.

<sup>xxv</sup> A leaked confidential letter by the state intelligence (R/052/X/2020) dated 29 October 2020 reinforces this suspicion. The letter recommends the state intelligence monitor the RDP hearings, consolidate pro-government groups and encourage them to show public presence as counter-initiative to pro-independence activism. The letter also suggests the Papuan Regional Police (Polda Papua) disperse or prevent mass assemblies by pro-independence groups and obstruct their participation in the RDP meetings.

<sup>xxvi</sup> The [Jayapura police forcefully dispersed a demonstration against the Otsus revision](#) at the Cenderawasih University campus on 14 July 2021 and arrested 24 protesters. In Jakarta, the police reportedly arrested 40 protesters in front of the Indonesian Parliament building on 15 July 2021. On 19 July 2021, [police members dispersed another peaceful protest against the law in Sorong](#). They arrested 36 protesters, including two minors, and at least six were injured.

<sup>xxvii</sup> The most known groups are the West Papua National Committee (KNPB) with branch offices in all parts of West Papua, and the Indonesian Peoples Front for West Papua (FRIWP), which conducts peaceful protests and commemorations in cooperation with Papuan Student Alliance (AMP) in other parts of Indonesia.

<sup>xxviii</sup> Indonesian activist Paulus Sury Anta Ginting was arrested along with five Papuan activists. All were charged with articles 106 and 110 KUHP on treason for raising the morning star flag during a peaceful protest outside the State Palace in Jakarta on 28 August 2019. [He was sentenced to nine months imprisonment](#).

<sup>xxix</sup> In February 2021, judges at the Sorong District Court found the chairperson of the KNPB branch office in the Maybrat Regency, Adam Sorry, guilty for the alleged involvement of a homicide and [sentenced him to 6 years imprisonment](#).

<sup>xxx</sup> On 13 December 2020, [joint security force members allegedly destroyed parts of the KNPB office facilities in Merauke and arrested 14 KNPB members](#). All were subjected to physical torture during arrest and police detention.

<sup>xxxi</sup> Kristian Yandun, one of 13 KNPB members arrested in December 2020, [passed away during police detention](#) on 27 February 2021. According to the lawyers, Mr Yandun’s [request for medical attention during detention at the Merauke District Police Headquarters was ignored](#) for almost one month.

<sup>xxxii</sup> [Police officers arrested Victor Yeimo](#), the international KNPB spokesperson, in Jayapura on 9 May 2021. The police charged him with multiple criminal charges, including Article 106 of the Indonesian Criminal Code (KUHP) on treason, Article 110 KUHP on criminal conspiracy against the state and Article 160 KUHP on incitement.

<sup>xxxiii</sup> The most common fabricated charge against activists was Article 106 of the Indonesian Criminal Code (KUHP) on treason in the context of West Papua. The article appeared in 74% of the charges or indictments of documented criminalisation cases in 2019 and 2020. Another frequently invoked provision, applied in 57% of cases, was Article 110 of KUHP on criminal conspiracy. Article 160 of KUHP on incitement was employed in 14% of cases. Other vague legal provisions that repeatedly appeared in the context of criminalisation were Article 28 (2) of Electronic Information and Transactions Law No. 11/2008 (ITE Law) on hate speech and Articles 1 and 2 of Emergency Law No. 12/1951 on unlawful possession of sharp weapons and firearms.

<sup>xxxiv</sup> Such violations of the detainees’ right to health occurred during [detention of KNPB spokesperson, Victor Yeimo](#), and a KNPB activist named [Kristian Yandun who passed away during police detention](#) on 27 February 2021 after his [request for medical attention during detention was ignored](#) for almost one month.

<sup>xxxv</sup> Cases of negligence were reported in at least three cases, while torture or ill-treatment during arrest or detention was committed against at least 18 activists between 2019 and 2020.