

# ASSESSMENT REPORT ON THE CONFLICT IN THE WEST PAPUA REGION OF INDONESIA

AN OVERVIEW OF THE ISSUES AND RECOMMENDATIONS  
FOR THE INTERNATIONAL COMMUNITY



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## Executive Summary

The area including the Indonesian provinces of 'Papua' and 'West Papua' (referred to collectively as 'the West Papua region' or 'West Papua' in this report) covers the western part of the island of New Guinea and borders Papua New Guinea to the east.<sup>1</sup> The area became part of the Dutch colonial territory known as the Netherlands Indies in the 19th century. When the Netherlands Indies gained its independence as Indonesia in 1945 (internationally recognised in 1949), disagreements ensued between the newly formed country and the Netherlands on whether West Papua should be part of Indonesia. Tension escalated and open conflict broke out between the two states.



Location of West Papua region of Indonesia

At the beginning of the sixties, the United States took an active role in the management of the crisis. As the Cold War intensified, the US made it a priority to ensure that Indonesia would not be driven towards the Soviet Union. Under American supervision, the Netherlands and Indonesia signed the New York Agreement, according to which the administration of the West Papua region would be assigned to the United Nations for a short time, and would then pass to Indonesia.

<sup>1</sup> The area was split into two provinces called 'Papua' and 'West Papua', in 2003. Before then, the Indonesian government referred to it as Irian Jaya.

In the years between the 1940s and the 1960s, Indonesia's politics had declined from constitutional democracy to an authoritarian regime. After the UN withdrawal, Indonesia's President Sukarno banned all political parties and activities, and clashes started breaking out between Papuans and Indonesian military units. It is estimated that from the beginning of the UN administration to the consultation that took place in 1969, the Indonesian military killed thousands of Papuans.<sup>2</sup>

In 1967, Sukarno stepped down and Suharto became Indonesia's second president. The regime change was accompanied by brutal anti-communist massacres organised by the military, and ushered in a period of military-backed rule that brought human rights abuse to many parts of the country. Before any consultation with Papuans about the future political status of the region had taken place, the Indonesian government signed a concession with mining corporation Freeport, granting them mining rights over 250,000 acres for thirty years.<sup>3</sup>

The consultation on whether the West Papua region would become an independent country or join Indonesia took place in 1969 - the so-called 'Act of Free Choice'. The New York Agreement established the 'eligibility of all adults' and required that the vote should be carried out 'in accordance with international practice', which, in turn, explicitly required a 'one man one vote' system.<sup>4</sup> However, Indonesian military officials selected 1,022 representatives, who voted in favour of West Papua becoming part of Indonesia. Several foreign observers and Papuans reported that Indonesian forces threatened the chosen

<sup>2</sup> Robinson, Jennifer. 2010. 'Self-Determination and the Limits of Justice: West Papua and East Timor, Future Justice.' *Future Justice*. Accessed October 20, 2013. [www.futureleaders.com.au/book\\_chapters/pdf/Future\\_Justice/Jennifer\\_Robinson.pdf](http://www.futureleaders.com.au/book_chapters/pdf/Future_Justice/Jennifer_Robinson.pdf).

<sup>3</sup> Abrash, Abigail. *Development Aggression: Observations on Human Rights Conditions in the PT Freeport Indonesia Contract of Work Areas, With Recommendations 9-10* (Robert F. Kennedy Memorial Center for Human Rights, July 2002).

<sup>4</sup> 1960 UN Resolution 1541, Principle IX of the annex

representatives and that Papuans did not want their territory to become part of Indonesia. British diplomatic officials reported that '[privately] ... we recognise that the people of West [Papua] have no desire to be ruled by the Indonesians ... that that process of consultation did not allow a genuinely free choice to be made' and that the vote was a 'foregone conclusion'.<sup>5</sup> Narasimhan, former UN Under Secretary, later claimed that the process was a 'whitewash'.<sup>6</sup> Jack W. Lydman, from the American Embassy, stated that members of the UN mission had privately conceded that 95 percent of the Papuans were in favour of independence.<sup>7</sup> Despite this, West Papua has since been part of Indonesia.

Under President Suharto, the Indonesian military engaged in extremely violent operations, leaving thousands of civilian victims behind. The Indonesian government pursued a process of so-called 'Indonesianisation', trying to incorporate Papuans into the Indonesian nation-state through the education system, the media, economic development and transmigration.<sup>8</sup> The latter consisted in the transfer of many Indonesian families to West Papua. It led to the displacement and deaths of thousands of Papuans. In 1981 the Indonesian military launched Operation Clean Sweep, which aimed at forcing Papuans out of their lands and relocating transmigrants in the area.<sup>9</sup> It is estimated that between 2,500 and

13,000 people lost their lives during the operations.<sup>10</sup>

From the nineties, an increasing number of self-financed migrants also started settling in the region. They moved for economic reasons and mainly arrived from eastern Indonesia. This led to dramatic changes in the demographics of the region. It is estimated that migrants now make up around 50% of the population in West Papua.<sup>11</sup> Migration has led to structural discrimination in employment: while indigenous Papuans struggle to find work, migrants can easily find occupations.<sup>12</sup>

In 2001 the Indonesian government approved the Special Autonomy Law for Papua. This has given Papuans a higher degree of fiscal and administrative autonomy, and increased the number of Papuans in positions of leadership. However, the military control has remained tight. The funds are not employed on the most urgent goals, such as education, health and public infrastructure, and the policy has favoured the Papuan elites, but not the wider population, leading to an increased gap between wealthy and indigent Papuans.<sup>13</sup>

Many thought that the election of Joko Widodo as Indonesian President in 2014 would mark a change in the relationship between Jakarta and West Papua. President Widodo promised to visit Papua regularly in order to gain an understanding of

<sup>5</sup> British Embassy to D. le Breton, 'West Irian', March 17, 1969, FCO 24/447; Robinson, Jennifer. 'Self-determination and the limits of justice: West Papua and East Timor.' *Future Justice*, 2010

<sup>6</sup> Robinson, Jennifer, 'The UN's chequered record in West Papua', *Al Jazeera*, <http://www.aljazeera.com/indepth/opinion/2012/03/201232172539145809.html>. Last accessed on 24/02/2016

<sup>7</sup> Summary of Jack W. Lydman's report, July 18, 1969 in NAA. Extracts given to author by Anthony Balmain, From Saltford, John. *The United Nations and the Indonesian takeover of West Papua, 1962-1969: the anatomy of betrayal*. Routledge, 2003.

<sup>8</sup> Gietzelt, Dale. 'The Indonesianization of West Papua.' *Oceania* 59.3 (1989): 201-221.

<sup>9</sup> Human Rights Watch, *Out of Sight Endemic Abuse and Impunity in Papua's Central Highlands* (2007), <https://www.hrw.org/report/2007/07/04/out-sight/endemic-abuse-and-impunity-papuas-central-highlands>. Last accessed on 24/02/2016

<sup>10</sup> The lower estimate was provided by the Papua New Guinea government, while the higher estimate was given by Dutch journalists. Osborne, Robin. *Indonesia's Secret War, (Crow's Nest, Australia: Allen and Unwin, 1985), 87-88.*

<sup>11</sup> Elmslie, Jim. West Papuan Demographic Transition and the 2010 Indonesian Census: 'slow Motion Genocide' Or Not?. Centre for Peace and Conflict Studies, 2010.

Unrepresented Nations And Peoples Organisation, 'West Papua: Indonesian Transmigration Program Further Marginalizes the Indigenous Population', <http://unpo.org/article/17676> Last accessed 17/04/2016  
International Work Group for indigenous Affairs, 'Indigenous Peoples in West Papua', <http://www.iwgia.org/regions/oceaniapacific/west-papua> Last accessed 17/04/2016

<sup>12</sup> Wing, John Robert, and Peter King. *Genocide in West Papua?: The role of the Indonesian state apparatus and a current needs assessment of the Papuan people*. Breakout Design & Print (2005)

<sup>13</sup> Widjojo, Muridan Satrio. *Papua Road Map: Negotiating the Past, Improving the Present, and Securing the Future*. Kerja sama LIPI, Yayasan Tifa, dan Yayasan Obor Indonesia, 2009.

Papuans' needs, announced the end of restrictions on the access of foreign media, released five Papuan political prisoners,<sup>14</sup> and planned several new investments in infrastructures and development projects.<sup>15</sup> However, the promises made on media access have not been followed by official instructions and several political prisoners remain behind bars.<sup>16</sup> Widodo also initiated a regulation increasing military operations in the West Papua region, and appointed Ryamizard Ryacudu as Minister of Defence. The latter is a General of the Indonesian army, responsible for several civilian victims in Aceh. He also attracted public attention in light of controversial statements on West Papua: when members of the Special Forces killed Papuan separatist leader Theys Eluay, he called the perpetrators 'Indonesian heroes' praising them for killing a 'rebel'.<sup>17</sup>

## Human Rights and Development

Since West Papua was incorporated into Indonesia, Papuans have been subject to extremely serious human rights violations. Underlying the human rights abuses in West Papua is the fact that the region is *de facto* controlled by the Indonesian military. It is estimated that around 15,000 troops are currently deployed in the West Papua region.<sup>18</sup>

The number of Papuans killed by Indonesian security forces since 1969 is not known, since the restrictions on access of international observers

make it difficult to collect evidence on the matter.<sup>19</sup> Estimates are highly uncertain, but victims may be in the tens or hundreds of thousands. The most commonly cited is the figure of 100,000 people directly killed since 1963.<sup>20</sup> The International Coalition for Papua documented 22 extra judicial killings between April 2013 and December 2014.<sup>21</sup> More than four hundred cases of torture were counted in the region from 1963 to 2010.<sup>22</sup> Papuans are often arrested for peacefully expressing their opinion about the political status of West Papua. Between April 2013 and December 2014, the human rights organisation Papuans Behind Bars reported 881 political arrests and 370 cases of ill treatment.<sup>23</sup> Police officials accused of human rights abuses in Papua are not subject to adequate civil investigations and violations against Papuans are often left unpunished.<sup>24</sup>

Until very recently, foreign journalists needed to obtain approval from 18 government agencies in order to enter the region. Applications were often denied, delayed or rejected. In 2015 President Joko Widodo claimed that the Government would lift restrictions on access to foreign journalists. However, the promise has not been followed by official instructions, and was repeatedly

<sup>14</sup> International Coalition for West Papua, *Human Rights in West Papua 2015*, (2015), <http://www.humanrightspapua.org/images/docs/HumanRightSPapua2015-ICP.pdf>. Last accessed, 24/2/2016; Human Rights Watch, *Something to Hide? Indonesia's Restrictions on Media Freedom and Rights Monitoring in Papua*, (2015), [https://www.hrw.org/sites/default/files/report.../indonesia1115final\\_0.pdf](https://www.hrw.org/sites/default/files/report.../indonesia1115final_0.pdf). Last accessed, 24/2/2016

<sup>15</sup> Anonymous, 'Papuans and Jokowi are hostage to Indonesian politics', *The Conversation*, <https://theconversation.com/papuans-and-jokowi-are-hostage-to-indonesian-politics-42251>. Last accessed, 24/2/2016.

<sup>16</sup> See Section 2 below for more details.

<sup>17</sup> International Coalition for West Papua, *Human Rights in West Papua 2015*, (2015), <http://www.humanrightspapua.org/images/docs/HumanRightSPapua2015-ICP.pdf>. Last accessed, 24/2/2016.

<sup>18</sup> Elmslie, Jim, Camellia Webb-Gannon, and Peter King. 'Anatomy of an Occupation: The Indonesian Military in West Papua.' (2011).

<sup>19</sup> Smith, Claire Q. 'Two similar civil wars; two different endings.' *How Mass Atrocities End: Studies from Guatemala, Burundi, Indonesia, the Sudans, Bosnia-Herzegovina, and Iraq*: 83.

<sup>20</sup> Smith, Claire Q. 'Two similar civil wars; two different endings.' *How Mass Atrocities End: Studies from Guatemala, Burundi, Indonesia, the Sudans, Bosnia-Herzegovina, and Iraq*: 83. See, for example, Wing, J. and P. King 2005. *Genocide in West Papua? The Role of the Indonesian State Apparatus and a Current Needs Assessment of the Papuan People*. Sydney: West Papua Project at the Centre for Peace and Conflict Studies, The University of Sydney

<sup>21</sup> International Coalition for West Papua, *Human Rights in West Papua 2015*, (2015), <http://www.humanrightspapua.org/images/docs/HumanRightSPapua2015-ICP.pdf>. Last accessed, 24/2/2016

<sup>22</sup> Hernawan, Budi. 'Torture in Papua: A Spectacle of Dialectics of the Abject and the Sovereign' in Peter King, Jim Elmslie and Camellia Webb-Gannon (eds), *Comprehending West Papua*, Centre for Peace and Conflict Studies. University of Sydney, 2011, pp. 339-57.

<sup>23</sup> International Coalition for West Papua, *Human Rights in West Papua 2015*, (2015), <http://www.humanrightspapua.org/images/docs/HumanRightSPapua2015-ICP.pdf>. Last accessed, 24/2/2016.

<sup>24</sup> Amnesty International, *Papua Digest*, (2013), <https://www.amnesty.org.uk/resources/papua-campaign-digest#Vs3MifmLTIU>. Last accessed 24/2/2016

contradicted by statements made by other Indonesian authorities.<sup>25</sup> Indonesia has also obstructed the activities of several NGOs working in the region and blocked access to United Nations representatives, including the UN Special Rapporteur on the promotion and protection of the right to freedom of Opinion and Expression and the Regional Representative of the High Commissioner for Refugees.<sup>26</sup>

West Papua is extremely rich in natural resources, including forest, oil, gas, copper, and gold.<sup>27</sup> Papuans have traditionally relied on forests for their livelihood.<sup>28</sup> However, the forests are coming increasingly under threat from mining, logging and planting oil palms. The Grasberg mining complex in West Papua is the world's largest gold reserve. It is run and mostly owned by American company Freeport, while British-Australian multinational Rio Tinto has a joint venture for a share of production.<sup>29</sup> The mine has extremely serious environmental repercussions for the surrounding area. A New York Times article in 2005 reported Freeport paid the Indonesian military almost \$20 million between 1998 and 2004.<sup>30</sup> BP started operations in the West Papua region in 2005, at

the Tangguh Liquefied Natural Gas project. The company employs the services of the Indonesian Police Force, which has also been accused of perpetrating human rights violations.<sup>31</sup>

The West Papua region has the highest poverty rates and the lowest levels of human development in the country.<sup>32</sup> While schools and hospitals are built, health and education services are extremely ineffective, due to poor management, lack of accountability and absenteeism.<sup>33</sup>

### Political and Economic Context

West Papua remains of concern to the international community. Concerns have resonated more loudly in the immediate Melanesian region. The United Liberation Movement for West Papua (ULMWP) was recently admitted as an observer to the Melanesia Spearhead Group (MSG), a regional organisation that focuses on economic growth, sustainable development, good governance and security.<sup>34</sup> In October 2015, West Papua's case was brought to the attention of the United Nations General Assembly by the Prime Ministers of the Solomon Islands<sup>35</sup> and Tonga.<sup>36</sup> West Papua is also attracting increasing support from civil society in the Pacific

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<sup>25</sup> Human Rights Watch, *Something to Hide? Indonesia's Restrictions on Media Freedom and Rights Monitoring in Papua* (2015)  
[https://www.hrw.org/sites/default/files/report.../indonesia1115final\\_0.pdf](https://www.hrw.org/sites/default/files/report.../indonesia1115final_0.pdf)

<sup>26</sup> Human Rights Watch, *Something to Hide? Indonesia's Restrictions on Media Freedom and Rights Monitoring in Papua* (2015); p1  
[https://www.hrw.org/sites/default/files/report.../indonesia1115final\\_0.pdf](https://www.hrw.org/sites/default/files/report.../indonesia1115final_0.pdf). Last accessed, 24/3/2016.

<sup>27</sup> Tebay, Neles. *Dialogue Between Jakarta and Papua: A perspective from Papua*. Missio, (2009)

<sup>28</sup> The Alliance of Independent Journalists - Jayapura, National Papuan Solidarity, Tapol, The Asian Human Rights Commission, Human Rights and Peace for Papua, West Papua Netzwerk, *Human Rights in West Papua* (2014), [www.europarl.europa.eu/meetdocs/...wpapua\\_/132\\_wpapua\\_en.pdf](http://www.europarl.europa.eu/meetdocs/...wpapua_/132_wpapua_en.pdf). Last accessed, 24/2/2016.

<sup>29</sup> 'Rio Tinto improves policies based on dialogue with GES and investor' *Rio Tinto website*, <http://www.riotinto.com/copperandcoal/grasberg-4743.aspx>; <http://www.ges-invest.com/press-room/news-events/2013/rio-tinto-improves-policies-based-on-dialogue-with-ges-and-investors/>. Last accessed 11/12/2015

<sup>30</sup> New York Times, *Below a Mountain of Wealth a River of Waste*, (2005), <http://www.nytimes.com/2005/12/27/world/asia/below-a-mountain-of-wealth-a-river-of-waste.html>. Last accessed 24/3/2016.

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<sup>31</sup> The Sunday Times, *Indonesian Troops for BP Gas Project*, (2003), [http://www.thesundaytimes.co.uk/sto/news/world\\_news/article223564.ece](http://www.thesundaytimes.co.uk/sto/news/world_news/article223564.ece). Last accessed, 24/2/2016.

<sup>32</sup> The Alliance of Independent Journalists - Jayapura, National Papuan Solidarity, Tapol, The Asian Human Rights Commission, Human Rights and Peace for Papua, West Papua Netzwerk, 'Human Rights in West Papua' (2014), [www.europarl.europa.eu/meetdocs/...wpapua\\_/132\\_wpapua\\_en.pdf](http://www.europarl.europa.eu/meetdocs/...wpapua_/132_wpapua_en.pdf). Last accessed, 24/2/2016.

<sup>33</sup> International Coalition for West Papua, *Human Rights in West Papua 2015*, (2015), <http://www.humanrightspapua.org/images/docs/HumanRightsPapua2015-ICP.pdf>. Last accessed, 24/2/2016.

<sup>34</sup> Agreement Establishing The Melanesian Spearhead Group, <http://www.msgsec.info/index.php/publication/reports?download...agreement>. Last accessed on 17/04/2016

<sup>35</sup> Solomon Star, 'Sogavare urges UN to address West Papua' <http://www.solomonstarnews.com/news/national/8589-sogavare-urges-un-to-address-west-papua> Last accessed 18/04/2016

<sup>36</sup> Civil society Forum of Tonga, 'Tonga Prime Minister, Hon. Samiuela 'Akilisi Pohiva Speech at United Nation', <http://www.csft.to/?p=1157> Last accessed 17/04/2016

area, including PNG, the Solomon Islands, Fiji, Vanuatu, New Caledonia<sup>37</sup> and Australia<sup>38</sup>.

West Papua has also attracted attention on a wider international level: for instance, in 2008 politicians from around the world formed the 'International Parliamentarians for West Papua' group, to support self-determination for the West Papua region.<sup>39</sup> Nobel Peace Prize Laureate Archbishop Desmond Tutu has also repeatedly supported Papua's case.<sup>40</sup>

Investors have started to question the ethical implications of supporting the Indonesian government in West Papua. This situation has affected British companies based in the region. In 2006 and 2007 the Norwegian Government Pension Fund divested from Rio Tinto on the basis of the environmental damage caused by the Grasberg mine.<sup>41</sup> In 2012, the New Zealand Superannuation Fund divested from Freeport. The choice was due to reports of human rights violations by security forces around the Grasberg mine, and concerns over payments to government security forces.<sup>42</sup> In 2013, the Swedish national

pension fund divested from Freeport. The Ethical Council, which advised the fund, reported that Freeport's mining operations in Papua had adverse environmental impacts that contravened UN standards.<sup>43</sup> BP has also begun to suffer reputational costs for its activities in West Papua.<sup>44</sup>

### Future Scenarios

It is possible to envisage different pathways through which a resolution of the conflict could eventually be achieved. Indonesia's preferred route is through Special Autonomy legislation. Any significant improvement to existing Special Autonomy arrangements would require departure of the Indonesian military, active international mediation, recognition of local parties and active involvement of the public in West Papua in the drafting of a new law.

Another route consists in encouraging dialogue between Jakarta, Papuan exiles, and civil society groups working in West Papua. Initiatives such as the Papuan Peace Network and the Papua Road Map have attempted to establish Papua as a 'land of peace'.<sup>45</sup> However, the parties have divergent

<sup>37</sup> The Jakarta Post, *Addressing the Papua Issue in the Pacific*, (2015), <http://www.thejakartapost.com/news/2015/03/05/addressing-papua-issue-pacific.html#sthash.WJdgpFw.dpuf>. Last accessed, 24/3/2016.

<sup>38</sup> For instance, the West Papua Freedom Flotilla has recently organised two maritime civil society direct actions, delivering sacred water and ashes from Australia to West Papuan leaders, and gaining media attention for the situation in West Papua; *Salvaging Democracy for West Papuans in the Face of Australia- Indonesia Obstruction; Freedom Flotilla, West Papua Freedom Flotilla Direct Action 2015*, (2015), <http://freedomflotillawestpapua.org/2015/06/03/west-papua-freedom-flotilla-direct-action-2015/>. Last accessed, 24/3/2106.

<sup>39</sup> International Parliamentarians for West Papua, <http://ipwp.org/background/>. Last accessed, 24/2/2016.

<sup>40</sup> Pacific Scoop, *Tutu Calls for Review of West Papuan Self-Determination*, (2015), <http://pacific.scoop.co.nz/2015/03/tutu-calls-for-review-of-west-papuan-self-determination/>. Last accessed, 24/2/2016.

<sup>41</sup> Al Jazeera, *Mining Companies Funded Indonesian Abuses*, (2011), <http://www.aljazeera.com/indepth/opinion/2011/08/2011828142858857222.html>. Last accessed, 24/2/2016.

<sup>42</sup> New Zealand Super Fund, *New Zealand Superannuation Fund Excludes Four Companies on Responsible Investment Grounds*, (2012), <https://www.nzsuperfund.co.nz/news-media/new-zealand-superannuation-fund-excludes-four-companies-responsible-investment-grounds>. Last accessed, 2/2/2016.

<sup>43</sup> Environment News Service, *Swedish Pension Funds Divest Freeport McMoran Holdings*, (2013), <http://ens-newswire.com/2013/10/18/swedish-pension-funds-divest-freeport-mcmoran-holdings/>. Last accessed, 2/2/2016.

<sup>44</sup> The Guardian, *300 Protesters Remind BP of Indonesia Pledge*, (2004), <http://www.theguardian.com/business/2004/dec/09/indonesia.a.oilandpetrol>. Last accessed, 2/2/2016.

The Financial Times, *Posh Sandwiches and Some Serious Fun at BP's Expense*, (2005), <http://www.ft.com/intl/cms/s/0/10e4f54a-ae14-11d9-9c30-00000e2511c8.html#axzz3vchTUj00>. Last accessed, 2/2/2016. Corporation Research Project, *BP: Corporation Rap Sheet*, (2015), <http://www.corp-research.org/BP>. Last accessed, 2/2/2106.

BP or Not BP? *Edinburgh Festival Performers join BP Protest*, (2015), <http://bp-or-not-bp.org/news/edinburgh-festival-performers-join-bp-protest/>; <http://bp-or-not-bp.org/news/bp-sponsored-ballet-hit-by-triple-protest/>. Last accessed, 24/2/2016.; The Guardian, *Enduring Controversy: BP Sponsorship Ignites New Row over British Museum's Indigenous Exhibition*, (2015), <http://www.theguardian.com/australia-news/postcolonial-blog/2015/jul/21/enduring-controversy-bp-sponsorship-ignites-new-row-over-british-museums-indigenous-exhibition>. Last accessed, 2/2/2016.

<sup>45</sup> East Asia Forum, *Papua's Uncertain Future under the next Indonesian Government*, (2014), <http://www.eastasiaforum.org/2014/04/04/papuas-uncertain-future-under-the-next-indonesian-government/>. Last



opinions about the agenda and aims of the process: for instance, several indigenous Papuans want to discuss the possibility of calling a referendum, while Jakarta sees dialogue as a route to Special Autonomy. Once again, international mediation might help the parties to make progress in agreeing a common agenda for discussion.

An important part of Papuan grievances are linked to the 1969 Act of Free Choice, which, as highlighted in Section 1, is widely reported not to have been a genuine consultation. Because of this, several Papuans and supporters of the Papuan independence movement ask for a second consultation to take place.<sup>46</sup> A possible scenario is that Papuan organisations will decide to set up a referendum without Indonesia's approval. If such a situation were to arise, the international community would need to work with both sides from an early stage in order to secure Indonesian approval for a peaceful and internationally monitored referendum, in order to avoid potentially wide-scale violence and loss of life. A key question to be addressed in advance of any referendum, given the large number of non-Papuans now living in the region, is the question, who should be eligible to vote?

The situation might also move forward through the involvement of international institutions. One possible path consists in seeking a solution through the United Nations, and in particular through the Special Committee on Decolonisation or through the International Court of Justice. The case can also be pursued through international institutions working on indigenous rights, such as the Permanent Forum on Indigenous Issues.

In the event that a referendum led to the establishment of an independent Papua, this

would have the advantage that the Indonesian military, which have been at the centre of the conflict, would no longer be present. An independent Papua would face several significant challenges related to ethnic divisions, administrative capacity, infrastructure and security, and would require the support of the international community in order to overcome these challenges.

### Recommendations

In light of the findings of this report, we recommend that parliamentarians and members of the international community consider taking the following actions to facilitate a resolution of the ongoing conflict and human rights violations in West Papua.

#### **1. Ask questions in national parliaments and international organisations on the issues outlined in this report, especially concerning human rights and development**

Focusing in particular on killings, torture, freedom of expression, police impunity, media and civil society access, discrimination, land and indigenous rights, health and education (as discussed in Section 2 of the report).

#### **2. Support a resolution in parliament asking for the national government to play a more active role in the solution of the conflict in West Papua**

The status quo in the West Papua region of Indonesia is not only unsustainable from a moral and political perspective, but also continues to threaten stability in the Pacific region.

#### **3. Organise a parliamentary delegation to be sent to the West Papua region**

Scrutiny by international representatives is crucial to ensure that basic human rights are protected in the region.

#### **4. Call for free access of media, non-governmental organisations, foreign academics and foreign observers in West Papua**

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accessed, 24/2/2016.; The Indonesian Institute of Sciences, *Papua Road Map*, (2008), [https://sydney.edu.au/arts/peace\\_conflict/docs/PAPUA\\_ROAD\\_MAP\\_Short\\_Eng.pdf](https://sydney.edu.au/arts/peace_conflict/docs/PAPUA_ROAD_MAP_Short_Eng.pdf). Last accessed, 24/2/2016.

<sup>46</sup> The relationship between legitimacy and different varieties of consent is explored in 'When Consent Doesn't Work: A Rights-Based Case for Limits to Consent's Capacity to Legitimise', Hyams, K. (2011), *Journal of Moral Philosophy*, 8 (1). pp. 110-138.; Hyams, K. 'Rights, Exploitation, and Third Party Harms: Why Background Injustice Matters to Consensual Exchange', *Journal of Social Philosophy*, 2012, 43: 113-124.

Indonesian President Joko Widodo has recently stated that the government would lift restrictions on access to foreign journalists. While this is a positive sign, the promise has not been followed by official instructions, and statements made on the topic by Indonesian authorities since have been ambiguous.

### 5. Call for the release of political prisoners

Papuans are often arrested for peacefully expressing their opinion about the political status of the West Papua region. Between April 2013 and December 2014, the human rights organisation Papuans Behind Bars reported 881 political arrests and 370 cases of ill treatment. President Widodo recently granted clemency to five political prisoners, but (as of November 2015) 38 still remained behind bars.

### 6. Press for visits by the UN Special Rapporteur on freedom of opinion and expression and the UN Special Rapporteur on torture

In 2013, the UN Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Frank La Rue, was denied access to Papua. Given the situation in the region, a visit should be arranged promptly. After their visit to West Papua in 2007, the UN Special Rapporteur on Torture gave worrying reports to the UN Human Rights Council. A follow up visit should be arranged to ensure that circumstances have improved.

### 7. Press for the reinstatement of NGOs in Papua

In 2011 the government forced the Peace Brigades International to end its work in West Papua, by refusing its volunteers the permit to travel in rural areas.<sup>47</sup> In recent years, Amnesty International and HRW have also been routinely denied visas.<sup>48</sup> In 2010 the authorities banned the NGO Cordaid, on

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<sup>47</sup> Human Rights Watch, *Something to Hide? Indonesia's Restrictions on Media Freedom and Rights Monitoring in Papua* (2015); [https://www.hrw.org/sites/default/files/report.../indonesia1115final\\_0.pdf](https://www.hrw.org/sites/default/files/report.../indonesia1115final_0.pdf)

<sup>48</sup> Harvey, Gemima. 'The Price Of Protest In West Papua.' *Griffith Journal of Law & Human Dignity* 3.1 (2015).

the basis that it had supported Papuan activists. In 2009, the authorities ordered the International Committee of the Red Cross to shut down its offices in Jayapura.<sup>49</sup> Non-governmental organisations provide important support to the region and should be allowed to operate there.

### 8. Support the development of Papuan administrators and the Papuan exile community

The development of competent administrators in West Papua is essential to ensure that West Papua can deal with the pressing problems it faces, including the lack of basic infrastructure and minimal welfare services. Support could be provided through training and by sharing expertise with the provincial and local governments in the West Papua region, as well as setting up scholarships giving young Papuans the opportunity to gain the skills needed to effectively administer the region. In addition, supporting the development the exile community will facilitate constructive dialogue between the parties and governance capacity.

### 9. Help companies working in the West Papua region to implement security strategies that are not complicit in human rights violations taking place in the region

Embassies and governments should use their influence to ensure that businesses avoid giving any support to Indonesian police or military forces, which are complicit in human rights violations.

### 10. Halt all training and delivery of military equipment to Indonesian military and police forces until reliable mechanisms are put in place to verify their adherence to human rights standards; if in the future training does take place, include rigorous human rights training in the programmes

Despite evidence of human rights violations perpetrated by the Indonesian army in the region,

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<sup>49</sup> Human Rights Watch, *Something to Hide? Indonesia's Restrictions on Media Freedom and Rights Monitoring in Papua* (2015); [https://www.hrw.org/sites/default/files/report.../indonesia1115final\\_0.pdf](https://www.hrw.org/sites/default/files/report.../indonesia1115final_0.pdf)

governments continue to sell arms to the Indonesian government, and have been involved in the training of two Indonesian counter-terrorism units: Kopassus and Detachment 88. The former is an elite unit of the Indonesian military, the latter of the national police. Both forces have been employed in the West Papua region and are responsible for serious human rights violations in the area.

**11. Convene a parliamentary meeting with NGOs and advocacy groups to discuss what the government can do to facilitate a resolution to the situation in West Papua**

It is essential to bring together different stakeholders to engage in an ongoing and informed conversation about how to most effectively improve the situation in the West Papua region.

**12. Support rigorous academic research on the current situation in West Papua and possible pathways to a resolution of the conflict**

There remain many significant unknowns about the political and social situation in West Papua, especially concerning the status of the non-Papuan population in the region, different ways in which the situation can be improved, and the lessons that can be learned from similar international cases.

**13. Encourage key Indonesian political and economic actors to engage in an open discussion on the situation in West Papua**

It is essential to engage with Indonesian industry, ministries, parliamentarians, and advisors to the President to press them to address the Papuan issue and to encourage discussion on the situation in West Papua both internally and with Papuan advocacy groups.

## Section 1

### Historical Background

#### From Dutch rule to 1969

The area including the Indonesian provinces of ‘Papua’ and ‘West Papua’ (referred to as ‘the West Papua region’ or ‘West Papua’ in this report) covers the western part of the island of New Guinea, bordering Papua New Guinea to the east.<sup>50</sup> Indigenous Papuans are Melanesians, as are most people in the South Pacific (including those living in Papua New Guinea, Vanuatu, the Solomon Islands, New Caledonia, and Fiji, as well as Malukan or Timorese groups in Indonesia). They are internally very diverse, including over 300 ethno-linguistic groups.

Papuan peoples have inhabited the West Papua region for at least forty-two thousand years.<sup>51</sup> The territory was slowly drawn under the Netherlands’ sphere of influence. By the end of the 19th century, the Dutch had established permanent administrative centres in the region.

Indonesian nationalists, headed by Sukarno, proclaimed independence in 1945. Following the international convention that decolonisation should preserve colonial boundaries, the Indonesian nationalists included the West Papua region in the list of territories which would form the newly born country. The Indonesian declaration of independence marked the beginning of a four-year war between the Indonesians and the Dutch. The conflict ended when Indonesia obtained international recognition as an independent state at the Hague Round Table Conference in 1949. However, disagreements still ensued on the status of the West Papua region. During the conference, Indonesia argued that the region should be included in the new independent state, but the Dutch refused to cede the territory.

<sup>50</sup> The area was split in the two provinces called ‘Papua’ and ‘West Papua’, in 2003. Before then, the Indonesian government referred to it as Irian Jaya.

<sup>51</sup> Gillespie, Richard. Dating the First Australians, *Radiocarbon*, 2, 44, 2002: 455–72.

The Indonesians claimed the region on the basis that it was administered as part of the Dutch East Indies, the Dutch colonies that had claimed independence as Indonesia. The Dutch refusal was based on a variety of different considerations: to begin with, the Dutch claimed that Papuans had a different ethnicity, history and religion from the Indonesian archipelago; they had been administered as part of the Dutch East Indies because the limited Dutch presence had not required an independent colonial administration.<sup>52</sup> Moreover, Indonesian nationalism had not had a strong influence in the West Papua region<sup>53</sup> and Papuans’ representatives had made it clear they did not wish to be incorporated in the Indonesian state.<sup>54</sup> The Dutch also had an interest in keeping the territory to give Dutch citizens born in the Dutch East Indies the opportunity of remaining in the region. The Dutch hoped to salvage some national pride after the ‘loss’ of most of the rest of the colony and were aware of the presence of significant natural resources in the area.<sup>55</sup> Since it was not possible to come to an agreement, it was decided that further negotiations would be needed, and that a solution should be found within a year.

However, no compromise was found in the years that followed and relations between Indonesia and the Netherlands rapidly deteriorated. Indonesia expelled all Dutch citizens from its territory, seizing and nationalising their businesses. Indonesia started building up its military capacity, acquiring an increasingly large number of weapons from the

<sup>52</sup> Robinson, Jennifer. Self-determination and the limits of justice: West Papua and East Timor. *Future Justice*, 2010; *The United Nations and the Indonesian takeover of West Papua, 1962-1969: the anatomy of betrayal*. Routledge, ed. Saltford, John, 2003.

<sup>53</sup> Drooglever, Pieter. *An Act of Free Choice: Decolonisation and the Right to Self-Determination in West Papua, One World*, 2009.

<sup>54</sup> Allard K Lowenstein International Human Rights Clinic, Yale Law School, *Indonesian human rights abuses in West Papua: Application of the law of genocide to the history of Indonesian control*, 2004.

<sup>55</sup> Drooglever, Pieter. *An Act of Free Choice: Decolonisation and the Right to Self-Determination in West Papua, One World*, 2009.

Soviet Union. Meanwhile, the West Papua region was recognised by the UN as a non-self-governing territory – a region officially subject to a process of decolonisation. The Dutch administration carried on an intensive process of nation building in the West Papua region, channelling resources towards the creation of an independent Papuan elite.

At the beginning of the sixties, the tension between Indonesia and the Netherlands broke into open conflict. President Sukarno called for Indonesians to liberate Papua, and the Indonesian and Dutch navies clashed off the coast of the region. Around this time, the United States started taking an active role in the management of the crisis. The US had initially been supportive of the Netherlands, promising support to the Dutch in case of emergency. They had also hoped to remove Sukarno from power, and supported the rebellions against the Indonesian Government at the end of the fifties. However, when Sukarno managed to control the uprisings, the United States changed their position. They accepted Sukarno's leadership and, as the Cold War intensified, made it a priority to ensure Indonesia would not be driven towards the Soviet Union.<sup>56</sup> J.F. Kennedy, who arrived at the White House in 1961, opted for direct involvement in the crisis. Robert Kennedy was tasked with persuading the parties to agree to start talks. The Dutch and Indonesians did agree, and the talks started in 1962. The UN acted as the official mediating power, although in practice the meetings were organised by the US and mediated by Bunker, an American diplomat.

During the talks, the Netherlands wished to ensure that a consultation would take place while the territory was administered by the United Nations. However, their bargaining position was not strong: American support had weakened, Indonesia kept sustaining its military pressure (to the point of sending hundreds of paratroopers to Papua), and decolonisation had gained momentum internationally. The Netherlands thus reluctantly signed the New York Agreement, according to which the administration of the West Papua region

would be assigned to the United Nations for a minimum of seven months, and then would pass to Indonesia. Under the latter administration, the Papuans would then have the right to express their opinion as to whether or not they wanted to be an independent country. The UN would 'advise, assist and participate' in the consultation, and the agreement established the 'eligibility of all adults, male and female, not foreign nationals, to participate in the act of self-determination to be carried out in accordance with international practice'. The agreement also explicitly required Indonesia to 'guarantee fully the rights, including the rights of free speech, freedom of movement and of assembly, of the inhabitants of the area.'<sup>57</sup>

The United Nations quickly took over administrative responsibilities in the territory. They lacked, however, the resources and ability to uphold a neutral administration. Indonesian military and police started moving to the region, and gained *de facto* control of the area. The UN left the West Papua region in May 1963, even though the Papuans asked them to stay and act as a supervisor to prevent human rights violations.<sup>58</sup> Before the consultation took place, Papua was removed from the list of non-self-governing territories.

In the years between the 1940s and the 1960s, Indonesian politics had declined from constitutional democracy towards authoritarianism, in step with a declining economy. After the UN withdrawal, Sukarno banned all political parties and activities.<sup>59</sup> Clashes started breaking out between Papuans and the Indonesian military. The military targeted both militants and civilians, and the situation rapidly deteriorated. From the beginning of the UN administration to the consultation that took place in 1969, the Indonesian military killed thousands of Papuans.<sup>60</sup> American ambassador to Indonesia,

<sup>57</sup> Article XXII and Article X of the New York Agreement.

<sup>58</sup> Allard K Lowenstein International Human Rights Clinic, Yale Law School, *Indonesian human rights abuses in West Papua: Application of the law of genocide to the history of Indonesian control*, 2004.

<sup>59</sup> Saltford, John. *The United Nations and the Indonesian takeover of West Papua, 1962-1969: the anatomy of betrayal*. Routledge, 2003.

<sup>60</sup> Robinson, Jennifer. 2010. 'Self-Determination and the Limits of Justice: West Papua and East Timor, Future Justice.' Future Justice. Accessed October 20, 2013. [www.futurelea](http://www.futurelea)

<sup>56</sup> Saltford, John. *The United Nations and the Indonesian takeover of West Papua, 1962-1969: the anatomy of betrayal*. Routledge, 2003

Frank Galbraith, claimed that the activity of the Indonesian military 'had stimulated fears ... of intended genocide among the [Papuan]s'<sup>61</sup> A 1969 FCO research memo stated that the Indonesian army had 'complete control' in Papua: 'Indonesian retaliation for Papuan attacks was savage', it went on.<sup>62</sup>

In 1967, Sukarno stepped down and Suharto became Indonesia's second president. The regime change was accompanied by brutal anti-communist massacres organised by the military, and ushered in a period of military-backed rule that brought human rights abuses to many parts of the country. Before any consultation about Papuan wishes took place, Suharto signed a concession with mining corporation Freeport, granting them mining rights over 250,000 acres for thirty years. The company acquired the power to take land and other property and to resettle indigenous inhabitants.<sup>63</sup> It was not placed under any legal obligation towards indigenous Papuans who inhabited the land and was not required to pay them compensation, nor to uphold any environmental standards.<sup>64</sup>

### The Act of Free Choice

The consultation on whether West Papua would become an independent country or join Indonesia took place in 1969. In 1968, the UN Representative Fernando Ortiz Sanz arrived in the region. His mandate was to 'advise, assist and participate' in the consultation. As mentioned above, the New York Agreement established the 'eligibility of all adults, male and female, not foreign nationals, to participate in the act of self-determination to be

carried out in accordance with international practice'. In turn, 'international practice' explicitly required a 'one person one vote' system.<sup>65</sup> While officially Ortiz Sanz could only accept a system of universal suffrage, he made it clear that he was in reality happy to endorse a 'mixed method', which envisaged that the urban population would vote directly, while people living in rural areas would participate through some form of collective consultation. The Indonesian Government, though, did not take up the suggestion. Rather, they opted for a fully indirect consultation system. The main reason why the Indonesian Government was able to depart from the New York Agreement to such an extent was that there was very little international pressure in support of the 'one person one vote' system. Evidence suggests that Dutch and UN officials had agreed that some form of indirect consultation would suffice.<sup>66</sup>

The indirect system employed for the consultation ensured that Indonesian authorities had extremely tight control over the process. When taking up the administration of the territory in 1963, they had set up regional councils, whose members were appointed by the Indonesians themselves. The government enlarged the councils, and entrusted these bodies with the decision over West Papua's independence. The new members, like the original ones, were selected under the strict supervision of Indonesian authorities.<sup>67</sup> UN delegates only observed the election of 195 out of the 1,022 representatives who participated in the final consultation.

As the consultation approached, the situation in the West Papua region became more and more tense. The New York Agreement explicitly required Indonesia to 'guarantee fully the rights, including the rights of free speech, freedom of movement and of assembly, of the inhabitants of the area.' But this was far from being the case. At the time of the consultation, Papuan political parties were banned

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ders.com.au/book\_chapters/pdf/Future\_Justice/Jennifer\_Robinson.pdf.

<sup>61</sup> Robinson, Jennifer. 'Self-determination and the limits of justice: West Papua and East Timor.' *Future Justice*, 2010.

<sup>62</sup> FCO Research Department, 'Prospects for West Irian and Papua/New Guinea', July 9, 1969, FCO 51/105.

<sup>63</sup> Abrash, Abigail. *Development Aggression: Observations on Human Rights Conditions in the PT Freeport Indonesia Contract of Work Areas, With Recommendations* 9-10 (Robert F. Kennedy Memorial Center for Human Rights, July 2002).

<sup>64</sup> Leith, Denise 'Freeport's troubled future', *Inside Indonesia*, <http://www.insideindonesia.org/freeports-troubled-future>. Last accessed 24/02/2016

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<sup>65</sup> 1960 UN Resolution 1541, Principle IX of the annex

<sup>66</sup> Saltford, John. *The United Nations and the Indonesian takeover of West Papua, 1962-1969: the anatomy of betrayal*. Routledge, 2003, p. 81

<sup>67</sup> Saltford, John. *The United Nations and the Indonesian takeover of West Papua, 1962-1969: the anatomy of betrayal*. Routledge, 2003

in the region.<sup>68</sup> In his report to the United Nations, Ortiz Sanz would later claim, ‘the Administration [Indonesia] exercised at all times a tight political control over the population.’<sup>69</sup> Before the consultation, thousands of people gathered in front of Ortiz Sanz’s house, to demonstrate in favour of a ‘one man one vote’ system and more than forty people were arrested following the event.<sup>70</sup> Violent uprisings broke out in the Western Central Highlands, and the Indonesian response led to fourteen thousand people having to flee to the bush. Ortiz Sanz asked his superiors to delay the consultation for a few months, ‘to provide us with a last opportunity for improving the democratic conditions.’<sup>71</sup> But the request was rejected. The consultation, known as ‘the Act of Free Choice’ took place in 1969. The representatives were asked to deliberate through the method called ‘musjawarah’, which requires consensus to be achieved. All councils voted in favour of Papua becoming part of Indonesia.

Several reports from foreign observers and Papuans suggested that it was not a free consultation. The representatives were kept under the control of Indonesian authorities, and away from their communities, for several weeks before the consultation. Some claimed they were threatened and bribed during this period. Reverend Hokujoku, one of the representatives in Jayapura, reported that Indonesian authorities told them they would not tolerate dissent and that they instructed some representatives that they should speak, giving them precise instruction on what to say.<sup>72</sup> Months before the Act of Free Choice took place, it was reported that a Major in the Indonesia army had threatened two hundred village chiefs by warning them as

<sup>68</sup> Janki, Melinda. ‘West Papua And The Right To Self-Determination Under International Law’, *West Indian Law Journal Vol 34 No. 1 May 2010*

<sup>69</sup> Appended to UN Document A/7723 paragraph 251

<sup>70</sup> Saltford, John. *The United Nations and the Indonesian takeover of West Papua, 1962-1969: the anatomy of betrayal*. Routledge, 2003.

<sup>71</sup> 126UN: Series 100, Box 1, File 1. Ortiz Sanz to Rolz-Bennett (cable No. UNRWI JKT-55), 12 May 1969. From Saltford, John. *The United Nations and the Indonesian takeover of West Papua, 1962-1969: the anatomy of betrayal*. Routledge, 2003.

<sup>72</sup> Saltford, John. *The United Nations and the Indonesian takeover of West Papua, 1962-1969: the anatomy of betrayal*. Routledge, 2003.

follows: ‘I am drawing the line frankly and clearly. I say I will protect and guarantee the safety of everyone who is for Indonesia. I will shoot dead anyone who is against us’.<sup>73</sup> A foreign diplomat reported that, in the Central Highlands, ‘a council member asked what would happen to him if he opted for Independence; the reply was that he would be shot.’<sup>74</sup> Eyewitnesses said in some areas Indonesian authorities would draw a line on the ground and Papuans would risk their life if they stepped over the line and expressed a vote in favour of independence.<sup>75</sup> Some of the chiefs’ families were left ‘in the care of the Government’,<sup>76</sup> to be released after the consultation.

British diplomatic officials reported that ‘[privately] ... we recognise that the people of West [Papua] have no desire to be ruled by the Indonesians ... and that that process of consultation did not allow a genuinely free choice to be made’, and that the vote was a ‘foregone conclusion’.<sup>77</sup> Narasimhan, former UN Under Secretary, later claimed the process was a ‘whitewash’.<sup>78</sup>

Various foreign visitors reported that Papuans did not want their territory to become part of Indonesia. Garth Alexander, a British journalist who visited Papua in 1968, informed British officials that the majority of Papuans were ‘very far from wishing to become integrated with the Republic of Indonesia. Of all the people he spoke to, and he met between three hundred and four hundred,

<sup>73</sup> May, Brian. *The Indonesian Tragedy*. London: Routledge & K. Paul (1978) p.179

<sup>74</sup> May, Brian. *The Indonesian Tragedy*. London: Routledge & K. Paul (1978) p.187

<sup>75</sup> Robinson, Jennifer. ‘Self-determination and the limits of justice: West Papua and East Timor.’ *Future Justice*, 2010.

<sup>76</sup> Report of the Indonesian Government to the Secretary-General concerning the conduct and results of the act of free choice in West Irian, pursuant to Article XXI of the New York Agreement of 1962, appended to Document A/7641; paragraph 48. From Janki, Melinda. ‘West Papua And The Right To Self-Determination Under International Law’, *West Indian Law Journal Vol 34 No. 1 May 2010*

<sup>77</sup> British Embassy to D. le Breton, ‘West Irian’, March 17, 1969, FCO 24/447; Robinson, Jennifer. ‘Self-determination and the limits of justice: West Papua and East Timor.’ *Future Justice*, 2010

<sup>78</sup> Robinson, Jennifer, ‘The UN’s chequered record in West Papua’, *Al Jazeera*, <http://www.aljazeera.com/indepth/opinion/2012/03/201232172539145809.html>. Last accessed on 24/02/2016

none was in favour of such a solution. The impression he has is that the Papuans loathe the Indonesians, perhaps in the same degree and as a direct consequence of the way in which the Indonesians have despised and belittled the Papuans.<sup>79</sup> Jack W. Lydman, from the American Embassy, stated that members of the UN mission had privately conceded that 95 percent of the Papuans were in favour of independence.<sup>80</sup>

Once the Act of Free Choice was concluded, Ortiz Sanz wrote a report, which constituted the basis for the UN Secretary General's report to the UN General Assembly. Ortiz's document claimed that within the limitations 'imposed by the geographical characteristics of the territory and the general situation in the area, an act of free choice has taken place in [the West Papua region] in accordance with Indonesian practice, in which the representatives of the population have expressed their wish to remain with Indonesia'. This conclusion was endorsed by the Secretary General's account.<sup>81</sup> It should be stressed that the report specifically claims the consultation was in line with 'Indonesian practice', and does not mention the standards of 'international practice' that were demanded by the New York Agreement.

When the report was presented at the UN General Assembly, several countries condemned the Act of Free Choice as undemocratic and called for another consultation to take place. Among others, this included Ghana, Sierra Leone, Togo, and Zambia. However, the related amendment was defeated and at the end the General Assembly voted to 'take note' of the report.<sup>82</sup>

<sup>79</sup> Mason to D. F. B. Le Breton, April 3, 1969. PRO: FCO 24/447, From Saltford, John. *The United Nations and the Indonesian takeover of West Papua, 1962-1969: the anatomy of betrayal*. Routledge, 2003.

<sup>80</sup> Summary of Jack W. Lydman's report, July 18, 1969 in NAA. Extracts given to author by Anthony Balmain, From Saltford, John. *The United Nations and the Indonesian takeover of West Papua, 1962-1969: the anatomy of betrayal*. Routledge, 2003.

<sup>81</sup> UNGA Official Records, Annex 1, para. 253. From Saltford, John. *The United Nations and the Indonesian takeover of West Papua, 1962-1969: the anatomy of betrayal*. Routledge, 2003.

<sup>82</sup> Saltford, John. *The United Nations and the Indonesian takeover of West Papua, 1962-1969: the anatomy of betrayal*. Routledge, 2003.

The West Papua region has since been part of Indonesia. In this period, Papuans have been subject to a tight military control, and countless instances of human rights violations have occurred. Details of the most recent instances are provided below, in Section 2. What follows is a list of the most notable incidents and developments since the 1969 Act of Free Choice.

### West Papua under Suharto

The Organisasi Papua Merdeka (OPM) is a pro-independence organisation, which launched its operations against Indonesia in 1965.<sup>83</sup> In the 70s, the movement gained strong support in the highlands. In order to attempt to quell this movement, the Indonesian military engaged in extremely violent operations, leaving thousands of civilian victims behind.



*The West Papuan flag being flown at the Victoria Barracks in West Papua on 1st July 1971 when the OPM (Free Papua Movement) proclaimed Independence.*

The mass killings carried out in the Papuan highlands between 1977 and 1978 are a dramatic example of these retaliatory campaigns. During the 1977 general elections, a series of uprisings were mounted in the region. In response, the government launched numerous military operations that resulted in extreme violence against civilians, including rape, torture and mass executions. Estimations of the number of victims range from 5,000 up to tens of thousands. The Asia Human Rights Commission wrote, in its report on

<sup>83</sup> McKenna, Kylie. 'Corporate security practices and human rights in West Papua.' *Conflict, Security & Development* 15.4, 2015: 359-385.



the events, that the atrocities met the criteria for genocide, and asked the Indonesia government to conduct a full investigation on the events. Yet Jakarta rejected the accusation and has failed, to date, to acknowledge the events.<sup>84</sup>

Meanwhile, the Indonesian Government started pursuing a so-called 'Indonesianization' process, by trying to incorporate Papuans into the Indonesian nation-state through the education system, the media, and economic development.<sup>85</sup> In the 70s the government started sponsoring a transmigration program, which consisted in 'the removal and/or transfer of population from one area to settle in another area determined upon within the territory of the Republic of Indonesia, in the interests of the country's development, or for other reasons considered necessary by the government'.<sup>86</sup> Many Indonesian families were transferred to West Papua through this programme. The authorities appropriated large portions of lands, without offering indigenous Papuans any compensation. In 1981 the Indonesian military launched Operation Clean Sweep, which aimed at forcing Papuans out of their lands and relocating transmigrants to the area.<sup>87</sup> It is estimated that between 2,500 and 13,000 people lost their lives during the operations.<sup>88</sup>

From the 90s, an increasing number of self-financed migrants started settling in the region. They moved for economic reasons and mainly

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<sup>84</sup> The Alliance of Independent Journalists - Jayapura, National Papuan Solidarity, Tapol, The Asian Human Rights Commission, Human Rights and Peace for Papua, West Papua Netzwerk, *Human Rights in West Papua* (2014), [http://www.europarl.europa.eu/meetdocs/2009\\_2014/documents/droi/dv/132\\_wpapua\\_/132\\_wpapua\\_en.pdf](http://www.europarl.europa.eu/meetdocs/2009_2014/documents/droi/dv/132_wpapua_/132_wpapua_en.pdf). Last accessed on 24/02/2016

<sup>85</sup> Gietzelt, Dale. 'The Indonesianization of West Papua.' *Oceania* 59.3 (1989): 201-221.

<sup>86</sup> Clause 1 of the Basic Transmigration Act of 1972, cited in HARDJONO, J.M. 1977. *Transmigration in Indonesia*. Selangor: Oxford University Press. 1986. *Transmigration: Looking to the Future*. *Bulletin of Indonesian Economic Studies* 22(2):28-53.

<sup>87</sup> Human Rights Watch, *Out of Sight Endemic Abuse and Impunity in Papua's Central Highlands* (2007), <https://www.hrw.org/report/2007/07/04/out-sight/endemic-abuse-and-impunity-papuas-central-highlands>. Last accessed on 24/02/2016

<sup>88</sup> The lower estimate was provided by the Papua New Guinea government, while the higher estimate was given by Dutch journalists. Osborne, Robin. *Indonesia's Secret War, (Crow's Nest, Australia: Allen and Unwin, 1985), 87-88.*

arrived from eastern Indonesia, particularly Silawesi and Maluku. While it is difficult to estimate the composition of migrant population, a researcher from the University of New South Wales estimates transmigrants represent about a third of the overall number of migrants.<sup>89</sup>

### West Papua during the Reformasi

Suharto's resignation in 1998 marked the beginning of a period known as the Reformasi, during which Indonesia started moving towards a more democratic government. The new president, B.J. Habibie seemed open to negotiation about West Papua. One hundred representatives of indigenous Papuans were invited to meet the President, presenting the results of a survey voicing Papuans' wish to be independent. The President replied by saying that 'The aspirations you have expressed are important, but founding a country isn't easy; let's contemplate those aspirations again.'<sup>90</sup> In 1999 the first democratic vote in Indonesia in over 30 years led to the election of President Wahid. He released political prisoners, made it possible freely to express pro-independence views, and allowed the raising of the Papuan flag. Yet, Wahid also firmly rejected any demands for independence.<sup>91</sup>

While things were progressing on the national political platform, however, the military in West Papua continued to perpetrate extreme acts of violence. During a peaceful demonstration in support of independence held in Biak in 1998, they opened fire and killed more than thirty people. They then forced about a hundred people onto vessels, and dumped them into the ocean. Reports state that mutilated bodies washed up on shores for days.<sup>92</sup>

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<sup>89</sup> Stuart Upton, *A disaster but not a genocide*, <http://www.insideindonesia.org/a-disaster-but-not-genocide>. Last accessed 17/04/2016

<sup>90</sup> Human Rights Watch, *Human Rights and Pro- Independence Actions in Papua, 1999-2000*, (2000), p. 14, <https://www.hrw.org/reports/2000/papua/>. Last accessed 9/3/2016.

<sup>91</sup> Human Rights Watch, *Violence and Political Impasse in Papua* (2001), <https://www.hrw.org/news/2001/07/03/indonesia-violence-and-political-impasse-papua>. Last accessed on 15/11/2015

<sup>92</sup> Elmslie, Jim, and Camellia Webb-Gannon. 'A Slow-Motion Genocide: Indonesian rule in West Papua.' *Griffith Journal of*

In 2000, an unidentified group attacked the police station in Abepura, killing two police officers. The reaction of the Indonesian security services was, in the words of Human Rights Watch's report, 'a methodical revenge attack in which all highlanders were targets.'<sup>93</sup> They rounded up one hundred people in the police headquarters, beating them with rifle butts, wooden blocks and iron bars. Some people were burnt with cigarettes, hit with electric cables and made to lick blood off the floor. Three students were killed during the retaliation. The Indonesian National Human Rights Commission later recommended that the National Human Rights Courts should pursue the case. The case did in fact go to court, but, despite the number of available witnesses, the only two people tried were in the end acquitted.<sup>94</sup>

In 2001, the Wasior area was stricken by conflicts among people claiming compensation for the use of land. Unidentified groups carried out two attacks against logging companies, killing nine people, including five police officers. The authorities accused the OPM, though there are doubts about this attribution. The police's reaction was ruthless, leading to the death of eight people, the torture or ill-treatment of over a hundred other people, and the displacement of hundreds more. Amnesty International commented that 'rather than identifying and bringing to justice the individuals responsible for the attacks on the logging companies, the operation appears to have turned into a campaign of revenge against the immediate community and beyond'.<sup>95</sup>



House in Wamena region with illegal Morning Star Flag

In 2003, once again in Wamena, an unidentified group entered an Indonesian military base, causing the death of two military officers. Once again the military reacted by terrorising and punishing civilians. The attacks resulted in the death of sixteen people, the burning of many villages and the displacement of thousands of people.<sup>96</sup>

In 2001, the Indonesian Government approved the Special Autonomy Law for Papua. This gave Papuans a higher degree of fiscal and administrative autonomy, and more control over the revenues gained from their natural resources. As a result, the region now has the highest per capita fiscal revenue in the country and the highest *per capita* spending.<sup>97</sup> However, this law seems not to have made any real difference in the area. While the region is currently receiving significant funds, the military control has made it impossible for the grassroots to benefit from the additional resources. The funds are not employed on the most urgent goals, such as education, health and public infrastructure.<sup>98</sup> The Special Autonomy Law highlighted the need to empower indigenous Papuans. This has led to the 'Papuanization' of the civil service: jobs in the bureaucracy were rapidly assigned to Papuans, and little attention was paid to the competence of those hired. This policy has favoured the Papuan elites, but not the wider population, leading to an increased gap between

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*Law & Human Dignity* 1.2 (2014); Australian Broadcasting Corporation, 'The Biak Massacre', *Radio National 'Perspective'*, 1 August 2008 (Sue Clark)

<<http://www.abc.net.au/radionational/programs/perspective/the-biak-massacre/3197192>>. Last accessed 17/11/2015

<sup>93</sup> Human Rights Watch, *Violence and Political Impasse in Papua* (2001) p.15,

<https://www.hrw.org/news/2001/07/03/indonesia-violence-and-political-impasse-papua>. Last accessed on 15/11/2015

<sup>94</sup> Tapol, *Feelings of injustice and trauma still widespread in Papua*, <http://tapol.org/news/feelings-injustice-and-trauma-still-widespread-papua>. Last accessed on 10/11/2015

<sup>95</sup> Amnesty International, *Indonesia: Human rights are everyone's business in Papua*, 2002,

<http://www.amnesty.org.uk/press-releases/indonesia-human-rights-are-everyones-business-papua>. Last accessed 3/2/2016

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<sup>96</sup> King, Peter, *West Papua & Indonesia since Suharto: Independence, Autonomy or Chaos?* University of New South Wales, 2004, p. 120.

<sup>97</sup> The UN, 'Where We Work: Geographic Focus: Papua', <http://www.un.or.id/en/where-we-work/geographic-focus/papua#gkBottom1-3>. Last accessed 24/2/2016

<sup>98</sup> Widjojo, Muridan Satrio. *Papua Road Map: Negotiating the Past, Improving the Present, and Securing the Future*. Kerja sama LIPI, Yayasan Tifa, dan Yayasan Obor Indonesia, 2009.

wealthy and indigent Papuans.<sup>99</sup> Moreover, the supposed autonomy granted to the West Papua region seems to be more formal than substantive. For example, the area formerly known as West Papua Province was split in two further provinces, without the agreement of Papuan political bodies. The Special Autonomy Law also included provisions for dealing with human rights abuses. For instance, the law required the creation of a truth and reconciliation commission. However, this has not yet been established. Overall, many agree that one of the deepest problems with the Special Autonomy Law is the lack of democratic participation in designing and implementing the arrangements.

The West Papua region has recently been divided into several new districts.<sup>100</sup> This process has increased rivalry between different Papuan groups<sup>101</sup>, and there is some evidence that Papuans are increasingly identifying themselves as 'highlanders,' 'beach' or 'coastal' Papuans or as northerners, southerners or 'valley' Papuans.

### Joko Widodo

Many thought that the election of Joko Widodo to Indonesian President in 2014 would mark a change in the relationship between Jakarta and Papua. The election was strongly supported by voters in West Papua<sup>102</sup> and Widodo has shown interest in the situation in the region.

When five teenagers were killed in Panai during clashes with the security forces<sup>103</sup>, Widodo stated he regretted the violence and claimed that the situation should be solved as soon as possible, to

<sup>99</sup> Widjojo, Muridan Satrio. *Papua Road Map: Negotiating the Past, Improving the Present, and Securing the Future*. Kerja sama LIPI, Yayasan Tifa, dan Yayasan Obor Indonesia, 2009.

<sup>100</sup> IPAC, *Carving Up Papua: More Districts, More Trouble*, [http://file.understandingconflict.org/file/2013/10/IPAC\\_Carving\\_Up\\_Papua\\_More\\_Districts\\_More\\_Problems.pdf](http://file.understandingconflict.org/file/2013/10/IPAC_Carving_Up_Papua_More_Districts_More_Problems.pdf)

<sup>101</sup> The Indonesian Institute of Sciences, *Papua Road Map*, (2008), [https://sydney.edu.au/arts/peace\\_conflict/docs/PAPUA\\_ROAD\\_MAP\\_Short\\_Eng.pdf](https://sydney.edu.au/arts/peace_conflict/docs/PAPUA_ROAD_MAP_Short_Eng.pdf). Last accessed, 24/2/2016.

<sup>102</sup> 72.49% of the voters in Papua and 67.63% of voters in the West Papua region supported Joko Widodo. International Coalition for West Papua, *Human Rights in West Papua 2015*, <http://www.humanrightspapua.org/images/docs/HumanRightsPapua2015-ICP.pdf>. Last accessed, 24/2/2016

<sup>103</sup> See Section 2 for more details.

avoid this happening in the future. He also promised to visit Papua regularly in order to gain an understanding of Papuans' needs, announced the end of restrictions on the access of foreign media and released five Papuan political prisoners.<sup>104</sup> The Government also planned several new investments in infrastructures and development projects.<sup>105</sup>

Despite these positive signs, many argue that Widodo's presidency has in reality proceeded in line with previous policies. The promises made on media access have not been followed by official instructions and several political prisoners remain behind bars.<sup>106</sup> Widodo also initiated a regulation increasing military operations in the West Papua region, and appointed Ryamizard Ryacudu as Minister of Defence. The latter is a General of the Indonesian army, responsible for the killing of several civilian victims in Aceh. He has also attracted public attention in light of controversial statements on West Papua: when members of the Special Forces killed Papuan separatist leader Theys Eluay, he called the perpetrators 'Indonesian heroes' praising them for killing a 'rebel'.<sup>107</sup> Overall, no significant changes have yet taken place in the region under Widodo's presidency.

<sup>104</sup> International Coalition for West Papua, *Human Rights in West Papua 2015*, (2015),

<http://www.humanrightspapua.org/images/docs/HumanRightsPapua2015-ICP.pdf>. Last accessed, 24/2/2016; Human Rights Watch, *Something to Hide? Indonesia's Restrictions on Media Freedom and*

*Rights Monitoring in Papua*, (2015), [https://www.hrw.org/sites/default/files/report.../indonesia1115final\\_0.pdf](https://www.hrw.org/sites/default/files/report.../indonesia1115final_0.pdf). Last accessed, 24/2/2016

<sup>105</sup> Anonymous, 'Papuans and Jokowi are hostage to Indonesian politics', *The Conversation*, <https://theconversation.com/papuans-and-jokowi-are-hostage-to-indonesian-politics-42251>. Last accessed, 24/2/2016.

<sup>106</sup> See Section 2 below for more details.

<sup>107</sup> International Coalition for West Papua, *Human Rights in West Papua 2015*, (2015), <http://www.humanrightspapua.org/images/docs/HumanRightsPapua2015-ICP.pdf>. Last accessed, 24/2/2016.

## Section 2

# Human Rights and Development

### Human Rights Violations

Since West Papua was incorporated into Indonesia, Papuans have been subject to extremely serious human rights violations. These include killings, torture, repression of peaceful assemblies, arbitrary arrest, impediment of media and civil society's activity, lack of adequate health and education systems.

Underlying the human rights abuses in West Papua is the fact that the region is *de facto* controlled by the Indonesian military. It is estimated that around 15,000 troops are currently deployed in the West Papua region.<sup>108</sup> Military forces have to partly fund their own salaries, and they have strong economic interests in Papua, both in legal and illegal business. They are involved in mining and logging, as well as illegal activities such as alcohol, prostitution, and extortion.<sup>109</sup>



Papuans rounded up at gunpoint by Indonesian police, 2011

Citizens peacefully demonstrating in support of self-determination in Papua have long been victims of arbitrary arrest, torture and unlawful killings perpetrated by military, police forces, special

<sup>108</sup> Elmslie, Jim, Camellia Webb-Gannon, and Peter King. 'Anatomy of an Occupation: The Indonesian Military in West Papua.' (2011).

<sup>109</sup> Anderson, Kjell. 'Colonialism and Cold Genocide: The Case of West Papua.' *Genocide Studies and Prevention: An International Journal* 9.2 (2015): 5.

forces, and intelligence. Due to the lack of adequate redress mechanisms, such widespread and systematic violations go unpunished.

### Killings and Torture

The number of Papuans killed by Indonesian security forces since 1969 is not known, since the restrictions on access of international observers make it difficult to collect evidence on the matter.<sup>110</sup> Estimates are highly uncertain, but victims may be in the tens or hundreds of thousands. Most commonly cited is the figure of 100,000 people directly killed since 1963.<sup>111</sup> The Free West Papua campaign puts the estimate at over 500,000.<sup>112</sup> The International Coalition for Papua documented 22 extra judicial killings between April 2013 and December 2014. The perpetrators have not been persecuted in any of the cases, even though there is evidence about the identity of many of them.<sup>113</sup>

After their visit to West Papua in 2007, the UN Special Rapporteur on Torture reported grave concerns to the UN Human Rights Council. Budi Hernawan, a specialist on West Papua, documented 431 cases of torture in the region from 1963 to 2010. He argues that the main goal of torture is not to gather information, but rather to humiliate and

<sup>110</sup> Smith, Claire Q. 'Two similar civil wars; two different endings.' *How Mass Atrocities End: Studies from Guatemala, Burundi, Indonesia, the Sudans, Bosnia-Herzegovina, and Iraq*: 83.

<sup>111</sup> Smith, Claire Q. 'Two similar civil wars; two different endings.' *How Mass Atrocities End: Studies from Guatemala, Burundi, Indonesia, the Sudans, Bosnia-Herzegovina, and Iraq*: 83. See, for example, Wing, J. and P. King 2005. *Genocide in West Papua? The Role of the Indonesian State Apparatus and a Current Needs Assessment of the Papuan People*. Sydney: West Papua Project at the Centre for Peace and Conflict Studies, The University of Sydney

<sup>112</sup> <https://www.freewestpapua.org/info/>, last accessed 24/2/2016

<sup>113</sup> International Coalition for West Papua, *Human Rights in West Papua 2015*, (2015), <http://www.humanrightspapua.org/images/docs/HumanRightsPapua2015-ICP.pdf>. Last accessed, 24/2/2016

intimidate.<sup>114</sup> A coalition of human rights organisations released a report on torture in Papua in 2015. It highlighted that the methods used against Papuans included rape, being slashed by bayonets, electrocuted and beaten with rifles, as well as prolonged detention in small dark rooms.<sup>115</sup>



Indonesian soldiers kill and pose with body of Yustinus Murib, 2003

### Recent Cases

The following are some of the most recent cases of killings and torture:

**September 2015:** police officers killed a 17-year-old and critically wounded another. The two unarmed boys were fleeing into a street, after a raid in a residential building in Timika. The police were looking for the son of a member of the OPM (the Papuan pro-independence organisation), though

<sup>114</sup> Hernawan, Budi. 'Torture in Papua: A Spectacle of Dialectics of the Abject and the Sovereign' in Peter King, Jim Elmslie and Camellia Webb-Gannon (eds), *Comprehending West Papua*, Centre for Peace and Conflict Studies. University of Sydney, 2011, pp. 339-57.

<sup>115</sup> Tapol, *The Practice of Torture: Business as Usual in Papua*, (2015), <http://www.tapol.org/sites/default/files/Torture%20report%20English.pdf>. Accessed 22/2/2016

the families deny any connection with the separatist movement.<sup>116</sup>

**March 2015:** at the beginning of the month, Deni Bahabol, a 17-year-old Papuan activist was kidnapped tortured and killed in the Yahukimo regency. Reports suggest that the Special Forces were involved. At the end of the month, the police used violence to disperse a peaceful meeting, organised to collect donations for the victims of a cyclone in Vanuatu. A village head, Obang Sengenil, died because of the gunshots. More than twenty people were arrested and six people were shot.<sup>117</sup>

**December 2014:** security forces severely beat a 12-year-old boy in the Paniai Regency. In response, 800 people gathered to protest against the events. Security forces then indiscriminately opened fire against the demonstrators. At least four school children were killed, and 17 more were injured. The agents responsible were not brought to justice.<sup>118</sup>

**2012:** Mako Musa Tabuni, Vice-Chairman of the National Committee for West Papua, was killed by police officers. They claimed he was pulling out a gun while they tried to arrest him, but eyewitnesses denied this was the case.<sup>119</sup>

In **2010**, videos were published showing abuses against Papuans. In one of these videos Yawan Wayeni is shown with serious abdominal injuries, lying down while police officers fail to provide medical attention. Wayeni later died from these

<sup>116</sup> Minority Rights Group International, 'Indonesia: Investigating the Shooting of Two Students by Police in West Papua, says MRG', (2015), <http://minorityrights.org/2015/09/30/indonesia-investigate-the-shooting-of-two-students-by-police-in-west-papua-says-mrg/>. Accessed 1/2/2016.

<sup>117</sup> Papuans Behind Bars, 'March 2015: Plans for Increased Brimob Presence as New Cases of Violence Emerge', <http://www.papuansbehindbars.org/?p=3414>, Last accessed 3/2/2016

<sup>118</sup> Anderson, Kjell. 'Colonialism and Cold Genocide: The Case of West Papua', *Genocide Studies and Prevention: An International Journal* 9.2 (2015): 5.

<sup>119</sup> The Alliance of Independent Journalists - Jayapura, National Papuan Solidarity, Tapol, The Asian Human Rights Commission, Human Rights and Peace for Papua, West Papua Netzwerk, *Human Rights in West Papua* (2014), [http://www.europarl.europa.eu/meetdocs/2009\\_2014/documents/droi/dv/132\\_wpapua\\_/132\\_wpapua\\_en.pdf](http://www.europarl.europa.eu/meetdocs/2009_2014/documents/droi/dv/132_wpapua_/132_wpapua_en.pdf), Last accessed, 24/2/2016.

injuries.<sup>120</sup> Another video showed two Papuans being tortured by Indonesian troops: their genitals were burnt, their heads were kicked and they were suffocated with plastic bags.<sup>121</sup>

In **2001**, Papuan leader Theys Eluay was murdered in his car by the Indonesian Kopassus Special Forces on his way back from an official event at the Kopassus Headquarters, to which the commander had invited him.<sup>122</sup> Eluay was one of the tribal leaders voting in the 1969 referendum and later said he had been coerced into voting in favour of integration with Indonesia. He then became a member of the provincial parliament and in the late 90s was appointed as the head the Irian Jaya Customary Council, a council of traditional leaders. After Suharto's resignation, Eluay started actively supporting independence through peaceful means, becoming a charismatic leader of the Papua Presidium Council. He was arrested twice and charged with rebellion.<sup>123</sup> In 2003 four members of the Kopassus Special Forces were found guilty of his murder.<sup>124</sup>

### Right to Peaceful Assembly and Freedom of Expression

Papuans are often arrested for peacefully expressing their opinion about the political status of the West Papua region, by participating in peaceful demonstrations, attending meetings in which the political status of West Papua has been discussed, or raising the Morning Star flag, a symbol of Papuan independence. Sometimes they are arrested simply on the basis that their family members or friends are involved in political activities. They are accused of treason and incitement to commit treason.

<sup>120</sup> Amnesty International, *Papua Digest*, [https://www.amnesty.org.uk/sites/default/files/papua\\_campaign\\_digest\\_0.pdf](https://www.amnesty.org.uk/sites/default/files/papua_campaign_digest_0.pdf), Last accessed, 2/3/2016.

<sup>121</sup> *Indonesia: Video of the Military Torturing Indigenous Papuans Surfaced* (uploaded to the Asian Human Rights Commission website, 2010), <http://video.ahrchk.net/>. Last accessed, 2/12/2015.

<sup>122</sup> Ibid.

<sup>123</sup> Human Rights Watch, *Indonesia: Investigate Death of Papuan Leader*, (2001), <https://www.hrw.org/news/2001/11/11/indonesia-investigate-death-papuan-leader>. Last accessed 20/12/2015

<sup>124</sup> ABC News, *Indonesian Soldiers Convicted of Papuan Leader's Murder*, <http://www.abc.net.au/am/content/2003/s837113.htm>. Last accessed 20/12/2015

When convicted, they face lengthy sentences.<sup>125</sup> Between April 2013 and December 2014, the human rights organisation Papuans Behind Bars reported 881 political arrests and 370 cases of ill treatment.<sup>126</sup>



*Indonesian police rounding up West Papuan villagers in the Timika area, near the Grasberg mine, 2015*

### Recent Cases

**May 2015:** At the end of the month, a peaceful pro-independence rally took place in Manokwari. Witnesses reported that the police beat dozens of people with rifle butts during the event. More than 70 people were arrested. Most of them were subsequently released, but four activists were held. Though one of them managed to escape, the remaining three have reported abuses to their lawyers, including beating and cigarette burns. Amnesty International released a petition asking for their release and requesting that they not be subject to mistreatment while detained.<sup>127</sup>

**On 1 May 2015,** 264 Papuans were arrested for commemorating the 52nd anniversary of the

<sup>125</sup> The Alliance of Independent Journalists - Jayapura, National Papuan Solidarity, Tapol, The Asian Human Rights Commission, Human Rights and Peace for Papua, West Papua Netzwerk, *Human Rights in West Papua* (2014), [http://www.europarl.europa.eu/meetdocs/2009\\_2014/documents/droi/dv/132\\_wpapua\\_/132\\_wpapua\\_en.pdf](http://www.europarl.europa.eu/meetdocs/2009_2014/documents/droi/dv/132_wpapua_/132_wpapua_en.pdf), Last accessed, 24/2/2016.

<sup>126</sup> International Coalition for West Papua, *Human Rights in West Papua 2015*, (2015), <http://www.humanrightspapua.org/images/docs/HumanRightsPapua2015-ICP.pdf>. Last accessed, 24/2/2016.

<sup>127</sup> Amnesty International, *Papua Digest*, [https://www.amnesty.org.uk/sites/default/files/papua\\_campaign\\_digest\\_0.pdf](https://www.amnesty.org.uk/sites/default/files/papua_campaign_digest_0.pdf), Last accessed, 2/3/2016.

administrative transfer of Papua to Indonesia. There were reports of torture of demonstrators, with at least two remaining in detention.<sup>128</sup>

Yohanes Boresen was arrested in 2013. Due to severe beating, he developed mental health issues. No appropriate treatment was provided and he was only administered sedatives. He was then released at the beginning of 2014 when the charges against him were dropped.<sup>129</sup>

In 2004, Felip Karma was sentenced to 15 years in jail for raising the Morning Star. Several international and human rights organisations have called attention to the case. The United Nations Working Group on Arbitrary Detention found that he had not been giving a fair trial and asked for his immediate release. Amnesty International<sup>130</sup> and Human Rights Watch<sup>131</sup> both brought attention to his case.<sup>132</sup> He was released in November 2015 for good behaviour.<sup>133</sup>

## Police Impunity

Police officials accused of human rights violations in Papua are not subject to adequate investigations. An Amnesty International report points out that 'There continues to be a lack of effort to fully investigate and try before civilian courts police officials accused of human rights violations in Papua, and elsewhere in Indonesia, past and

<sup>128</sup> International Coalition for West Papua, *Human Rights in West Papua 2015*, (2015), <http://www.humanrightspapua.org/images/docs/HumanRightsPapua2015-ICP.pdf>. Last accessed, 24/2/2016.

<sup>129</sup> International Coalition for West Papua, *Human Rights in West Papua 2015*, (2015), <http://www.humanrightspapua.org/images/docs/HumanRightsPapua2015-ICP.pdf>. Last accessed, 24/2/2016.

<sup>130</sup> Amnesty International, *The Case of Filep Karma (Indonesia)*, (2005), <http://www.amnestyusa.org/our-work/cases/indonesia-filep-karma?id=1101238>. Last accessed, 5/2/2016

<sup>131</sup> Human Rights Watch, *Prosecuting Political Aspiration: Indonesian Political Prisoners*, <https://www.hrw.org/report/2010/06/22/prosecuting-political-aspiration/indonesias-political-prisoners>. Last accessed, 5/2/2015.

<sup>132</sup> Harvey, Gemima. 'The Price Of Protest In West Papua.' *Griffith Journal of Law & Human Dignity* 3.1 (2015).

<sup>133</sup> ABC News, *Indonesia Releases Prominent West Papuan Pro-Independence Leader Filep Karma from Jail*, (2015), <http://www.abc.net.au/news/2015-11-19/indonesia-releases-prominent-papuan-independence-leader/6956604>. Last accessed, 24/2/2016.

present. [...] Allegations of human rights violations committed by the military often go unchecked or are dealt with before military tribunals without transparency. Many victims of human rights violations are still awaiting justice.<sup>134</sup>

The main body in charge of providing such procedures is the Komnas HAM, the National Human Rights Commission created in 1993. However, this body's effectiveness is restricted in many ways. To begin with, the body does not directly persecute offenders, but can only present cases to attorneys. More than once, this resulted in refusals to proceed or ineffective trials. Moreover, the staff working in the Komnas HAM are subject to considerable pressure, and lack support from the wider political establishment. For example, in 2007, the former head of the Papuan branch of Komnas HAM received persistent threats, while cases of torture reportedly took place in the region.<sup>135</sup> In 2001, the then Indonesian President Megawati Sukarnoputri told the army that they should 'carry out your duties and responsibilities in the best possible manner without having to worry about [accusations of] human rights abuses.'<sup>136</sup>

## Recent Cases

In some of the worst instances of human rights violations mentioned above, the perpetrators have not been brought to justice, or have only been sentenced to minimal jail time.

Papuan leader Theys Eluay was killed by Kopassus special forces members.<sup>137</sup> The men who were

<sup>134</sup> Amnesty International, *Papua Digest*, (2013), <https://www.amnesty.org.uk/resources/papua-campaign-digest#.Vs3MifmLTIU>. Last accessed 24/2/2016

<sup>135</sup> The Alliance of Independent Journalists - Jayapura, National Papuan Solidarity, Tapol, The Asian Human Rights Commission, Human Rights and Peace for Papua, West Papua Netzwerk, *Human Rights in West Papua* (2014), [www.europarl.europa.eu/meetdocs/...wpapua\\_/132\\_wpapua\\_en.pdf](http://www.europarl.europa.eu/meetdocs/...wpapua_/132_wpapua_en.pdf). Last accessed 24/2/2016

<sup>136</sup> Marwaan Macan-Markar, 'Politics Indonesia: Activists Hit Megawati on Aceh', *Inter Press Service* (online), 3 January 2002 <<http://www.ipsnews.net/2002/01/politics-indonesia-activists-hit-megawati-on-aceh/>>. From Elmslie, Jim, and Camellia Webb-Gannon. 'A Slow-Motion Genocide: Indonesian rule in West Papua.' *Griffith Journal of Law & Human Dignity* 1.2 (2014). Last accessed 24/2/2016

<sup>137</sup> See above

found guilty of the murder have been sentenced to at most three and a half years in prison, and some have not been removed from the army.<sup>138</sup> In fact, the man responsible for the special force unit that killed Theys Eluay has recently been promoted to Governor of the Military Academy in Magelang, Central Java.<sup>139</sup>

As described above, in 2003, in Wamena, sixteen people were killed and thousands displaced. In 2001, in Wasior, eight people died, over 100 were tortured, and hundreds displaced. The National Commission on Human Rights investigated the Wasior 2001 and Wamena 2003 incidents, and after finding that gross human rights violations had taken place in both cases, asked the courts to persecute suspects. However, the Attorney General claimed the allegations were incomplete and failed to meet the evidence requirement, and returned the files. The Commission sent the files back arguing they in fact met the required criteria. The cases are now in a dead lock between the two institutions.<sup>140</sup>

## Media Access

Until very recently, foreign journalists needed to obtain approval from 18 government agencies in order to enter the region. The applications were often denied, delayed or rejected.<sup>141</sup> Some attempted to enter on a tourist visa, but, if identified by the authorities, were deported or even arrested. The authorities constantly shadowed those who did manage to get access.<sup>142</sup>

<sup>138</sup> ABC News, *Indonesian Soldiers Convicted of Papuan Leader's Murder*, (2003), <http://www.abc.net.au/am/content/2003/s837113.htm>; East Timor Action Network, *West Papua Report September 2015*, (2015), <http://etan.org/issues/wpapua/2015/1509wpap.htm>. Last accessed, 5/3/2016.

<sup>139</sup> Ibid.

<sup>140</sup> The Alliance of Independent Journalists - Jayapura, National Papuan Solidarity, Tapol, The Asian Human Rights Commission, Human Rights and Peace for Papua, West Papua Netzwerk, *Human Rights in West Papua* (2014) [www.europarl.europa.eu/meetdocs/...wpapua\\_/132\\_wpapua\\_en.pdf](http://www.europarl.europa.eu/meetdocs/...wpapua_/132_wpapua_en.pdf). Last accessed, 5/3/2016.

<sup>141</sup> Human Rights Watch, *Something to Hide? Indonesia's Restrictions on Media Freedom and Rights Monitoring in Papua* (2015) [https://www.hrw.org/sites/default/files/report.../indonesia1115final\\_0.pdf](https://www.hrw.org/sites/default/files/report.../indonesia1115final_0.pdf)

<sup>142</sup> The Alliance of Independent Journalists - Jayapura, National Papuan Solidarity, Tapol, The Asian Human Rights Commission, Human Rights and Peace for Papua, West Papua Netzwerk,

On May 10th 2015, President Joko Widodo stated that the government would lift restrictions on access to foreign journalists. However, the promise has not been followed by official instructions, and statements made on the topic by Indonesian authorities have since been ambiguous. For instance, the Ministry of Foreign Affairs later claimed that access to West Papua requires prior police permission and that journalists need to inform the ministry of their plans and sources.<sup>143</sup>

The authorities justify these restrictions on the grounds that they are concerned for the journalists' safety.<sup>144</sup> Yet, this justification has been deemed inappropriate by a variety of institutional and non-governmental organisations. For example, Human Rights Watch has recently stated that these concerns 'do not warrant the convoluted and restrictive bureaucratic process that Jakarta has long imposed.'<sup>145</sup>

Local journalists are routinely subject to intimidation and violence. Between 2013 and 2014 the Journalist Alliance of Jayapura (AJI) recorded 38 cases of intimidation and violence.<sup>146</sup> There has recently been a significant escalation in threats by Indonesia security forces against journalists in Papua.<sup>147</sup> Representatives of the National Committee for West Papua (a pro-independence organisation) have also reportedly threatened and intimidated journalists.<sup>148</sup> In order to gather

*Human Rights in West Papua* (2014) [www.europarl.europa.eu/meetdocs/...wpapua\\_/132\\_wpapua\\_en.pdf](http://www.europarl.europa.eu/meetdocs/...wpapua_/132_wpapua_en.pdf). Last accessed, 5/3/2016.

<sup>143</sup> For a comprehensive list of the contradictory messages sent by Indonesian authorities, see Human Rights Watch, *Something to Hide? Indonesia's Restrictions on Media Freedom and Rights Monitoring in Papua* (2015) [https://www.hrw.org/sites/default/files/report.../indonesia1115final\\_0.pdf](https://www.hrw.org/sites/default/files/report.../indonesia1115final_0.pdf). Last accessed, 5/3/2016.

<sup>144</sup> Human Rights Watch, *Something to Hide? Indonesia's Restrictions on Media Freedom and Rights Monitoring in Papua* (2015), [https://www.hrw.org/sites/default/files/report.../indonesia1115final\\_0.pdf](https://www.hrw.org/sites/default/files/report.../indonesia1115final_0.pdf). Last accessed, 5/3/2016.

<sup>145</sup> Ibid.

<sup>146</sup> International Coalition for West Papua, *Human Rights in West Papua 2015*, (2015), <http://www.humanrightspapua.org/images/docs/HumanRightsPapua2015-ICP.pdf>. Last accessed, 24/2/2016.

<sup>147</sup> Perrottet and Robie, 'Pacific Media Freedom 2011,' (2011). p.179.

<sup>148</sup> Human Rights Watch, *Something to Hide? Indonesia's Restrictions on Media Freedom and Rights Monitoring in Papua*



information on media activity and ensure positive coverage for the government, the authorities also infiltrate agents to work as journalists under cover and bribe professional journalists. This contributes to a climate of mistrust which further challenges media freedom.<sup>149</sup>

## Recent Cases

Two French journalists, Thomas Dandois and Valentine Bourrat, were arrested in August 2014 for filming a documentary on the Papuan separatist movement. Since the two had not received the required permit to work in Papua, they were arrested for violating immigration law. On the same day, the authorities also detained Areki Wanimbo, the Papuan leader interviewed by the journalists.

A French correspondent based in Jakarta, Marie Dhumieres, obtained a permit to work in Papua in September 2015 (months after Joko Widodo's statements about lifting restrictions on media access). She travelled to Pegunungan Bintang to interview pro-independent activists. Upon her return in Jakarta, she discovered some of the activists that she has been in contact with had been arrested and questioned about her work.

Ardiansyah Matrai's was reporting on sensitive topics, including corruption, illegal logging and human rights violations. He received messages threatening his life. In July 2010, his body was found handcuffed to a tree, showing signs of torture. Despite the evidence suggesting he had been murdered, the police concluded he was likely to have committed suicide.<sup>150</sup>

## Institutions and Civil Society Access

Working in the West Papua region is also extremely difficult for NGOs: this is because even though they work on non-partisan projects, such as health or education, the government often sees their

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(2015), [https://www.hrw.org/sites/default/files/report.../indonesia1115final\\_0.pdf](https://www.hrw.org/sites/default/files/report.../indonesia1115final_0.pdf). Last accessed, 5/3/2016.

<sup>149</sup> Ibid.

<sup>150</sup> Human Rights Watch, *Something to Hide? Indonesia's Restrictions on Media Freedom and Rights Monitoring in Papua* (2015);

activities as supporting the pro-independence movement. Indonesia has also blocked access to the region for representatives of the United Nations.

## Recent Cases

In 2013, the UN Special Rapporteur on the promotion and protection of the right to freedom, Frank La Rue, was denied access to Papua. La Rue stated:

'They kept on having a friendly tone: 'Yes, we're looking for the right date, we're more than happy to receive you, let's look for a date.' But they never said anything [regarding a solid date]. It was plausible deniability. I think what it shows is that there must be a lot to hide in Papua.'<sup>151</sup>

In 2011, the government forced the Peace Brigades International to end its work in Papua, by refusing its volunteers the permit to travel in rural areas.<sup>152</sup>

In recent years, Amnesty International and HRW have also been routinely denied visas.<sup>153</sup> In 2010, the authorities banned the NGO Cordaid, on the basis that it had supported Papuan activists. In 2009, the authorities ordered the International Committee of the Red Cross to shut down its offices in Jayapura.

In 2006, the UN Secretary-General's special envoy on the prevention of genocide voiced his concerns about the authorities denying access to human rights observers. The same year, the Regional Representative of the High Commissioner for Refugees was denied access to Papua.

## Discrimination

A large number of transmigrants and self-funded economic migrants from Indonesia have moved to Papua. This has led to dramatic changes in the demographics of the region. It is estimated that

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<sup>151</sup> Human Rights Watch, *Something to Hide? Indonesia's Restrictions on Media Freedom and Rights Monitoring in Papua* (2015); p1

[https://www.hrw.org/sites/default/files/report.../indonesia1115final\\_0.pdf](https://www.hrw.org/sites/default/files/report.../indonesia1115final_0.pdf). Last accessed, 24/3/2016.

<sup>152</sup> Ibid.;

<sup>153</sup> Harvey, Gemima. 'The Price of Protest In West Papua', *Griffith Journal of Law & Human Dignity*, 3.1 (2015).

migrants now make up about 50% of the population in West Papua.<sup>154</sup> The arrival of migrants has deeply affected Papuan society. The transmigration programme, sponsored by the Indonesian Government, has led to forced displacement of indigenous Papuans, exemplified by the Operation Clean Sweep described above.<sup>155</sup> It has also led to structural discrimination in employment: while indigenous Papuans struggle to find work, migrants can easily find occupations.<sup>156</sup> In recent years, churches and NGOs have reported a growing number of violent clashes between indigenous Papuans and migrants from other parts of Indonesia.<sup>157</sup>

## Land and Indigenous Rights

Papua is extremely rich in natural resources. It includes 41 million hectares of productive forest, and 8 million hectares of conservation forest.<sup>158</sup> It is also rich in oil, gas, copper and gold.<sup>159</sup> Papuans have traditionally relied on forests for their livelihood.<sup>160</sup> However, the forests are quickly

<sup>154</sup> Elmslie, Jim. West Papuan Demographic Transition and the 2010 Indonesian Census: 'slow Motion Genocide' Or Not?. Centre for Peace and Conflict Studies, 2010. Unrepresented Nations And Peoples Organisation, 'West Papua: Indonesian Transmigration Program Further Marginalizes the Indigenous Population', <http://unpo.org/article/17676> Last accessed 17/04/2016 International Work Group for indigenous Affairs, 'Indigenous Peoples in West Papua', <http://www.iwgia.org/regions/oceaniapacific/west-papua> Last accessed 17/04/2016

<sup>155</sup> Operation Clean Sweep was a military operation aimed at forcing Papuans out of their lands and relocating transmigrants in the area (see Section 1). Allard K Lowenstein International Human Rights Clinic, Yale Law School, *Indonesian human rights abuses in West Papua: Application of the law of genocide to the history of Indonesian control*. (2004)

<sup>156</sup> Wing, John Robert, and Peter King. *Genocide in West Papua?: The role of the Indonesian state apparatus and a current needs assessment of the Papuan people*. Breakout Design & Print (2005)

<sup>157</sup> International Coalition for West Papua, *Human Rights in West Papua 2015*, (2015), <http://www.humanrightspapua.org/images/docs/HumanRightsPapua2015-ICP.pdf>. Last accessed, 24/2/2016.

<sup>158</sup> Leonard C. Sebastian and Emirza Adi Syailendra, 'Jowoki's challenges in negotiating peace in Papua', *The Diplomat*, <http://thediplomat.com/2015/06/jokowis-challenges-in-negotiating-peace-in-papua/> (2015). Last accessed 24/2/2016.

<sup>159</sup> Tebay, Neles. *Dialogue Between Jakarta and Papua: A perspective from Papua*. Missio, (2009)

<sup>160</sup> The Alliance of Independent Journalists - Jayapura, National Papuan Solidarity, Tapol, The Asian Human Rights Commission, Human Rights and Peace for Papua, West Papua Netzwerk,

coming under threat by activities such as mining, logging and the large scale planting of oil palms.

### *Extractive industries: Freeport, BP and Rio Tinto*

The Grasberg mining complex in Papua is the world's largest gold reserve and the third largest copper reserve. It is run and mostly owned by Freeport, an American extractive company that signed a contract with Indonesia in 1967, before the Act of Free Choice took place. Since 1996, British-Australian multinational Rio Tinto has a joint venture for a share of production.<sup>161</sup> Freeport is regularly among the largest corporate taxpayers in Indonesia and in 2014 it contributed US\$1.5 billion to the Indonesian state funds.<sup>162</sup> However, Freeport's operations have serious economic, environmental and political costs for indigenous Papuans.

Most employers are migrants, and the Papuans employed rarely hold positions of responsibility.<sup>163</sup> The mine has extremely serious environmental repercussions. The waste produced by the plant is dumped in the Agabagong River, causing floods, which have destroyed big portions of lands and polluted the sea south of New Guinea. Acid rock drainage is also contaminating the water supplies around the mine, killing aquatic life in those bodies of water.<sup>164</sup> In 2006 and 2007 the Norwegian

*Human Rights in West Papua* (2014), [www.europarl.europa.eu/meetdocs/...wpapua\\_/132\\_wpapua\\_en.pdf](http://www.europarl.europa.eu/meetdocs/...wpapua_/132_wpapua_en.pdf). Last accessed, 24/2/2016.

<sup>161</sup> 'Rio Tinto improves policies based on dialogue with GES and investor' *Rio Tinto website*, <http://www.riotinto.com/copperandcoal/grasberg-4743.aspx>; <http://www.ges-invest.com/press-room/news-events/2013/rio-tinto-improves-policies-based-on-dialogue-with-ges-and-investors/>. Last accessed 11/12/2015

<sup>162</sup> West Papua: mining in an occupation, *WWF website* [http://wwf.panda.org/what\\_we\\_do/where\\_we\\_work/new\\_guinea\\_forests/problems\\_forests\\_new\\_guinea/mining\\_new\\_guinea/papua\\_freeport\\_mine/](http://wwf.panda.org/what_we_do/where_we_work/new_guinea_forests/problems_forests_new_guinea/mining_new_guinea/papua_freeport_mine/); <http://www.equaltimes.org/west-papua-mining-in-an-occupation#.VI2TvXbhDIU> Last accessed 12/12/2015

<sup>163</sup> Crocombe, Ron *The South Pacific* (Suva, Fiji: University of the South Pacific, 2001), 427; Montlake, Simon. 'Freeport: McMoran in Papua', *Forbes website*; <http://www.forbes.com/global/2012/0213/feature-indonesia-freeport-mcmoran-back-fill.html>. Last accessed 12/12/2015

<sup>164</sup> BBC, *US Firm Freeport Struggles to Escape its Past in Papua*, (2011), <http://www.bbc.co.uk/news/world-asia-pacific-14417718>. Last accessed, 24/3/2016; World Wide Fund for Nature, *Freeport Mine: In the Wake of a Hungry Giant*, [http://wwf.panda.org/what\\_we\\_do/where\\_we\\_work/new\\_gui](http://wwf.panda.org/what_we_do/where_we_work/new_gui)

Government Pension Fund divested from both Freeport and Rio Tinto on the basis of the environmental damage caused by the Grasberg mine.<sup>165</sup>

Freeport employs Indonesian police and military as its private security guards. A New York Times article in 2005 reported Freeport paid Indonesian military almost \$20 million between 1998 and 2004.<sup>166</sup> This led to the development of a dangerous dynamic: trying to show their services are indispensable for Freeport, government forces orchestrated attacks then blamed Papuans separatists. This seems to be the reason for several shootings between 2002 and 2011.<sup>167</sup> There are also serious concerns about security standards in the mine, and several miners have died while working in Grasberg.

BP started operations in Papua in 2005, at the Tangguh Liquefied Natural Gas project. BP also pays to support security expenses incurred by the government. In order to avoid exclusively relying on government forces, it has implemented what it calls an 'Integrated Community Based Security' strategy. This programme employs unarmed Papuans for issues concerning everyday security. If these security staff are unable to deal with the issue at hand, it requires the assistance of the police. BP also commissioned yearly reports on the site operations from the 'Tangguh Independent Advisory Panel' (TIAP).<sup>168</sup>

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nea\_forests/problems\_forests\_new\_guinea/mining\_new\_guinea/papua\_freeport\_mine/. Last accessed 24/3/2016.

<sup>165</sup> Aljazeera, *Mining Companies funded Indonesian Abuses*, (2011), <http://www.aljazeera.com/indepth/opinion/2011/08/2011828142858857222.html>. Last accessed 24/3/2016.

<sup>166</sup> New York Times, *Below a Mountain of Wealth a River of Waste*, (2005), <http://www.nytimes.com/2005/12/27/world/asia/below-a-mountain-of-wealth-a-river-of-waste.html>. Last accessed 24/3/2016.

<sup>167</sup>The Sydney Morning Herald, *Shooting Incidents hit Grasberg Mine*, (2012), <http://www.smh.com.au/business/shooting-incidents-hit-grasberg-mine-20120229-1u3a6.html>. Last accessed, 7/1/2016; New Mandala, *BP, Security and Human Rights in West Papua*, (2015) <http://asiapacific.anu.edu.au/newmandala/2015/09/04/bp-security-and-human-rights-in-west-papua/>. Last accessed, 7/1/2016.

<sup>168</sup> British Petroleum, *Tagguh Independent Advisory Panel Report*, accessible here: [http://www.bp.com/en\\_id/indonesia/press-center/documents.html](http://www.bp.com/en_id/indonesia/press-center/documents.html). Last accessed, 24/3/2016.



*Tangguh camp in early stages of development*

However, it remains difficult for BP to avoid entanglement with human rights violations entirely. For example, the Indonesian military is suspected to have caused episodes of violence in a bid for a lucrative 'protection' contract.<sup>169</sup> Moreover, even though the military is not involved, the company employs the services of the Indonesian Police Force, which has been accused of perpetrating human rights violations.<sup>170</sup> The UK-based organisation Down to Earth, which focuses on environmental issues in Indonesia, has questioned whether the reports compiled by TIAP are indeed independent.<sup>171</sup> They have recorded complaints highlighting that the site has restricted access to fishing sites and caused the dislocation of indigenous communities. They have criticised BP's lack of transparency and the failure to follow through with promises on education, health and housing.<sup>172</sup>

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<sup>169</sup> Kirksey, E. 2009. 'Don't Use Your Data as a Pillow'. In A. Waterston & M.D Vesperi (eds). *Anthropology Off the Shelf: Anthropologists on Writing*. West Sussex: Wiley-Blackwell, 150-1.

<sup>170</sup> The Sunday Times, *Indonesian Troops for BP Gas Project*, (2003), [http://www.thesundaytimes.co.uk/sto/news/world\\_news/article223564.ece](http://www.thesundaytimes.co.uk/sto/news/world_news/article223564.ece). Last accessed, 24/2/2016.

<sup>171</sup> Down To Earth Indonesia, *Multinational Corporations Lining up to Profit from West Papua's Resources*, (2008), <http://www.downtoearth-indonesia.org/story/multinational-corporations-lining-profit-west-papuas-resources>. Last accessed, 24/3/2016

<sup>172</sup> Down To Earth Indonesia, *Bintuni Bay Communities want Accountability at Tangguh*, (2013), <http://www.downtoearth-indonesia.org/story/bintuni-bay-communities-want-accountability-tangguh#recs>. Last accessed, 24/3/2016.

## Recent Cases

Crucial recent decisions on the future of the Grasberg mine have failed to involve local Papuans. For example, the government and Freeport have started talks concerning the extension of the contract at the mining site. Papuans were not involved in the negotiation.<sup>173</sup> Lately, it has also been agreed that a new smelter will be built on indigenous Papuan lands. The agreement was negotiated between Freeport and the Indonesia Government, and the Papuans living in the area were not consulted. They oppose the construction, as they believe that it will pollute the lands and make their traditional ways of living impossible.<sup>174</sup>

When a tunnel in the Grasberg mine collapsed in 2013, 33 people died in the accident; the investigation carried out by the Indonesian National Human Rights Commission concluded the deaths could have been prevented.<sup>175</sup>

In 2011, 90% of Grasberg's miners went on strike, asking for higher wages. They were being paid from \$2.10 to \$3.50 an hour, considerably less than the wages paid by Freeport to workers in other countries.<sup>176</sup> Security forces opened fire on protesters, killing one and injuring more than a dozen.<sup>177</sup> Amnesty International commented that the tragedy showed 'that Indonesian police have not learned how to deal with protesters without resorting to excessive, and even lethal, force.'<sup>178</sup>

<sup>173</sup> UCA News, *Papuans Upset over Lack of Input on Indonesian Mining Deal*, (2015), <http://www.ucanews.com/news/papuans-upset-over-lack-of-input-on-indonesian-mining-deal/74497>. Last accessed 24/3/2016.

<sup>174</sup> Equal Times, *West Papua: Mining in an Occupation Forgotten by the World*, (2015), <http://www.equaltimes.org/west-papua-mining-in-an-occupation?lang=en#.Vl2JTnbhDIW>. Last accessed 24/2/2016.

<sup>175</sup> IndustriALL, *Grasberg – Deadly Accident in Rio Tinto Mine could have been Prevented*, (2014), <http://www.industriall-union.org/grasberg-deadly-accident-in-rio-tinto-mine-could-have-been-prevented>. Last accessed 24/3/2016.

<sup>176</sup> The Guardian, *Protester Killed in Indonesia Mine Strike*, (2011), <http://www.theguardian.com/world/2011/oct/10/indonesian-forces-striking-mine-workers>. Last accessed, 10/3/2016.

<sup>177</sup> Time, *What's Behind the Violence at the World's Largest Gold Mine?*, (2011), <http://world.time.com/2011/10/13/whats-behind-violence-at-the-worlds-largest-gold-mine/>. Last accessed 24/2/2016.

<sup>178</sup> Amnesty USA, *Indonesia Must Investigate Mine Strike Protest Killing*, (2011),

In August 2002, three teachers working for Freeport were killed: two of them were American and one was from Java. Notwithstanding the lack of evidence, the military, the authorities and Freeport managers blamed Papuan separatists, and Antonius Wamang, a Papuan villager, was sentenced. However, research suggests the murders were carried out by the military.<sup>179</sup>

## *Logging and plantation*

The exploitation of Papuan forests has long been a pressing problem in the region. In 2005, a report uncovered the illegal logging of timber, run by high ranking Indonesian military officers, worth more than \$1 billion and involving about 300,000 cubic meters of timber per month being sent from Papua to China.<sup>180</sup> The government only intervened in 2011, when the Norwegian Government promised up to £1bn through its Reducing Emissions from Deforestation and Forest Degradation (REDD) programme. As a result, the government blocked all permits to clear primary forests.<sup>181</sup>

As land becomes scarce in the rest of Indonesia, the West Papua region is increasingly becoming the focus for new plantations. A government project called Merauke Integrated Food and Energy Estate (MIFEE), aims to convert 1-2 million hectares of rainforest and land used by small-scale farmers into crop and agro fuel plantations in the Merauke area. The UN Special Rapporteurs on the right to food and the rights of indigenous people stressed that this project could threaten the food security of 50,000 people.<sup>182</sup>

<http://www.amnestyusa.org/news/news-item/indonesia-must-investigate-mine-strike-protest-killing>. Last accessed 24/2/2016.

<sup>179</sup> Kirksey, E., & Harsono, A. (2008), 'Criminal collaborations? Antonius Wamang and the Indonesian military in Timika', South East Asia Research, pp.165-197; McKenna, Kylie. 'Corporate security practices and human rights in West Papua.' *Conflict, Security & Development* 15.4 (2015): 359-385.

<sup>180</sup> *The Last Frontier: Illegal Logging in Papua and China's Massive Timber Theft*, Environmental Investigation Agency (EIA) and Telapak, London and Jakarta, February 2005 (UnSyd, 2005)

<sup>181</sup> Primary forests are forests of native tree species, where there are no clearly visible indications of human activities and the ecological processes are not significantly disturbed

<sup>182</sup> Olivier de Schutter and James Anaya, 'Two United Nations experts on food and indigenous peoples...'

An important recent development concerns palm plantations. The number of companies planting oil palms has sharply increased in the last years, and many more are in the process of acquiring permits. In almost all cases, there have been records of indigenous people losing their means to gain livelihoods, without comparable benefits.<sup>183</sup> Communities are convinced to accept offers with threats and promises to build schools and hospitals, which are then not kept.<sup>184</sup>

In 2015, Indonesia was hit by dramatic forest fires. 127,000 fires were detected in the country, and on several days during the crisis the fires released more greenhouse gas emissions than the whole US economy. The health repercussions are alarming: as of October 2015, the fires caused more than 500,000 cases of respiratory illness in South-East Asia, and killed 19 Indonesians. More are expected to die for the long term effects. Overall, the crisis affected more than 40 million Indonesians. Reportedly, many of the fires were started to make space for palm oil plantations.<sup>185</sup> Papua was also struck by this environmental disaster, with many hotspots concentrated in Merauke.<sup>186</sup> Campaigners for Greenpeace Indonesia have pointed out that 'One of the most worrying things is

the fact that 10 percent of the hot spots were found in West Papua. Fires of such a scale had not happened before in West Papua'. They also highlighted the connection between fires and the MIFEE: 'The connection is clear. If you look at the map, the concentration of the hot spots in Merauke is in the MIFEE area'.<sup>187</sup>

## Recent Cases

In 2013, PT Mayora Group sought to acquire land owned by the Yowid village. They were accompanied by Special Forces guards who threatened the community leaders by saying that, if they did not sign the agreement, they would be treated as independence rebels. Fearing the threatened repercussions from the authorities, the villagers prepared to escape to the forest: to avoid them fleeing, the leader was forced to sign the agreement.<sup>188</sup>

The Environmental Investigation Agency uncovered a contract indicating that logging and plantation companies substantially underpay for the land they acquire from indigenous communities. Kayu Lapis Indonesia Group, one of the biggest logging and plantation companies in Indonesia, paid indigenous Moi landowners \$0.65 a hectare for the land that, once developed, is likely to be valued at about \$5,000 a hectare. They also paid \$2.80 per cubic meter for timber, which then sells for \$875 per cubic meter.<sup>189</sup>

## Health and Education

Despite West Papua being, in terms of natural resources, one of the richest areas in Indonesia, it nevertheless has the highest poverty rates and the lowest Human Development Index in the country.

<http://www.srfood.org/en/south-east-asia-agrofuel-un-rights-experts-raise-alarm-on-land-developmentmega-projects>, 23 May 2012, accessed August 13, 2014. ; The Merauke Integrated Food and Energy Estate, *Two UN Special Rapporteurs Criticize Asian Agrofuel Megaprojects such as MIFEE*, (2012), <https://awasmifee.potager.org/?p=265>. Last accessed 24/3/2016.

<sup>183</sup> The Merauke Integrated Food and Energy Estate, *West Papua Oil Palm Atlas*, (2015), <https://awasmifee.potager.org/uploads/2015/04/atlas-sawit-en.pdf>. Last accessed 24/3/2016.

<sup>184</sup> The Guardian, *Beleaguered West Papuans Left to Count the Cost of Indonesian's Palm Oil Boom*, (2012), <http://www.theguardian.com/global-development/poverty-matters/2012/may/17/beleaguered-west-papuans-palm-oil-boom>. Last accessed, 24/2/2016.

<sup>185</sup> World Resources Institute, *Indonesia Forest Fires: With Latest Fires Crisis, Indonesia Surpasses Russia as World's Fourth-Largest Emitter*, (2015), <http://www.wri.org/topic/indonesia-forest-fires>. Last accessed, 1/3/2016; The Guardian, *Is Indonesia's Fire Crisis Connected to the Palm Oil in our Snack Food?*, (2015), <http://www.theguardian.com/commentisfree/2015/oct/23/indonesias-fire-crisis-connected-palm-oil-in-snack-food>. Last accessed, 26/2/2016.

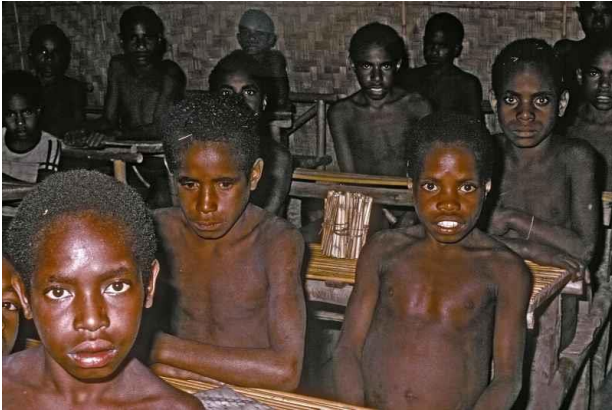
<sup>186</sup> Radio New Zealand, *Efforts to Halt West Papua Fires*, (2015), <http://www.radionz.co.nz/international/pacific-news/288005/efforts-to-halt-west-papuan-fires>. Last accessed, 26/2/2016.

<sup>187</sup> East Timor Action Network, *West Papua Report September 2015*, (2015), <http://etan.org/issues/wpapua/2015/1509wpap.htm>. Last accessed, 5/3/2016.

<sup>188</sup> International Coalition for West Papua, *Human Rights in West Papua 2015*, (2015), <http://www.humanrightspapua.org/images/docs/HumanRightsPapua2015-ICP.pdf>. Last accessed, 24/2/2016.

<sup>189</sup> Environment Investigation Agency, *Clear-cut Exploitation: How International Investors and REDD+ Donors Profit from Deforestation in West Papua*, (2012), <https://eia-international.org/wp-content/uploads/EIA-Clear-Cut-Exploitation-FINAL-v2.pdf>. Last accessed, 23/2/2016.

Whilst schools and hospitals are built, health and education services remain extremely ineffective, due to poor management, lack of accountability and absenteeism.<sup>190</sup>



Papuan students in school

There is a major shortage of doctors, with only one doctor available for every three health centres. Equipment and facilities are below sufficient standards, and medical supplies are often inadequate. Because of this, many people die of treatable diseases, such as diarrhoea, intestinal worms and asthma.<sup>191</sup> Child malnutrition rates are extremely high: 26.5% in the Indonesian Province of Papua and 63% in the Indonesian Province of West Papua. A Dutch study reports that the infant mortality rate among indigenous Papuans is 18.4%.<sup>192</sup> Official statistics say that HIV rates are approximately 2.5% of the indigenous adult population, and 3% of indigenous people between the age of 15 and 24. This is 15 times the national average. Researchers, however, believe that the real rates are in fact much higher.<sup>193</sup>

Illiteracy rates in the West Papua region are 36.31%, the highest in the country.<sup>194</sup> In remote villages, they reach 80%.<sup>195</sup> Not enough resources are employed for primary and intermediate education, which leads to a lack of teachers, textbooks and infrastructure. However, resources are available for university scholarships, which are, most of the time, assigned to family members of government officials.<sup>196</sup>

<sup>190</sup> International Coalition for West Papua, *Human Rights in West Papua 2015*, (2015), <http://www.humanrightspapua.org/images/docs/HumanRightsPapua2015-ICP.pdf>. Last accessed, 24/2/2016.

<sup>191</sup> The Alliance of Independent Journalists - Jayapura, National Papuan Solidarity, Tapol, The Asian Human Rights Commission, Human Rights and Peace for Papua, West Papua Netzwerk, 'Human Rights in West Papua' (2014), [www.europarl.europa.eu/meetdocs/...wpapua\\_/132\\_wpapua\\_en.pdf](http://www.europarl.europa.eu/meetdocs/...wpapua_/132_wpapua_en.pdf). Last accessed, 24/2/2016.

<sup>192</sup> Elmslie, Jim, and Camellia Webb-Gannon. 'A Slow-Motion Genocide: Indonesian rule in West Papua.' *Griffith Journal of Law & Human Dignity* 1.2 (2014).

<sup>193</sup> <http://www.eastasiaforum.org/2014/05/01/politics-hinders-the-fight-against-hiv-in-west-papua/>

<sup>194</sup> The Alliance of Independent Journalists - Jayapura, National Papuan Solidarity, Tapol, The Asian Human Rights Commission, Human Rights and Peace for Papua, West Papua Netzwerk, 'Human Rights in West Papua' (2014), [www.europarl.europa.eu/meetdocs/...wpapua\\_/132\\_wpapua\\_en.pdf](http://www.europarl.europa.eu/meetdocs/...wpapua_/132_wpapua_en.pdf). Last accessed, 24/2/2016.

<sup>195</sup> International Coalition for West Papua, *Human Rights in West Papua 2015*, (2015), <http://www.humanrightspapua.org/images/docs/HumanRightsPapua2015-ICP.pdf>. Last accessed, 24/2/2016.

<sup>196</sup> The Alliance of Independent Journalists - Jayapura, National Papuan Solidarity, Tapol, The Asian Human Rights Commission, Human Rights and Peace for Papua, West Papua Netzwerk, 'Human Rights in West Papua' (2014), [www.europarl.europa.eu/meetdocs/...wpapua\\_/132\\_wpapua\\_en.pdf](http://www.europarl.europa.eu/meetdocs/...wpapua_/132_wpapua_en.pdf). Last accessed, 24/2/2016.

## Section 3

### Political and Economic Context

#### Developments in the Pacific region

The situation in West Papua remains of concern to the international community. These concerns have resonated especially forcefully in the immediate Melanesian region.<sup>197</sup>

The United Liberation Movement for West Papua (ULMWP) was recently admitted as an observer to the Melanesia Spearhead Group (MSG). The MSG is a regional organisation that focuses on economic growth, sustainable development, good governance and security.<sup>198</sup> Its member states include Fiji, Vanuatu, Papua New Guinea, the Solomon Islands and the Kanak and Socialist National Liberation Front of New Caledonia. The ULMWP obtained observer status in June 2015 to represent Papuans living outside of Papua.

The situation in West Papua also featured centrally in the meeting of the Pacific Island Forum held in September 2015. The Forum is a political organisation of 16 independent and self-governing states. Representatives expressed concerns about the human rights situation in the region and called on all parties to protect and uphold the human rights of all residents in Papua. They also requested the forum chair to consult with the Indonesian government on a fact-finding mission to the region.<sup>199</sup>

In October 2015, Papua's case was brought to the attention of the United Nations General Assembly.

Sogavare, the Chair of the Melanesian Spearhead Group (MSG) and Solomon Islands Prime Minister, and Samuela 'Akilisi Pohiva, Prime Minister of Tonga, highlighted the importance of addressing the situation in Papua. Sogavare asked the UN Human Rights Council 'to do more in investigating and monitoring of allegations of human rights abuse and violence' on ethnic Melanesians in Indonesia. Samuela 'Akilisi Pohiva declared that 'The United Nations has the duty to closely follow up this West Papua case, and necessary action be taken to stop the brutal and inhuman activities'.<sup>200</sup>

#### *Increased popular support*

Indigenous Papuans in West Papua are attracting increasing support from civil society in the Pacific area. The people of PNG, the Solomon Islands, Fiji, Vanuatu and New Caledonia have repeatedly shown solidarity with Papuans, referring to them as 'our Melanesian brothers and sisters of West Papua'.<sup>201</sup> In Australia, grassroots movements have highlighted the shared history between indigenous Papuans and indigenous Australians.<sup>202</sup> In 2013, the University of Sydney organised a citizen's tribunal, which heard testimonies from survivors of the 1998 Biak Massacre. In 2015, the team organising the tribunal, led by Justice John Dowd and academic Ben Kirksey, presented the findings to Green, Liberal and Labour politicians.<sup>203</sup>

<sup>197</sup> The Jakarta Post, *Addressing the Papua Issue in the Pacific*, (2015), <http://www.thejakartapost.com/news/2015/03/05/addressing-papua-issue-pacific.html#sthash.WJdgdPw.dpuf>. Last accessed, 24/3/2016.

<sup>198</sup> Agreement Establishing The Melanesian Spearhead Group, <http://www.msgsec.info/index.php/publication/reports?download...agreement>. Last accessed on 17/04/2016

<sup>199</sup> Pacific Islands Forum Secretariat, *Forty-Sixth Pacific Islands Forum*, (2015), [http://www.forumsec.org/resources/uploads/attachments/documents/2015\\_Forum\\_Communique\\_10Sept2015.pdf](http://www.forumsec.org/resources/uploads/attachments/documents/2015_Forum_Communique_10Sept2015.pdf). Last accessed, 5/2/2016.

<sup>200</sup> Civil society Forum of Tonga, 'Tonga Prime Minister, Hon. Samuela 'Akilisi Pohiva Speech at United Nation', <http://www.csft.to/?p=1157> Last accessed 17/04/2016

<sup>201</sup> The Jakarta Post, *Addressing the Papua Issue in the Pacific*, (2015), <http://www.thejakartapost.com/news/2015/03/05/addressing-papua-issue-pacific.html#sthash.WJdgdPw.dpuf>. Last accessed, 24/3/2016.

<sup>202</sup> For instance, the West Papua Freedom Flotilla has recently organised two maritime civil society direct actions, delivering sacred water and ashes from Australia to West Papuan leaders, and gaining media attention for the situation in West Papua; *Salvaging Democracy for West Papuans in the Face of Australia-Indonesia Obstruction; Freedom Flotilla, West Papua Freedom Flotilla Direct Action 2015*, (2015),

## *A cause for domestic tension in the Melanesia region*

Despite making strong statements of solidarity for Papuans in the past, Papua New Guinea's President did not support Papua's application to be given more than observer status at the MSG, but did support Indonesia's application to be given associate membership. Fiji's Prime Minister, Frank Bainimarama adopted the same position.<sup>204</sup> The decision was preceded by intense diplomatic efforts on the part of Indonesia, which are believed to have included promises to support the economic development of Melanesia.<sup>205</sup>



Music group Blue King Brown raise a banner in support of West Papua at a performance in Australia, 2012

Official policies supporting Indonesia are clashing with growing grassroots support for the Papuan cause in the Melanesia region, fuelling internal conflicts in the Pacific.<sup>206</sup> Papua New Guinea and Fiji's decisions have been received negatively by

<http://freedomflotillawestpapua.org/2015/06/03/west-papua-freedom-flotilla-direct-action-2015/>. Last accessed, 24/3/2016.

<sup>203</sup>Global Research, *Salvaging Democracy for West Papuans in the Face of Australia- Indonesia Obstruction*, (2015), <http://www.globalresearch.ca/salvaging-democracy-for-west-papuans-in-the-face-of-australia-indonesia-obstruction/5491606>. Last accessed, 23/2/2016.

<sup>204</sup> Scoop World Independent News, *PNG and Fiji's Betrayal of West Papua*, (2015),

<http://www.scoop.co.nz/stories/WO1506/S00050/png-and-fijis-betrayal-of-west-papua.htm>. Last accessed, 24/3/2016.

<sup>205</sup>Radio New Zealand, *MSG Knocks Back West Papua Bid, Elevates Indonesia*, (2015), <http://www.radionz.co.nz/international/pacific-news/277208/msg-knocks-back-west-papua-bid-elevates-indonesia>. Last accessed, 23/2/2016.; Radio New Zealand, *Indonesia says it will help Develop Melanesia*, (2105), <http://www.radionz.co.nz/international/pacific-news/277339/indonesia-says-it-will-help-develop-melanesia>. Last accessed, 24/2/2016.

<sup>206</sup> Elmslie, J; Indonesian Diplomatic Manoeuvring in Melanesia: Challenges and Opportunities. In Azizian, R and Cramer, C. eds., *Regionalism, Security and Cooperation in Oceania*, 2015, Honolulu.

large sections of civil society in these countries.<sup>207</sup> In 2013 Vanuatu Prime Minister Sato Kilman was forced to step down—primarily because he had developed a strong relationship with Indonesia, helping the country to obtain observer status at the MSG.<sup>208</sup>

## International Support

The Papuan case has attracted support on a wider international level. In 2008, politicians from around the world formed the 'International Parliamentarians for West Papua' group, to support self-determination for the West Papua region.<sup>209</sup> Since 2009, a group of international lawyers have been helping the indigenous Papuans to exercise their right to self-determination through the 'International Lawyers for West Papua'.<sup>210</sup> In 2011, the then US Secretary of State Hilary Clinton declared that Indonesia should address the legitimate needs of the Papuan people.<sup>211</sup> Nobel Peace Prize Laureate Archbishop Desmond Tutu has also repeatedly supported to Papua's case.<sup>212</sup> The lack of effective action from within Indonesia to address human rights violations and historic grievances about the Act of Free Choice has fuelled the United Liberation Movement for West Papua's

<sup>207</sup>Waging Non-violence, *A New Hopeful Chapter in West Papua's 50-Year Freedom Struggle*, (2015), <http://wagingnonviolence.org/feature/new-hopeful-chapter-west-papuas-50-year-freedom-struggle-begins/>. Last accessed, 24/2/2016.; Radio New Zealand, *West Papua Issue Stirs During Jokowi's PNG Visit*, (2015), <http://www.radionz.co.nz/international/pacific-news/273475/west-papua-issue-stirs-during-jokowi-s-png-visit>. Last accessed, 24/2/2016.; Pacific Island Report, *Geopolitical Storm Looms Over MSG's West Papua Decision*, (2015), <http://pidp.eastwestcenter.org/pireport/2015/June/06-09-01.htm>. Last accessed, 24/2/2016.

<sup>208</sup> Elmslie, J; Indonesian Diplomatic Manoeuvring in Melanesia: Challenges and Opportunities. In Azizian, R and Cramer, C. eds., *Regionalism, Security and Cooperation in Oceania*, 2015, Honolulu.

<sup>209</sup> International Parliamentarians for West Papua, <http://ipwp.org/background/>. Last accessed, 24/2/2016.

<sup>210</sup> Office of Benny Wenda, 'International Lawyers for West Papua', <http://bennywenda.org/international-lawyers-for-west-papua/> Last accessed 17/04/2016

<sup>211</sup> Chauvel, R, 'Policy Failure and Political Impasse: Papua and Jakarta a decade after the 'Papuan Spring'', In *Comprehending West Papua*. King, P and Elmslie, J and Webb-Gannon, C, eds., 2011, Sydney.

<sup>212</sup> Pacific Scoop, *Tutu Calls for Review of West Papuan Self-Determination*, (2015), <http://pacific.scoop.co.nz/2015/03/tutu-calls-for-review-of-west-papuan-self-determination/>. Last accessed, 24/2/2016.



increasing success at harnessing international support in favour of self-determination. Concern about the situation in the West Papua region has repeatedly been expressed at the highest level within international governments, including in Australia and the UK.

## Economic Repercussions

Investors have started to question the ethical implications of doing business with the Indonesian government in Papua. In 2006 and 2007 the Norwegian Government Pension Fund divested from Rio Tinto on the basis of the environmental damage caused by the Grasberg mine.<sup>213</sup> In 2012 the New Zealand Superannuation Fund divested from Freeport. The choice was due to reports of human rights violations by security forces around the Grasberg mine, and concerns over payments to government security forces.<sup>214</sup> In 2013, the Swedish national pension fund divested from Freeport. The Ethical Council, that advised the fund, reported that Freeport's mining operations in Papua had adverse environmental impacts that contravened UN standards.<sup>215</sup>

This situation has affected companies based in the region. As mentioned above, British-Australian company Rio Tinto is facing serious repercussions for its involvement in Grasberg. BP is also beginning to suffer reputational costs for its activities in Papua. The environmental organisation Down to Earth questioned BP's behaviour in Papua, criticising its lack of transparency and the failure to follow through with promises on welfare provisions.<sup>216</sup> In 2004, three hundred NGOs and individuals signed a letter addressed to BP's chief

executive, to express concerns over the company's failure to meet their commitments in the West Papua region.<sup>217</sup> The signatories included John O'Reilly, former BP Indonesia Vice-President who oversaw a large part of the project's early development. O'Reilly has also spoken in public about the 'damage to the company's reputation because of human rights abuses in West Papua'.<sup>218</sup> The same concerns led activists to send another letter in 2008.<sup>219</sup> BP involvement in Papua has also been one of the reasons behind repeated public protests against the company, including the those taking place in 2015 at the Edinburgh Festival, the Royal Opera House and the British Museum.<sup>220</sup> The situation in Papua might in the future lead NGOs to run campaigns against BP and other companies operating in the region.

The daily violence has significantly affected workers' security. Several shootings have fatally injured Freeport workers during the years. In 2002, two American teachers and an Indonesian were killed outside the Freeport installation.<sup>221</sup> In 2009, an Australian Freeport employee was shot near Grasberg. Between 2009 and 2012 there were 32 shooting incidents, which resulted in the death of 15 people and left 56 injured.<sup>222</sup> The unstable situation in the West Papua region creates precarious conditions for businesses operating in

<sup>213</sup> Al Jazeera, *Mining Companies Funded Indonesian Abuses*, (2011), <http://www.aljazeera.com/indepth/opinion/2011/08/2011828142858857222.html>. Last accessed, 24/2/2016.

<sup>214</sup> New Zealand Super Fund, *New Zealand Superannuation Fund Excludes Four Companies on Responsible Investment Grounds*, (2012), <https://www.nzsuperfund.co.nz/news-media/new-zealand-superannuation-fund-excludes-four-companies-responsible-investment-grounds>. Last accessed, 2/2/2016.

<sup>215</sup> Environment News Service, *Swedish Pension Funds Divest Freeport McMoran Holdings*, (2013), <http://enr.com/news/2013/10/18/swedish-pension-funds-divest-freeport-mcmoran-holdings/>. Last accessed, 2/2/2016.

<sup>216</sup> See Section 2 above

<sup>217</sup> The Guardian, *300 Protesters Remind BP of Indonesia Pledge*, (2004),

<http://www.theguardian.com/business/2004/dec/09/indonesia.oilandpetrol>. Last accessed, 2/2/2016.

<sup>218</sup> The Financial Times, *Posh Sandwiches and Some Serious Fun at BP's Expense*, (2005),

<http://www.ft.com/intl/cms/s/0/10e4f54a-ae14-11d9-9c30-0000e2511c8.html#axzz3vchTUj00>. Last accessed, 2/2/2016.

<sup>219</sup> Corporation Research Project, *BP: Corporation Rap Sheet*, (2015), <http://www.corp-research.org/BP>. Last accessed, 2/2/2016.

<sup>220</sup> BP or Not BP? *Edinburgh Festival Performers join BP Protest*, (2015), <http://bp-or-not-bp.org/news/edinburgh-festival-performers-join-bp-protest/>; <http://bp-or-not-bp.org/news/bp-sponsored-ballet-hit-by-triple-protest/>. Last accessed, 24/2/2016.; The Guardian, *Enduring Controversy: BP Sponsorship Ignites New Row over British Museum's Indigenous Exhibition*, (2015), <http://www.theguardian.com/australia-news/postcolonial-blog/2015/jul/21/enduring-controversy-bp-sponsorship-ignites-new-row-over-british-museums-indigenous-exhibition>. Last accessed, 2/2/2016.

<sup>221</sup> See Section 2 above

<sup>222</sup> The Sunday Morning Herald, *Shooting Incidents Hit Grasberg Mine*, (2012), <http://www.smh.com.au/business/shooting-incidents-hit-grasberg-mine-20120229-1u3a6.html>. Last accessed, 24/2/2016.

the region. When Freeport miners went on strike in 2011, asking for higher wages, this resulted in \$6.7 million daily losses.<sup>223</sup>

A further source of concern lies in the possibility that the behaviour of companies working in West Papua will have legal consequences in the future. Freeport has already been subject to lawsuits claiming the company was complicit in human rights violations and environmental destruction. The lawsuits, filed by Tom Beanal and Yosefa Alomang to US courts, were unsuccessful due to jurisdictional obstacles. However, the possibility of legal consequences cannot be underestimated and could affect the companies years after the events—as was recently demonstrated by the case of the Colombian trade union leader who has filed a claim for damages against BP over the alleged complicity in his kidnap and torture.<sup>224</sup>

Companies working in Papua should also take into account possible future political developments. Should the West Papua region become independent, the historical support they have shown to Indonesian military and police would constitute a serious obstacle to building constructive relationships with the new government, endangering the companies' economic interests in the region.<sup>225</sup>

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<sup>223</sup> The Jakarta Post, *Freeport Strike Causes \$6.7m in Daily Loss*, (2011), <http://www.thejakartapost.com/news/2011/09/16/freeport-strike-causes-67m-daily-losses.html>. Last accessed, 24/2/2016.

<sup>224</sup> The Guardian, *Colombian Takes BP to Court in UK over Alleged Complicity in Kidnap and Torture*, (2015), <http://www.theguardian.com/environment/2015/may/22/colombian-takes-bp-to-court-in-uk-alleged-complicity-kidnap-and-torture>. Last accessed, 24/2/2016.

## Section 4

### Future Scenarios

In order to understand how to best facilitate a peaceful resolution to the conflict in West Papua, we identify possible scenarios, highlighting advantages and risks associated with different possibilities. The scenarios considered are: Special Autonomy, dialogue, referendum, and engagement of international institutions. The following scenarios are not mutually exclusive, and some of them could be paths towards others. Since some of these paths might lead towards independence, we also assess the advantages and challenges linked with this scenario.

#### Special Autonomy

One way that Indonesia has proposed as a way to address the situation in Papua is through Special Autonomy legislation. This route is intended to allow the region to have more independence, while still remaining under Indonesian sovereignty. The Indonesian Government passed a Special Autonomy law for the West Papua region in 2001.<sup>226</sup> Recent constitutional development in Indonesia have also increased the protection of indigenous land rights, which could allow indigenous Papuans to exercise legal ownership rights over natural resources in their territory.<sup>227</sup> Since this alternative does not threaten Indonesian territorial integrity, a further development and enhancement of Special Autonomy legislation is the scenario that is most likely to obtain Jakarta's support. Thus, some believe this route is the most likely to lead to concrete improvements for Papuans, and that it

could lead to a peaceful resolution avoiding the loss of more lives.<sup>228</sup>

Past attempts to implement Special Autonomy have not been successful, as the Indonesian Government itself acknowledges.<sup>229</sup> The 2001 Special Autonomy legislation is widely recognised to be a failure. As was described in Section 1 above, increased spending has not led to significant improvements in the most urgent areas, such as health, education and public infrastructures. Many agree that the deepest problem with the law is the lack of democratic participation in designing and implementing the arrangements. A new version of the autonomy law was drafted in 2014. However, once again the document failed to engage the Papuan public.<sup>230</sup> The proposal did not in the end pass, due to delays and the controversial nature of the topic.<sup>231</sup>

It is helpful to compare the circumstances of the West Papua region with Aceh, a region of Indonesia that obtained Special Autonomy in 2005. The arrangement in Aceh is generally considered a successful one, and it is instructive to note the differences between the two cases. To begin with,

<sup>226</sup> See Section 1 for more details on Special Autonomy.

<sup>227</sup> In 2013, the Constitutional Court ruled that indigenous people have the right to manage forests where they live in. Jakarta Globe, *Indonesia Court Ruling Boosts Indigenous Rights*, (No Date), <http://jakartaglobe.beritasatu.com/news/indonesia-court-ruling-boosts-indigenous-land-rights/>. Last accessed 14/3/2016.; The Jakarta Post, *People as Land Owners*, (2015), <http://www.thejakartapost.com/news/2015/05/25/people-land-owners.html#sthash.Q8W6Da4y.dpuf>. Last accessed, 2/2/2016.

<sup>228</sup> MacLeod, J; Pathways to Dialogue: Diplomacy, Armed Struggle or Non-violent Resistance? In *Comprehending West Papua*, King, P and Elmslie, J and Webb-Gannon, C, eds. Centre for Peace and Conflict Studies. University of Sydney, (2011), Sydney.

<sup>229</sup> Recent Development in Papua, embassy of the Republic of Indonesia in London-United Kingdom <http://www.indonesianembassy.org.uk/papua/papuaDevelopment.html>. Last accessed 16/04/2016

<sup>230</sup> The Institute for Policy and Analysis of Conflict commented that it had 'almost no buy-in from the Papuan public in either province because very few people other than the drafters have seen it, let alone discussed it.' The Institute for Policy and Analysis of Conflict, *Papua Update: The Latest on Otsus Plus*, (2014), <http://www.understandingconflict.org/en/conflict/read/23/Papua-Update-The-Latest-on-Otsus-Plus>. Last accessed, 24/2/2016.

<sup>231</sup> C. Nolan and S. Jones, IPAC, 'Joko Widodo's turn to solve the Papua question', <http://www.eastasiaforum.org/2015/05/19/jokowis-turn-to-solve-the-papua-question/> Last accessed 17/04/2016

the process in Aceh saw the involvement of international actors. After the 2004 tsunami, several international organisations started working in the region, and encouraged insurgents and the Indonesian government to pursue negotiations.<sup>232</sup> The talks were mediated by a third party, Finland. Conversely, no such third party involvement has occurred in the case of West Papua.<sup>233</sup> Local parties are allowed in Aceh, while it is still illegal to form Papuan parties in the West Papua region.<sup>234</sup> Crucially, the Aceh agreement assigned peace-keeping duties to local police, while it is estimated that approximately 15,000 military forces are still stationed in Papua.<sup>235</sup> It is therefore reasonable to suggest that increased involvement of the public, the presence of international mediators, the recognition of local parties and the departure of the Indonesian military would improve the chances of success of Special Autonomy arrangements in West Papua.

A very different approach to Special Autonomy to that currently being pursued would thus be needed to address the concerns of many Papuans that are currently voiced through the self-determination movement. Even then it is uncertain whether it would succeed, since part of Papuans grievances are linked to the illegitimacy of the 1969 Act of Free Choice, through which Papua became part of Indonesia.<sup>236</sup>

<sup>232</sup> Voice of America, *Special Autonomy Works in Indonesia's Aceh Province, But not Papua*, (2011), <http://www.voanews.com/content/special-autonomy-works-in-indonesias-aceh-province-but-not-papua-136097288/168310.html>. Last Accessed, 24/2/2016.

<sup>233</sup> Conciliation Resources, *Delivering Peace for Aceh: An Interview with President Martti Ahtisaari*, (2008), <http://www.c-r.org/accord/aceh-indonesia/delivering-peace-aceh-interview-president-martti-ahtisaari>. Last accessed, 24/2/2016.

<sup>234</sup> King, P and Elmslie, J and Webb-Gannon, C, eds., *Comprehending West Papua*, 2011, Sydney. p 55; Voice of America, *Special Autonomy Works in Indonesia's Aceh Province, But not Papua*, (2011), <http://www.voanews.com/content/special-autonomy-works-in-indonesias-aceh-province-but-not-papua-136097288/168310.html>. Last Accessed, 24/2/2016.

<sup>235</sup> Elmslie, Jim, Camellia Webb-Gannon, and Peter King. 'Anatomy of an Occupation: The Indonesian Military in West Papua.' (2011).

<sup>236</sup> For an overview of the cases in which territorial autonomy is unable to meet the concerns grounding a demand for

## Dialogue

Many civil society groups have called for dialogue with Jakarta. Initiatives such as the Papuan Peace Network and the Papua Road Map have attempted to establish Papua as a 'land of peace'. The Papuan Peace Network is a civil society group that set up consultations to identify the crucial issues to be addressed in the region. The Papua Road Map is a document produced by the Indonesian Institute of Sciences, aiming to set out the road towards dialogue. These initiatives identified some basic problems, including political and historical status, marginalisation and discrimination, failure of development, state violence and rights violations.<sup>237</sup>

Dialogue presents serious challenges. Crucially, there are divergent opinions about the agenda and the aims of the process. In particular, many indigenous Papuans want to discuss their historical grievances, the possibility of calling a referendum on independence. Conversely, the government does not take these topics to be up for discussion, and rather sees dialogue as a route to some form of Special Autonomy.<sup>238</sup> This seriously constrains the reach and significance of the process. The leaders of the Papuan Peace Network have thus recently urged Widodo to initiate an inclusive dialogue involving those fighting for independence as well as activists in exile.<sup>239</sup> Moreover, it should be stressed

secession, see 'Secession and Territorial Autonomy', K. Hyams and M. Capriati, draft.

<sup>237</sup> East Asia Forum, *Papua's Uncertain Future under the next Indonesian Government*, (2014), <http://www.eastasiaforum.org/2014/04/04/papuas-uncertain-future-under-the-next-indonesian-government/>. Last accessed, 24/2/2016.; The Indonesian Institute of Sciences, *Papua Road Map*, (2008),

[https://sydney.edu.au/arts/peace\\_conflict/docs/PAPUA\\_ROAD\\_MAP\\_Short\\_Eng.pdf](https://sydney.edu.au/arts/peace_conflict/docs/PAPUA_ROAD_MAP_Short_Eng.pdf). Last accessed, 24/2/2016.

<sup>238</sup> MacLeod, J; Pathways to Dialogue: Diplomacy, Armed Struggle or Non-violent Resistance? In *Comprehending West Papua*, King, P and Elmslie, J and Webb-Gannon, C, eds. Centre for Peace and Conflict Studies. University of Sydney, (2011), Sydney; Inside Indonesia, *Lessons learned from Indonesia's conflicts: Aceh, Poso and Papua*, (2014), <http://www.insideindonesia.org/lessons-learned-from-indonesia-s-conflicts-aceh-poso-and-papua>. Last accessed, 24/2/2016; Chauvel, R, 'Policy Failure and Political Impasse: Papua and Jakarta a decade after the 'Papuan Spring'', In *Comprehending West Papua*. King, P and Elmslie, J and Webb-Gannon, C, eds., 2011, Sydney.

<sup>239</sup> MacLeod, J; Pathways to Dialogue: Diplomacy, Armed Struggle or Non-violent Resistance? In *Comprehending West*

that, as in the case of Aceh, the presence of an international mediator might help the parties to move forward and arrive at a common platform of discussion.<sup>240</sup>

## Referendum

An important part of Papuan grievances are linked to the 1969 Act of Free Choice, which, as highlighted in Section 1, is widely reported to have been a coercive and unrepresentative exercise that was orchestrated to ensure continued Indonesian control over Papua. Because of this, several Papuans and supporters of the Papuan struggle ask for a second consultation to take place.<sup>241</sup>



Papuans in Timika call for a referendum

The call for a referendum is obtaining increasing popular support in West Papua. For example, in 2010 the MRP (the all-Papuan upper house in Papua province) 'handed back' the Special Autonomy law and asked for a referendum, supported by twenty-eight civil society

organisations and accompanied by a long march in support.<sup>242</sup>

Demands for a referendum are tightly linked to an ultimate aspiration for independence.<sup>243</sup> Jakarta is opposed to any threat to its territorial integrity and some therefore question whether a referendum is realistic given Indonesian opposition.<sup>244</sup> However, pressure from the international community (be it individual states or organisations such as the MSG)<sup>245</sup> and support from moderate forces in Indonesia could ultimately persuade the Indonesian government to approve a referendum.

Another possible scenario is that the organisations advocating for self-determination may decide to set up a referendum without Indonesia's approval. It is very likely that Indonesian forces in the region would react to such a move with violence. If such a situation were to arise, the international community would need to work with both sides from an early stage in order to secure Indonesian approval for a peaceful and internationally monitored referendum to avoid potentially wide-scale violence and loss of life. The case of East Timor shows how a vote for independence can lead to tragic consequences: in 1999 East Timor held a UN supervised referendum, during which the vast majority of the Timorese population voted to be independent from Indonesia. The vote was followed by an insurgence of anti-independence militias, who killed 1,400 Timorese and caused 300,000 people to flee the region. Violence ended thanks to the intervention of an Australian-led peacekeeping force.

Papua, King, P and Elmslie, J and Webb-Gannon, C, eds. Centre for Peace and Conflict Studies. University of Sydney, (2011), Sydney

<sup>240</sup> Voice of America, *Special Autonomy Works in Indonesia's Aceh Province, But not Papua*, (2011), <http://www.voanews.com/content/special-autonomy-works-in-indonesias-aceh-province-but-not-papua-136097288/168310.html>. Last Accessed, 24/2/2016; Yoman, S., *Injustice and Historical Falsehood: Integration of the territory of Papua into Indonesia in 1969*, In *Comprehending West Papua*, King, P and Elmslie, J and Webb-Gannon, C, eds. Centre for Peace and Conflict Studies. University of Sydney, (2011), Sydney

<sup>241</sup> The relationship between legitimacy and different varieties of consent is explored in 'When Consent Doesn't Work: A Rights-Based Case for Limits to Consent's Capacity to Legitimise', Hyams, K. (2011), *Journal of Moral Philosophy*, 8 (1). pp. 110-138.; Hyams, K. 'Rights, Exploitation, and Third Party Harms: Why Background Injustice Matters to Consensual Exchange', *Journal of Social Philosophy*, 2012, 43: 113-124.

<sup>242</sup> *Comprehending West Papua*, King, P and Elmslie, J and Webb-Gannon, C, eds. Centre for Peace and Conflict Studies. University of Sydney, (2011), Sydney, p. 106; Rumbiak, J., *West Papuan Independence Policies: Tension in the Transition*, ? In *Comprehending West Papua*, King, P and Elmslie, J and Webb-Gannon, C, eds. Centre for Peace and Conflict Studies. University of Sydney, (2011), Sydney

<sup>243</sup> *Comprehending West Papua*, King, P and Elmslie, J and Webb-Gannon, C, eds. Centre for Peace and Conflict Studies. University of Sydney, (2011), Sydney, p. 73

<sup>244</sup> MacLeod, J; *Pathways to Dialogue: Diplomacy, Armed Struggle or Non-violent Resistance?* In *Comprehending West Papua*, King, P and Elmslie, J and Webb-Gannon, C, eds. Centre for Peace and Conflict Studies. University of Sydney, (2011), Sydney

<sup>245</sup> See below for more details.

The organisation of a referendum would pose an important question—namely, who should be eligible to vote. Recent studies suggest that indigenous Papuans are now on the threshold of becoming a minority in West Papua, and are set to become a decreasing proportion of the overall population over coming years.<sup>246</sup> It is therefore crucial to determine whether or not non-indigenous Papuans should participate in the referendum. It should also be noted that there are important distinctions to be made among non-indigenous Papuans, which may bear on the question of who should vote. For instance, we should distinguish between non-indigenous Papuans who were there before 1969 and those who moved to the region after the annexation to Indonesia—most agree the former should be allowed to vote, while the status of the latter group is more controversial. Amongst the latter group we can also distinguish between those who moved to West Papua as part of the government-sponsored transmigration programme, and those who moved independently of the programme. Finally, a further distinction of potential relevance is between the original migrants and those non-indigenous Papuan who were born in Papua.

It is difficult to predict how migrants would vote in a referendum, if one were to be held, especially because data on the matter is lacking. Insofar as recent historical and cultural ties link them to the rest of Indonesia, migrants might support continued Indonesian sovereignty over the territory.<sup>247</sup> Since they are currently about half of the population of the West Papua region, this could determine the outcome of the vote. However, the presence of such a large group of non-indigenous Papuans in the West Papua region is itself source of controversy: as was explained in Section 1, many non-indigenous Papuans moved to the region as a consequence of government sponsored transmigration programmes, which have deprived

indigenous Papuans of their own land and threatened their cultural survival.

The West Papua National Authority holds that only indigenous Papuans from inside and outside Papua should be allowed to vote.<sup>248</sup> Indonesian migrants were indeed excluded from the vote in East Timor in 1999. However, the group only represented around 10% of the East Timorese population, so were unlikely to sway the result. The situation is significantly different in West Papua, where, according to recent estimates, they are now about half of the population of the West Papua region.

It is essential to reach agreement about the issue of who gets to vote as a pre-requisite for a peaceful referendum and, in the event of a vote for independence, for a smooth transition to a self-governing state. On the one hand, if migrants were allowed to vote, and this caused Papua to continue being part of Indonesia, the vote could be perceived by indigenous Papuans as a legitimisation of policies unjustly pursued by Jakarta over the years. On the other hand, excluding migrants could escalate tensions if a vote for independence were achieved, and undermine the success of a future independent West Papuan state.

### International Institutions

Progress on the Papua conflict could be secured in part through the involvement of international institutions. One possible pathway consists in seeking a resolution through the United Nations. One such avenue would be an attempt to have Papua re-instated on the list of non-self-governing territories. The list is reviewed annually by the Special Committee on decolonisation, the UN entity which has the task of monitoring the implementation of the Declaration on the Granting of Independence of Colonial Countries and Peoples. Vanuatu, Solomon Islands and the Pacific Islands

<sup>246</sup> See Section 1 for more details.

<sup>247</sup> Tebay, N., *Jakarta-Papua Dialogue and Community Participation*, (2009), [https://sydney.edu.au/arts/peace\\_conflict/docs/Neles%20DIALOGUE%20PAPER%20FOR%20WPP.pdf](https://sydney.edu.au/arts/peace_conflict/docs/Neles%20DIALOGUE%20PAPER%20FOR%20WPP.pdf). Last accessed, 24/2/2016.

<sup>248</sup> Rumbiak, J., West Papuan Independence Policies: Tension in the Transition, ? In *Comprehending West Papua*, King, P and Elmslie, J and Webb-Gannon, C, eds. Centre for Peace and Conflict Studies. University of Sydney, (2011), Sydney

Association of Non-Government Organisations have publicly pressed for this route.<sup>249</sup>

There is reason to believe that this route is open to West Papua. French Polynesia was re-inscribed on the list in 2013, thanks to an initiative lead by Pacific Island nations. This achievement significantly raised the profile of the MSG and the Pacific Islands Forum.<sup>250</sup> The re-inscription has increased the hopes of many regions that are attempting to be included in the list, including West Papua. However, the members representing the Pacific region in the Special Committee are Fiji and Papua New Guinea. As was highlighted in Section 3, in spite of substantial popular support for West Papuan self-determination, these countries have in the end not supported Papua's membership to the MSG in 2015.

The second avenue involving international institutions involves bringing Papua's case to the International Court of Justice. Only member states and some UN bodies can bring cases to the court—since West Papua is not a member state, it is unable to do so itself. However, Vanuatu has publicly considered seeking an International Court of Justice opinion on the legality of Papua becoming part of Indonesia.<sup>251</sup>

Papuans can pursue their case through international institutions working on indigenous rights, including the Permanent Forum on Indigenous Issues, the Special Rapporteur on the Rights of Indigenous Peoples and Expert

Mechanism on the Rights of Indigenous Peoples. The findings of these bodies could be employed to strengthen Papua's case in the International Court of Justice, or support Papua's request to be reinstated in the list of non-self-governing territories.<sup>252</sup> This route has already shown promising results. In 2013, the Permanent Forum on Indigenous Issues discussed a report on the Study of decolonisation of the Pacific region. When discussing the case of Papua, the report noted 'There are clear grounds for the General Assembly to support reinstatement on the list of Non-Self-Governing Territories'.<sup>253</sup>

## Independence

### *Challenges and advantages*

Several of the routes outlined above could lead to the establishment of an independent Papua. It is thus important to understand the advantages and challenges associated with independence.

The main reasons to think that Papua could benefit from independence are as follows:

1. The territory would no longer be under the control of Indonesian forces, which have for so long perpetrated acts of violence against the indigenous population. The level of violence in East Timor dropped once Indonesian forces left the area, and it is reasonable to expect that something analogous would occur in an independent West Papua.<sup>254</sup> Some have questioned whether West Papua's

<sup>249</sup> The UN, Statement by Mr Barak Maautamate to the 59<sup>th</sup> Session of the UN General Assembly, (2004), <http://www.un.org/webcast/ga/59/statements/vaneng040928.pdf>. Last accessed, 24/2/2016.; Loop News, *West Papua Special Envoy Criticises Indonesia*, (2015), <http://www.loopvanuatu.com/content/west-papua-special-envoy-criticises-indonesia>. Last accessed, 24/2/2016.; See more at <http://www.thejakartapost.com/news/2015/09/29/papua-now-pacific-radar.html#sthash.qtXGcShh.dpuf>. Last accessed, 24/2/2016.

<sup>250</sup> International Diplomat, *French Polynesia Reinscription to the List on Non-Self-Governing Territories*, (2014), <http://www.internationaldiplomat.com/international-diplomat/french-polynesia-reinscription-list-non-self-governing-territories-implications-alaska-hawaii-leon-siu-19-august-2013/>. Last accessed, 24/2/2016.

<sup>251</sup> Radio New Zealand, *Vanuatu Wants West Papua at UN Level*, (2014), <http://www.radionz.co.nz/international/pacific-news/248809/vanuatu-wants-west-papua-at-un-level>. Last accessed 24/2/2016.

<sup>252</sup> Oxford Lawyers Without Borders, *A Legal Case For West Papua*, Report Draft.

<sup>253</sup> UN, *Study on Decolonisation of the Pacific Region*, (2013), [http://humanrightspapua.org/images/docs/PFonIstudy\\_2013\\_decol\\_Pacific.pdf](http://humanrightspapua.org/images/docs/PFonIstudy_2013_decol_Pacific.pdf). Last accessed, 24/2/2016.

Moreover, in 2015 the forum also heard a statement by Papuan leader Ronald Waromi, who asked the for the Special Rapporteur on the Rights of Indigenous Peoples to visit West Papua and for the UN to follow up on the report and support a referendum in West Papua.<sup>253</sup> Waromi, R., Statement to the UN Permanent Forum on Indigenous Issues, (2015), <https://papersmart.unmeetings.org/media2/4657471/west-papua-interest-association.pdf>. Last accessed, 24/2/2016. In 2015 the Unrepresented Nations and Peoples organisation (UNPO) submitted a report on West Papua to the Human Rights Council's Expert Mechanism on the Rights of Indigenous Peoples, <http://unpo.org/members/7843>. Last accessed, 24/2/2016.

<sup>254</sup> Ibid.

problems can ever be truly resolved as long as the Indonesian military is present.

2. Papuans would have control over their own economic development, including revenues from natural resources, which could be funnelled into grassroots development projects.

Some of the most significant challenges that would be faced by an independent West Papua are as follows.

1. Social divisions. The newly formed Papuan state would have to deal with divisions between migrants and indigenous Papuans. Recent accounts report increased tension between indigenous Papuans and migrants. This is especially worrying because, as was highlighted above, migrants now constitute around half of West Papua's residents, and control much of the economic life of the region. Moreover, the recent creation of new provinces and districts has increased rivalry between different indigenous groups—creating a new threat to the stability of an independent West Papua<sup>255</sup>. A clear transition plan with widespread backing on the ground and a strong unity government with international support would be needed in order to ensure the stability of the newly formed state.<sup>256</sup>

2. Administrative capacity. The 2001 Special Autonomy law increased the number of Papuans in positions of leadership, but did not provide commensurate training and education in order to ensure that new appointments were able to function effectively. An increase in resources flowing through internal budgets without proper accounting only exacerbated the problem.<sup>257</sup> In order to succeed, an independent Papua would strongly benefit from international support to develop a well-trained and effective administration.

3. Lack of infrastructure. The West Papua region has extremely poor basic infrastructures, including deficient healthcare and education facilities.<sup>258</sup>

Given the challenging circumstances, delivering basic welfare provisions might be one of the most pressing challenges for an independent Papua.<sup>259</sup>

4. Internal security. The Indonesian military and police are currently responsible for ensuring internal security. As noted, the presence of Indonesian military and police in Papua, and the acts of violence that they have perpetrated against indigenous Papuans, has been at the core of the current conflict. If Indonesian security services were to depart, it would be essential to ensure that a well-trained police force accountable to a Papuan government was able rapidly to take over the role, in order to ensure internal security and to prevent a breakdown in law and order, and violence along ethnic lines. International experience suggests that this has often been a central challenge for newly independent states.<sup>260</sup>

It should be stressed that several of the problems highlighted above are also present under Indonesia's current administration of the West Papua region, and that the potential challenges do not legitimise the status quo in West Papua. However, they are potentially significant challenges that an independent West Papua would have to overcome and must be taken seriously. In the event of a successful vote for independence, the international community would be called upon to contribute to strengthening the political and economic capacities of the country, and ensure that the newly formed country can adequately overcome these challenges. The international community has in recent years become significantly more aware of the danger of not planning for a post-conflict political settlement. Some of Papua's neighbours have faced recurring political instability and lack of domestic control.<sup>261</sup> It would be essential to do everything feasible to ensure that an

<sup>255</sup> Etan, 'Filep Karma Finally Released; Scores of Papuan Political Prisoners Remain Behind Bars' [http://www.etan.org/issues/wpapua/2015/1512wpap.htm#UPDATE\\_Last](http://www.etan.org/issues/wpapua/2015/1512wpap.htm#UPDATE_Last) accessed 18/04/2016

<sup>256</sup> Stott, D., *Would An Independent West Papua be a Failing State?* (2011), [http://fpif.org/would\\_an\\_independent\\_west\\_papua\\_be\\_a\\_failing\\_state/](http://fpif.org/would_an_independent_west_papua_be_a_failing_state/). Last accessed, 24/2/2016.

<sup>257</sup> Ibid.

<sup>258</sup> See Section 2 for more details

<sup>259</sup> Stott, D., *Would An Independent West Papua be a Failing State?* (2011), [http://fpif.org/would\\_an\\_independent\\_west\\_papua\\_be\\_a\\_failing\\_state/](http://fpif.org/would_an_independent_west_papua_be_a_failing_state/). Last accessed, 24/2/2016.

<sup>260</sup> Ibid.

<sup>261</sup> Ibid.



independent West Papua could succeed as a state and that the significant challenges described could be satisfactorily addressed.

### *Recent International Precedents*

In recent years, the international community has de facto accepted secession as a way to address especially deep conflicts, which have destabilised affected regions for decades and claimed thousands of victims. Two recent cases of secession are particularly relevant to Papua's current political status: East Timor and Kosovo. It is helpful to briefly consider the analogies between these cases and Papua's current predicament.

East Timor was a Portuguese colony that declared independence in 1975. It was then occupied by Indonesia, and remained under Indonesian control for two decades. Out of a population of less than a million, an estimated 100,000 to 250,000 people died in that period.<sup>262</sup> A UN-supervised referendum was held in 1999, and the majority of people voted in favour of independence from Indonesia.<sup>263</sup>

The case of East Timor has obvious parallels to Papua. The annexation of the territories was highly controversial in both cases. Today's West Papua bears significant similarities with the situation in East Timor in the late 1980s: human rights abuses are widespread, the media are unable to access the region, transmigration is increasingly marginalising the local population, and young people are brought up under the Indonesia Government but do not identify as Indonesian.<sup>264</sup>

Kosovo was an autonomous province of Serbia in the Socialist Federal Republic of Yugoslavia. After the death of President Tito, Albanian nationalist sentiments grew stronger and calls for

independence led to riots and violence. The Serbs then revoked Kosovo's autonomy and Kosovo responded by declaring independence at the beginning of the 90s. This led to clashes between Serbians and the Kosovo Liberation Army which resulted in massacres and mass expulsions of ethnic Albanians. NATO conducted a military operation against Serbia in 1999, after which Serbians withdrew from the region. Kosovo was then put under an interim UN administration. After failed negotiation with Serbia, Kosovo declared independence in 2008 and it has since been recognised by over 100 countries. Serbia and Russia challenged the Kosovo's declaration and persuaded the General Assembly to refer the case to the International Court of Justice for an advisory opinion. The court's opinion was that Kosovo's declaration did not violate international law.<sup>265</sup> Kosovo's case suggests that secession can be a legal remedy in extreme cases of human rights violations and abuses.<sup>266</sup>

<sup>262</sup> BBC World Service, *Case Study: Democracy in East Timor*, (no date), [http://www.bbc.co.uk/worldservice/people/features/ihavearighttp://four\\_b/casestudy\\_art21.shtml](http://www.bbc.co.uk/worldservice/people/features/ihavearighttp://four_b/casestudy_art21.shtml). Last accessed, 24/2/2016.

<sup>263</sup> The CIA World Factbook, Timor-Leste File, <https://www.cia.gov/library/publications/the-world-factbook/geos/tt.html>. Last accessed, 24/2/2016.

<sup>264</sup> Matsuno, A., *West Papua and the Changing Nature of Self-Determination*, In *Comprehending West Papua*, King, P and Elmslie, J and Webb-Gannon, C, eds. Centre for Peace and Conflict Studies. University of Sydney, (2011), Sydney.

<sup>265</sup> BBC, *Kosovo Profile*, (2016), <http://www.bbc.com/news/world-europe-18328859>. Last accessed, 24/2/2016; The CIA World Factbook, Kosovo Profile, <https://www.cia.gov/library/publications/the-world-factbook/geos/kv.html>. Last accessed, 24/2/2016.

<sup>266</sup> Borgen, Christopher J., *The Language of Law and the Practice of Politics: Great Powers and the Rhetoric of Self-Determination in the Cases of Kosovo and South Ossetia*. *Chicago Journal of International Law*, (2009), 10, 1, pp. 1-33.

## Section 5

### Recommendations

The status quo in the West Papua region of Indonesia is not only unsustainable from a moral and political perspective, but also continues to threaten instability in the Pacific region and poses specific risk to economic interests. Several countries have strong political ties with the West Papua region and with Indonesia and Melanesian countries more broadly.

In light of the findings of this report, we recommend that parliamentarians and members of the international community consider taking the following actions to facilitate a resolution of the ongoing conflict and human rights violations in West Papua.

#### **1. Ask questions in national parliaments and international organisations on the issues outlined in this report, especially concerning human rights and development**

Focusing in particular on killings, torture, freedom of expression, police impunity, media and civil society access, discrimination, land and indigenous rights, health and education (as discussed in Section 2 of the report).

#### **2. Support a resolution in parliament asking for the national government to play a more active role in the solution of the conflict in West Papua**

The status quo in the West Papua region of Indonesia is not only unsustainable from a moral and political perspective, but also continues to threaten stability in the Pacific region.

#### **3. Organise a parliamentary delegation to be sent to the West Papua region**

Scrutiny by international representatives is crucial to ensure that basic human rights are protected in the region.

#### **4. Call for free access of media, non-governmental organisations, foreign academics and foreign observers in West Papua**

Indonesian President Joko Widodo has recently stated that the government would lift restrictions on access to foreign journalists. While this is a positive sign, the promise has not been followed by official instructions, and statements made on the topic by Indonesian authorities since have been ambiguous.

#### **5. Call for the release of political prisoners**

Papuans are often arrested for peacefully expressing their opinion about the political status of the West Papua region. Between April 2013 and December 2014, the human rights organisation Papuans Behind Bars reported 881 political arrests and 370 cases of ill treatment. President Widodo recently granted clemency to five political prisoners, but (as of November 2015) 38 still remained behind bars.

#### **6. Press for visits by the UN Special Rapporteur on freedom of opinion and expression and the UN Special Rapporteur on torture**

In 2013, the UN Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Frank La Rue, was denied access to Papua. Given the situation in the region, a visit should be arranged promptly. After their visit to West Papua in 2007, the UN Special Rapporteur on Torture gave worrying reports to the UN Human Rights Council. A follow up visit should be arranged to ensure that circumstances have improved.

#### **7. Press for the reinstatement of NGOs in Papua**

In 2011 the government forced the Peace Brigades International to end its work in West Papua, by refusing its volunteers the permit to travel in rural

areas.<sup>267</sup> In recent years, Amnesty International and HRW have also been routinely denied visas.<sup>268</sup> In 2010 the authorities banned the NGO Cordaid, on the basis that it had supported Papuan activists. In 2009, the authorities ordered the International Committee of the Red Cross to shut down its offices in Jayapura.<sup>269</sup> Non-governmental organisations provide important support to the region and should be allowed to operate there.

### **8. Support the development of Papuan administrators and the Papuan exile community**

The development of competent administrators in West Papua is essential to ensure that West Papua can deal with the pressing problems it faces, including the lack of basic infrastructure and minimal welfare services. Support could be provided through training and by sharing expertise with the provincial and local governments in the West Papua region, as well as setting up scholarships giving young Papuans the opportunity to gain the skills needed to effectively administer the region. In addition, supporting the development the exile community will facilitate constructive dialogue between the parties and governance capacity.

### **9. Help companies working in the West Papua region to implement security strategies that are not complicit in human rights violations taking place in the region**

Embassies and governments should use their influence to ensure that businesses avoid giving any support to Indonesian police or military forces, which are complicit in human rights violations.

### **10. Halt all training and delivery of military equipment to Indonesian military and police forces until reliable mechanisms are put in place to verify their adherence to human rights standards; if in the**

### **future training does take place, include rigorous human rights training in the programmes**

Despite evidence of human rights violations perpetrated by the Indonesian army in the region, governments continue to sell arms to the Indonesian government, and have been involved in the training of two Indonesian counter-terrorism units: Kopassus and Detachment 88. The former is an elite unit of the Indonesian military, the latter of the national police. Both forces have been employed in the West Papua region and are responsible for serious human rights violations in the area.

### **11. Convene a parliamentary meeting with NGOs and advocacy groups to discuss what the government can do to facilitate a resolution to the situation in West Papua**

It is essential to bring together different stakeholders to engage in an ongoing and informed conversation about how to most effectively improve the situation in the West Papua region.

### **12. Support rigorous academic research on the current situation in West Papua and possible pathways to a resolution of the conflict**

There remain many significant unknowns about the political and social situation in West Papua, especially concerning the status of the non-Papuan population in the region, different ways in which the situation can be improved, and the lessons that can be learned from similar international cases.

### **13. Encourage key Indonesian political and economic actors to engage in an open discussion on the situation in West Papua**

It is essential to engage with Indonesian industry, ministries, parliamentarians, and advisors to the President to press them to address the Papuan issue and to encourage discussion on the situation in West Papua both internally and with Papuan advocacy groups.

<sup>267</sup> Human Rights Watch, *Something to Hide? Indonesia's Restrictions on Media Freedom and Rights Monitoring in Papua* (2015).

<sup>268</sup> Harvey, Gemima. 'The Price Of Protest In West Papua.' *Griffith Journal of Law & Human Dignity* 3.1 (2015).

<sup>269</sup> Human Rights Watch, *Something to Hide? Indonesia's Restrictions on Media Freedom and Rights Monitoring in Papua* (2015).

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