

## **Human Rights Council**

### **Universal Periodic Review (UPR) of the Republic of Indonesia**

#### **13<sup>th</sup> Session (May – June 2012)**

**Joint Stakeholders' Submission on:**

## **The Human Rights Situation in Papua**

**Submitted by:**

**Franciscans International (FI)**  
(NGO in Consultative Status with ECOSOC)

**Faith Based Network on West Papua (FBN)**

**And**

**Asian Human Rights Commission (AHRC)**

**Geneva, November 2011**

## **I. Introduction**

1. This stakeholders' report is a joint submission of the above-mentioned organizations. The report highlights key concerns related to the **Human Rights situation in Papua** in the following areas: *torture; freedom of expression; human rights defenders; extrajudicial, summary or arbitrary executions; Indigenous Peoples, and women*. The term Papua refers to the Province of West Papua and the Province of Papua. Each section conveys recommendations to the Government of Indonesia.
2. The data and information obtained for this submission came from various sources and include information from Franciscans International members in Papua, the members of the Faith Based Network on West Papua (FBN), Asian Human Rights Commission (AHCR) and other partner organizations.
3. FI is a faith-based International Non-Governmental Organization (INGO) with General Consultative Status with Economic and Social Council of the United Nations. It was founded in 1982 to bring to the UN the concerns of the most vulnerable.
4. FBN is an international network of faith based organizations working on Papua. Since 2003, FBN has supported the religious leaders of Papua in their campaign "Papua, land of peace" and aims to create a peaceful and just Papua where its indigenous population lives without fear and experiences social equality, economic prosperity and the rule of law.
5. AHCR is a regional non-governmental organization that monitors human rights in Asia, documents violations and advocates for justice and institutional reform to ensure the protection and promotion of these rights. The Hong Kong-based group was founded in 1984.
6. FI together with other organisations made a submission for the Review of Indonesia in the first cycle of the Universal Periodic Review in 2008. FI continues to observe the human rights situation in Papua and monitor the implementation of the recommendations of the UPR for Indonesia.

## **II. Torture**

7. Despite the concerns expressed by the state delegations and other stakeholders during the first review of Indonesia in 2008, the practice of torture against the Papuans still continues. The Indonesian military has been using torture in Papua for decades, to such an extent that it is now an institutionalized practice. Torture is used by the military as a weapon against the perceived threat of the Free Papua Movement – OPM (Organisasi Papua Merdeka). Papua is a highly militarized area with an estimated 14,842 troops whose primary mission is to secure the state against the threat of separatism. The military is however also engaged in economic activities in the resource rich region. Accusations of separatism are used to justify a wide range of human rights abuses, including torture. The military has conducted sweeping operations to aim at intimidating the indigenous communities and local OPM activity and these activities often result in incidents of torture and ill-treatment of civilians.
8. The military leadership has demonstrated little concern about the widespread use of torture against civilians. The few claims to take action against the practice have not been followed by action resulting in a reduction of torture. In October 2010, a video depicting two incidents of torture of indigenous Papuans by Indonesian soldiers was leaked and published by the Asian Human Rights Commission. The military leadership's response was to condemn the leaking of the footage, rather than the brutal violence. Under increasing international pressure, the military prosecuted three of the six soldiers involved in the incidents

but they were tried in military tribunals rather than civilian courts, and they were given minimum sentences on the charge of disobedience. The impunity with which the military operates grants soldiers free rein to act as they wish and this creates an extremely dangerous situation for civilians in Papua; there are reports of torture carried out arbitrarily by security personnel with no apparent provocation or justification.

9. Other security organizations, such as the Indonesian Police and the Mobile Police Brigade (Brimob), also use torture against civilians accused of OPM involvement. Civilians have been subjected to ill-treatment while in police custody. On 14 December 2010, five students and a priest were arrested on suspicion of raising the Morning Star flag, considered by the government as a symbol of the secessionist movement, and making political speeches. They were detained in cells with leaking roofs and bags of garbage, and as result of these poor conditions, they fell ill with malaria and gastric disorders. Women are particularly vulnerable to ill-treatment at the hands of security personnel. STOP SUDAH!, a recently published report on violence against women in Papua between 1963 and 2009<sup>1</sup>, documents nine cases of torture, six cases of sexual torture, fifty-two cases of rape, and five cases of sexual slavery carried out by state actors against Papuan women.

10. In its joint submission in 2008, FI recommended to the Government of Indonesia **to harmonize Indonesian law with the definitions of the Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), by including the definition of torture in Indonesian Penal law, especially the Penal Code (KUHP). FI also urged the Government of Indonesia to ratify the Optional Protocol to the CAT in order to fulfill its national Human Rights Plan of Action 2004-2009 and to invite the UN Special Rapporteur on violence against women, its causes and consequences and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment should address and monitor human rights violations including the use of torture, ill treatment and sexual violence against women and children in West Papua.**

11. However, The Military Penal Code, modeled on the colonial civilian Penal Code, has not been reformed in accordance with the various international human rights instruments ratified by Indonesia. Although Indonesia ratified the UN Convention against Torture in 1998 and is therefore legally bound to prohibit torture or other forms of ill-treatment, provisions have yet to be made in the national military and civilian penal codes to criminalize torture. Members of the Indonesian military subject civilians to torture with impunity, as do other sectors of the security forces and law enforcement. While military personnel who commit human rights violations including torture continue to be tried in military courts, the problems of widespread impunity and lack of accountability cannot be effectively redressed.

12. On 19 October 2011, Indonesian military and police forces violently dispersed indigenous participants of the 3<sup>rd</sup> Papuan People's Congress, a peaceful gathering which had been held from 16 to 19 October at a football field of the Catholic Church in Abepura, Jayapura City, Papua Province. At 4:30pm, one hour after the closing prayer and without warning, security forces opened fire on participants. Three people were killed by gunshots and at least 96 participants had been shot, kicked or beaten by police officers<sup>2</sup>. 17 people are reported missing<sup>3</sup>. The security forces also forcefully raided catholic dormitories causing fear

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<sup>1</sup> Stop Sudah!! Kesaksian Perempuan Papua Korban Kekerasan dan Pelanggaran HAM 1963 – 2009: [http://komnasperempuan.or.id/publikasi/Indonesia/materi%20publikasi/Laporan%20Pemantauan/new\\_buku%20laporan%20stop%20sudah%20papua\\_revisi%2004102010.pdf](http://komnasperempuan.or.id/publikasi/Indonesia/materi%20publikasi/Laporan%20Pemantauan/new_buku%20laporan%20stop%20sudah%20papua_revisi%2004102010.pdf)

<sup>2</sup> Komisi Nasional Hak Asasi Manusia: Laporan Sementara Hasil Pemantauan dan Penyelidikan Peristiwa Kongres Rakyat Papua III", Jakarta 02.11.2011

<sup>3</sup> Report by local human rights defenders: State violence against participants of the 3<sup>rd</sup> Papuan Congress in Jayapura, Papua on 19 October 2011, Berlin 24.10.2011

and trauma amongst the brothers<sup>4</sup>. To date, the Indonesian authorities have not shown any accountability for the severe human rights violations committed by its security forces on 19 October 2011.

13. The Government of Indonesia has accepted the recommendations of the UPR **to ratify the Optional Protocol to the Convention against Torture, Cruel, Inhuman and Other Degrading Treatment<sup>5</sup>, to include the crime of torture in the criminal code<sup>6</sup> and reaffirm its commitment to combat impunity<sup>7</sup>**. The Government of Indonesia does not fulfill its own commitments. It still has a lot of progress to make in terms of compliance with international standards, including as regards the use of torture.

#### **14. We urge the Government of Indonesia to:**

- a) *Ratify the Optional Protocol to the Convention against Torture (OPCAT) as already recommended during the 2008 UPR of Indonesia.*
- b) *Criminalize torture designing an ad hoc provision in the Civil and the Military Penal Code, as already recommended during the 2008 UPR of Indonesia, and to prepare legislation for the comprehensive abolition of torture including provisions for reparation and non-refoulement.*
- c) *Conduct effective, transparent, independent, and impartial investigations into allegations of human rights abuses, especially those allegedly committed by state security forces.*
- d) *Conduct prompt and effective investigations into allegations and cases of torture and provide effective remedies to the victims.*
- e) *Take extra measures against corruption in public institutions including police and judiciary, such as a special task force of the KPK (Indonesian Anticorruption Commission) to Papua.*

### **III. Freedom of Expression**

15. Humanitarian organizations and international bodies are known to experience many more obstacles while carrying out their work in Papua than in other Indonesian provinces. The state discourages and discredits international organizations in Papua by manipulating the bureaucracy to delay and disrupt the work of NGOs, and accusing organizations of supporting separatism. This often makes the continuation of their operations in Papua untenable. For example, the International Committee of the Red Cross (ICRC) was ordered by the Foreign Ministry to end its operations in Papua and Aceh because it had ‘failed to comply with new official operational procedure.’<sup>8</sup> International organizations are prohibited from engaging in political work. Considering that the definition of ‘political work’ is determined by the state, non-partisan organizations can easily be accused of supporting the separatist movement. Separatism is a criminal offence known as ‘*Makar*’.

16. In 2010, the Faith Based Network on West Papua noted an increase in the occurrence of peaceful demonstrations and rallies by indigenous Papuans expressing their dissatisfaction on various issues currently affecting Papua. However, many of these peaceful demonstrations have been met with a heavy-handed response from the state. On 22 April 2010, Indonesian security forces violently broke up a

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<sup>4</sup> Report by the Rector of the Catholic College for Philosophy and Theology STFT (Sekolah Tinggi Filsafat dan Teologi) “Fajar Timour”, Father Dr. Neles Tebay, and Father Gabriel Ngga OFM: “What the Civitas Academica of ‘Fajar Timur’ School of Philosophy and Theology have experienced and seen post the third Papuan Congress”, Jayapura 26.10.2011.

<sup>5</sup> See A/HRC/8/23 para 77/2.

<sup>6</sup> Ibid, para 77/6

<sup>7</sup> Ibid, para 77/4

<sup>8</sup>The Jakarta Post, 4/25/2009.

peaceful demonstration in the city of Manokwari, West Papua. A video on Youtube shows members of Brimob and Special Detachment 88 (the Indonesian anti-terror squad) beating several protestors and seventeen were reportedly arrested. In early 2011, the leading human rights organizations, KontraS Papua and the Commission for the Disappeared and the Victims of Violence, published a report on makar cases in 2010, highlighting how often the offence is used to criminalize peaceful activity. On the 11 August 2010, Samuel Yaru and Luther Wrait were sentenced to one year in prison for incitement, having been among the leaders of a peaceful demonstration organized in November 2009 to criticize the failure of the Special Autonomy Law.

17. Freedom of the press in Indonesia is deteriorating. In 2002, Indonesia was ranked 57<sup>th</sup> out of 178 countries in the World Press Freedom Index; in 2010 it had slipped to 117<sup>th</sup> while the situation in Papua can be considered worst among Indonesian sub regions. Journalists who criticize the government are subject to reprisals ranging from intimidation to death. Several journalists have reported receiving threats and being followed. Two journalists have been killed for their reporting on controversial subjects. The body of Ardiansyah Matra's was found on 30 July 2010 and his death is considered suspicious. International journalists face tight restrictions on their access to Papua. French journalist Baudouin Koenig was arrested and expelled for filming a peaceful demonstration in Jayapura, Papua. Mark Worth, an Australian journalist who had reported on the independence struggle of the Papuans, was found dead in suspicious circumstances on 15 January 2004. His death occurred just two days after the announcement of the release of his latest documentary on Papua.

18. In its joint submission for the UPR Indonesia in 2008, FI recommended the Government of Indonesia to **fulfill its obligation under Article 19 of the ICCPR and not impede the freedom of expression in West Papua; to invite the Special Rapporteur on Freedom of Expression to visit West; and to repeal the articles of the Criminal Code which criminalize 'public expression of feelings of hostility, hatred or contempt towards the government' and prohibit 'the expression of such feelings or views through the public media; to guarantee the access to Papua for journalists and human rights organizations and to guarantee their safety.**

19. The Indonesian government continues to actively obstruct the freedom of expression. International journalists and organizations are severely restricted in their access to Papua, while domestic journalists are subjected to intimidation, threats, and even death. Civilians who attempt to exercise their rights to express their Papuan identity and political opinions are met with condemnation as separatists and face criminal punishments. *Makar* is still enshrined in the Penal Code as a criminal offence originating from the colonial period punishable by law. Civilians are still being detained and sentenced to prison for peaceful protests on political issues and peaceful demonstrations of their Papuan identity such as flag-raising ceremonies. Local journalists face great risks to their personal safety when reporting on sensitive issues in Papua. They are not free to broadcast their reports to the public and news of injustice and abuse in Papua is leaked out through underground channels. The Indonesian government continues to manipulate the bureaucracy to obstruct the operations of NGOs and other international organizations, thereby indirectly cutting off their access to Papua. International journalists face tight constraints on their activities when reporting on Papua. As a result victims' access to support, solidarity and advocacy measures is severely hampered.

**20. The Government of Indonesia has accepted the recommendations of the UPR in 2008 to reaffirm its commitment to combat impunity and to continue to provide additional training for law enforcement officials, including prosecutors, police and judges, as well as security forces.**

21. In reality, the Indonesian security personnel and law enforcement officials, among other state actors, are the primary perpetrators of intimidation and violence against those who exercise their right to freedom of expression. The lack of freedom of expression is an institutionalized problem with the security forces. Perpetrators of abuse and violence against those who exercise their right to free expression are not prosecuted. The investigation into the death of Ardiansyah Matra's seems to have come to a halt, and after waiting for six years for a satisfactory explanation of Mark Worth's death, his family called for the re-opening of the investigation in February 2010.

22. Approximately 300 peaceful participants of the 3<sup>rd</sup> Papuan Congress were arbitrarily arrested by the Indonesian security forces on 19 October 2011 in Jayapura, Papua Province. Most of them were released the following day, but five have been charged for "rebellion" and "incitement" under articles 106, 110 and 160 of the Criminal Code<sup>9</sup>. Prior to the Congress, the organizing committee had officially informed the Indonesian Government in Jakarta about the planned event and the Director General of Regional Autonomy at the Home Affairs Ministry was directed by the Indonesian Minister of Law, Politics and Security to attend the Congress and give the opening speech. This procedure contradicts later claims by the Indonesian authorities that the Congress was illegal.<sup>10</sup>

### **23. We urge the Government of Indonesia to:**

- a). *Invite the UN Special Rapportuer on Freedom of Expression to visit and assess the situation in Papua.*
- b). *Recognise freedom of expression and opinion, peaceful assembly, and self-determination of the peoples, as fundamental rights according to the UN Declaration on the Rights of Indigenous Peoples and the ICCPR.*
- c). *Ensure reforms and anti-corruption measures that will allow victim's access to impartial and competent courts and effective remedies*
- d). *Provide adequate training for people working in governmental and administrative agencies aiming at understanding and therefore recognizing, respecting, and protecting the right to freedom of expression and opinion, peaceful assembly, and self-determination, while they perform their duties;*
- e). *Guarantee unrestricted access to Papua for international humanitarian and human rights organisations, international journalists, and parliamentarians and to ensure that they are able to carry out their job without restriction and harassment.*

### **IV. Human Rights Defenders**

24. The former Special Representative of the Secretary General on Human Rights Defenders (HRDs), Ms Hina Jilani, visited Indonesia in that capacity from 5-12 June 2007. In her press statement, she concluded that although the overall situation of human rights defenders in Indonesia has improved in recent years, she is *'deeply concerned by the testimonies that she has heard indicating the continuing activities of the police, the military and other security and intelligence agencies that are aimed at harassment and intimidation of defenders or to restrict their access to victims and to sites of human rights violations'*, a trend, as she noted, *'is more pronounced in the province of West Papua.'* The issues she raised remain major concerns.

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<sup>9</sup> Komisi Nasional Hak Asasi Manusia: Laporan Sementara Hasil Pemantauan dan Penyelidikan Peristiwa Kongres Rakyat Papua III<sup>rd</sup>, Jakarta 02.11.2011 (*National Human Rights Commission: Monitoring and Investigation Interim Report on the 3<sup>rd</sup> Papuan Peoples' Congress, Jakarta 02.11.2011*)

<sup>10</sup> Ibid. The Central Highlands Student Association of Papua Indonesia: To the Government of the Republic of Indonesia: Stop limiting the democratic space in the land of Papua, Jakarta 22.10.2011

25. HRDs in Papua are subjected to a broad range of coercive measures aimed at restricting their work, including arbitrary searches of their property, surveillance, accusations of makar, and threats to their safety. Victims include journalists, community leaders, religious leaders, students and NGO activists. The death of outspoken journalist and HRD Ardiansyah Matra'is was a particularly devastating blow to the cause of the HRDs in Papua. Restrictive and discriminative legislation, such as the makar article in the Criminal Code and presidential decree 77/2007, is detrimental to the safety and effectiveness of HRDs in Papua. Ongoing impunity, the primacy of national security in government policy, and the lack of adequate policies to protect HRDs all exacerbate the difficulty of their position. Without a fully effective national human rights commission, HRDs lack crucial support in their work. In remote regions HRDs face a shortage of basic resources and infrastructure, as well as the increased dangers presented by the high militarization of these areas and the absence of the rule of law.

**26. In the first UPR on Indonesia in 2008, Franciscans International among others has recommended the Government of Indonesia to ensure that human rights defenders are able to carry out their work unimpeded and without facing harassment, intimidation, threats, arbitrary detention or torture; to remove restrictive regulations that hamper their work and make sure human rights defenders have full access to victims and sites of human rights violations; to provide adequate training to the police, army, and paramilitary forces, and prosecuting those who have carried out brutal acts against human rights defenders.**

27. However, a broad range of coercive measures are employed to obstruct the work of HRDs by, or with the complicity of, state authorities. Regulations have become even more restrictive and the work of HRDs is seriously impeded by the ever-increasing barriers of 'red tape.' The government actively limits the access of NGOs, journalists and other organizations and bodies to Papua. Law enforcement and security personnel continue to carry out gross human rights violations against civilians.

**28. The Government of Indonesia was recommended to continue to respect to those engaged in defending human rights, and to support and protect their work, including at the provincial and local level as well as in regions with special autonomy; to provide additional training for law enforcement officials, including prosecutors, police and judges, as well as security forces.**

29. Based on our experience in Papua, we express our concern about the fact that the Indonesian authorities in Papua do not provide adequate support for and protection of the work of HRDs; rather, they actively obstruct the HRDs' efforts. Law enforcement and security personnel continue to carry out gross human rights violations against civilians. Since the Criminal Code institutionalizes restrictions to the right to freedom of expression, the courts are also complicit in upholding human rights abuses through their judgments. The harassment and abuse of HRDs is carried out with widespread impunity. The investigation into the death of Ardiansyah Matra'is seems to have come to a halt, and after waiting for six years for a satisfactory explanation of Mark Worth's death, his family called for the re-opening of the investigation in February 2010.

**30. We urge the Government of Indonesia to**

- a). *Implement the recommendations issued by the Special Rapporteur of the Secretary General on the Situation of Human Rights Defender, after her visit to West Papua in 2007.*
- b). *Design adequate human rights training for law enforcement officials, also in collaboration with civil society actors, whose effectiveness should be constantly evaluated through the creation of a specific monitoring body.*

- c). *Cease intimidations, harassment, and physical violence perpetrated against human rights defenders and journalists in Papua, and ensure that the perpetrators are brought to justice.*

#### **IV. Extrajudicial, Summary or Arbitrary Executions**

31. There is a long history of extrajudicial, summary and arbitrary executions in Papua, dating back to the arrival of Indonesian troops in 1962. Despite the institutional improvements in human rights since Soeharto's demise, extrajudicial and arbitrary killings are still carried out by Indonesian security personnel with impunity. Under the Special Autonomy Law, Komnas HAM documented gross human rights violations in Papua, such as the Abepura Case (2000), the Wasior Case (2001) and the Wamena Case (2003), all of which involved extrajudicial and arbitrary executions of indigenous Papuans by Indonesian security forces. None of these have been brought before the National Human Rights Court. The isolated highland regions are particularly vulnerable to such abuse by the security forces. In recent years, the Faith Based Network has noted an increase in killings perpetrated by Indonesian security forces in the Puncak Jaya Regency, a highly militarized zone that has been subjected to repeated military sweeping operations.

32. In the previous UPR joint submission, we have recommended the Government of Indonesia, among others, **to monitor the functioning of the judiciary in West Papua, to prevent arbitrary arrests, and to give free access to the Special Rapporteur on extrajudicial, summary or arbitrary executions.**

33. We conclude that the Government of Indonesia has not taken adequate measures to deal with the institutionalized impunity in Papua which allows security personnel to commit extrajudicial killings without repercussions. In August 2009, the indigenous Papuan Yawan Wayeni was viciously tortured to death by members of Brimob (the Mobile Brigade of the Indonesian Police). On 17 March 2010, Rev. Kindeman Gire of the Evangelical Church in Indonesia, GIDI, was tortured and killed by members of Infantry Battalion Yonif 756 in Kalome, Puncak Jaya Regency. In Paniai Regency, Riky Abraham Zongennau, a 22 year old indigenous Papuan, was allegedly set upon and beaten to death by four members of the Timsus 753 military unit while walking to a friend's house on 15 October 2010. The Faith Based Network reports nine incidents of extrajudicial and arbitrary executions in 2010/2011, though it is not an exhaustive list as it is likely that there have been other incidents that remain undocumented. None of the perpetrators of these killings have been brought to justice. On 19 October 2011, members of the Indonesian security forces allegedly shot dead three participants of the 3<sup>rd</sup> Papuan Peoples' Congress. Demianus Daniel Kadepa (23), Yakobus Samasabara (48) and Max Asa Yeuw (33) were killed by gunshots. The National Human Rights Commission Komnas HAM was not able to confirm whether they were killed by the military or the police.<sup>11</sup>

#### **34. We urge the Government of Indonesia to**

- a) *Invite the UN Special Rapportuer on Extrajudicial, Summary or Arbitrary Execution to visit Indonesia and give him the possibility to freely access, visit, and assess the situation in Papua.*
- b) *Review the Military Court Law to allow military perpetrators of crimes against civilians to be tried by independent and open civil courts.*
- c) *Conduct prompt and effective investigations into all cases of human rights violation against Papuans, in particular allegations of torture and extrajudicial executions perpetrated by*

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<sup>11</sup> Ibid. Advocacy Network for upholding Law and Human Rights JAPH &HAM (Jaringan Advokasi Penegakan Hukum dan Hak Asasi Manusia): Paska Kongres Rakyat Papua Yang Ke III (KPR) – 96 orang mengaku dianiaya aparat.

*members of the military; identify and prosecute the culprits; and provide adequate remedies to the victims.*

- d) Reduce the number of military forces deployed in Papua and ensure the compliance of Indonesian security forces' procedures to international human rights principles.*
- e) Grant access to Papuan detention facilities to monitoring institutions and organizations, including international human rights and humanitarian organizations such as the International Committee of the Red Cross (ICRC).*

## **V. Indigenous Peoples**

35. Indonesia has not yet ratified ILO Convention No. 169 on Indigenous and Tribal Peoples, but it has been one of the countries that have consistently supported the adoption of the UN Declaration on the Rights of Indigenous Peoples since 2006. The Special Autonomy Law, despite its provision for the protection of indigenous cultural rights, fails to prevent land rights violations against the indigenous population. The right to give or withhold their free, prior and informed consent to development projects on their lands is recognized under international law. However, this law has not been implemented in the Indonesian legal system. Indigenous leaders are often tricked, defrauded and even coerced to release their lands. Large companies exploit the indigenous peoples' lack of awareness of the commercial value of their land to buy it at extremely low prices and the lack of sufficient access to free legal aid. There have been instances of companies negotiating deals with indigenous communities and then not fulfilling their agreements once they have acquired the land. In May and June 2010, an unknown number of indigenous, estimated to be in the hundreds, possibly the thousands, were displaced in Papua by military sweeping operations. During these manoeuvres in Tinggimambut District, members of Brimob and the military reportedly killed two civilians, raped a pregnant woman, burned 12 houses, forced indigenous people to work for them and killed all the livestock in three villages. There are reports that some of the sweeping operations have been carried out in collusion with the government and MIFEE (Merauke Integrated Food and Energy Estate) to remove people from lands required for the project's development.

36. Often in negotiations the companies fail to recognize the complex structure of landowners within the indigenous communities and so not all parties are always involved. This leads to horizontal conflicts within the indigenous communities. Horizontal conflicts have also become a concern between the indigenous and the migrant communities from other parts of Indonesia. The local population cannot meet the labour requirements of the large development projects like MIFEE or the palm oil plantations. The companies therefore seek labour elsewhere and this has resulted in huge immigration from other Indonesian islands. Since 2000, the population of Papua has increased by 65%. The Centre for Peace and Conflict Studies of the University of Sydney has found that Papuans have already become a minority in Papua, comprising only 48.73% of the population as a result of the massive migration from other parts of Indonesia such as Java, in the past largely supported and promoted by the government. This is leading to competition for land and a growth in the wealth gap between indigenous and the migrant population as the latter controls the development of business and commerce. Increasing tensions came to a head in 2010 when several fatal attacks were carried out by Papuans against migrants. The arrival of so many newcomers is also diluting indigenous culture and drawing indigenous people away from their traditional ways into unsustainable lifestyles based on consumerism.

37. Land rights violations are particularly grave for indigenous peoples because so much of their way of life, religion and culture is tied to their land. Moving away from their ancestral lands can be detrimental to their spiritual life, while the environmental damage done by the large-scale mining, logging and agri-business projects is detrimental to their physical well-being. The Malind people of Boepe Village, Kaptel

District, agreed to relocate three kilometers away from their original home for a PT Medco Papua Industri Lestari development, only to later discover that that same company was polluting the water supply in the new village with their irresponsible disposal of industrial waste. Illegal mining and logging projects carried out by the military and by migrants from other parts of Indonesia are also causing severe environmental damage. Indigenous concepts of health, which are more comprehensive than modern medicine recognizes, emphasizing the importance of balance in all areas of life, are not recognized as legitimate in Indonesia. The healthcare infrastructure of many of the rural regions where indigenous communities live is not adequate and does not make provision for the specific needs and traditional healing methods of indigenous people. Central and local government pursues policies that blatantly favours the interests of large business and neglect the cultural, political, social and economic rights of indigenous peoples.

38. Law enforcement and security forces continue to commit gross human rights violations against Indigenous Papuans, despite the fact that legislation, such as the Special Autonomy Law, provides for the protection of the human rights of Papuan people.

39. None of the perpetrators of the brutal attacks on the indigenous inhabitants of Tingginambut District have been brought to justice. Not only are the authorities not doing enough to prevent the violation of indigenous land rights in Papua; they are reportedly colluding in the forced eviction of indigenous people from their lands. The violent military approach prescribed by the authorities to carry this out invariably results in a broad range of other gross human rights violations including torture, rape and arbitrary killing.

#### **40. We urge the Government of Indonesia to**

- a) *Invite the UN Special Rapporteur on the rights of indigenous peoples and the UN Special Rapporteur on the right to food to visit and assess the situation in Papua to conduct a comprehensive study on the large-scale development projects - including palm oil estates and agro-industrial development - in Papua and their impact on the enjoyment of the human rights of Papuan indigenous peoples.*
- b) *Provide reliable statistical data regarding fundamental components of Papua and West Papua society such as demography, education, governance and administration, education, health, employment, and income, together with disaggregated data on indigenous Papuans.*
- c) *Urge the companies operating in Papua to respect the principle of Free, Prior and Informed Consent and to comply with the UN guiding principles on business and human rights.*
- d) *Modify the existing legislation and practices which discriminate against and override the rights of indigenous peoples, especially Investment Law No 25/2007, and Presidential Regulation 65/2006.*
- e) *Uphold the principles enshrined in the UN Declaration on the rights of Indigenous Peoples.*

#### **VI. Women**

41. The national security approach implemented in Papua creates a situation that allows for acts of violence by the law enforcement personnel, especially against women. A recently published report entitled STOP SUDAH!<sup>12</sup> documents cases of women's human rights violations, including 138 cases of state violence against women, most of which have been carried out by security forces. The political upheaval and ongoing conflict in the region leave women vulnerable to abuse. The report identifies 58

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<sup>12</sup> Stop Sudah!! Kesaksian Perempuan Papua Korban Kekerasan dan Pelanggaran HAM 1963 – 2009: [http://komnasperempuan.or.id/publikasi/Indonesia/materi%20publikasi/Laporan%20Pemantauan/new\\_buku%20laporan%20stop%20sudah%20papua\\_revisi%2004102010.pdf](http://komnasperempuan.or.id/publikasi/Indonesia/materi%20publikasi/Laporan%20Pemantauan/new_buku%20laporan%20stop%20sudah%20papua_revisi%2004102010.pdf)

cases of abuse between 1999 and 2009, which were carried out by members of Brimob, the Indonesian Police, and the Indonesian Army. These included killings and disappearances, illegal detention, torture (including sexual torture), sexual slavery, assault, forced abortion and displacement.

42. Indigenous women in Papua experience high levels of domestic violence with little protection from the police. The subordination of women is customary and so violence against women is tolerated. Gender discrimination permeates all aspects of life including property ownership, inheritance, participation in decision making and the prescribed role of women in the family and in society. The expansion of developments like the palm oil plantations threatens the safety and livelihoods of indigenous women. Many women traditionally collect sago, a staple food, from certain types of palm trees on their ancestral lands. Once these lands are converted to plantations, these women will lose their occupation, their main source of a crucial staple food, and their position in society. Women are further marginalized by the fact that they are not involved in the decision making process regarding new development projects. They are also subject to sexual violence and exploitation by the various groups involved in the development of plantations, mines and other such projects. Prostitution is so common near logging camps in ESP and Sandaun that up to half of the women are believed to have had some personal experience of it. Women disappear for days at a time and come back having been brutally abused. Some are kidnapped from their homes and taken to the camps where they are forced to perform sex acts on the loggers and security personnel there.<sup>13</sup> The gender gap is largely responsible for the spread of HIV/AIDS since women must always obey their husbands, and the weak promotion of their rights leaves women with no bargaining power.<sup>14</sup>

43. Because female subordination to male dominance is maintained in indigenous culture, domestic violence is largely tolerated. Impunity exists at all levels of the Indonesian government, exacerbating the victimization of women.

44. The government has not taken a firm stance on the issue of violence against women and the protection of women's human rights. Though legislation to protect women exists, the political will to implement it is lacking. Indigenous Papuan women do not have access to social security services that could prevent violence and support them when became victims of violence.

#### **45. We urge the Government of Indonesia to**

- a). *Invite the UN Special Rapporteur on violence against women, its causes and consequences to freely visit and assess the situation in Papua.*
- b). *Provide specialized social security and support services for indigenous Papuan women who experience violence and abuses.*
- c). *Set up in Papua a regional office of the National Commission on Violence against Women (KOMNAS Perempuan) with the power to investigate violations and abuses perpetrated against women, including domestic violence, and promote and protect women's rights in Papua.*

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<sup>13</sup> Chesterfield, N (2006). Terror-razing the forest: <http://www.forestnetwork.net/rhw/pdf/Terror-razingtheForest.pdf>

<sup>14</sup> Jakarta Post (2011): <http://www.thejakartapost.com/news/2011/01/24/housewives-account-most-hiv-aids-cases-papua-govt.html>