



# HUMAN RIGHTS IN PAPUA 2009



Papua *land of peace*  
the faith based network on West Papua

This report provides readers with an overview of the situation in Papua and West Papua (Indonesia) throughout 2009, concentrating on issues related to the impact of the 2009 general elections, freedom of expression, security instability and human rights violations.

Detailed attention is given to the prolonged violent incidents in the Freeport Grasberg mine in Timika, as an indicator of the general tense situation affecting the provinces, as well as the internal tensions within the security services apparatus.

The third section of this report provides an overview of long-standing issues affecting the welfare and the security of indigenous Papuans, including the lack of a well-structure education policy; the effects of palm oil plantations on indigenous communities; and the increased military presence in the provinces that affects Papuan livelihoods

## FAITH BASED NETWORK ON WEST PAPUA



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## INTRODUCTION

2009 was a strategic year for Indonesia as a whole. With general and parliamentary elections in the middle of the year, much attention was given to this taking place in a smooth and transparent manner. Overall, the running of the elections indicated compliance with international standards. However, the provinces of Papua/West Papua and Aceh reported an increase in violence.

In both Papua and West Papua, elections were also a catalyst for much of the violence that marred both provinces throughout 2009. In anticipation of the elections and in their aftermath, high levels of violence affected indigenous Papuans. There were early indications that the month of April—when the general election took place—would not be trouble free. Much of the violence and large sweeping operations targeted student mobilizations and protests in Jayapura, Papua's provincial capital. Reportedly, the fear of the population following the first set of elections reduced the likelihood of Papuan voters showing up to participate in the Presidential election which took place in June 2009.

The number of individuals accused of makar, or treason and/or treason against the State, increased, with many accused charged and sentenced with up to life imprisonment under Indonesia's Penal Code. The label of separatism continued to mark most of the interventions, arbitrary detentions and arrests within the provinces, particularly with regards to the application of Government Regulation 77 of 2007 on Symbols of Regions, which prohibits 'any flag or logo used by separatist movements'. Despite the 'Bintang Kejora' ('Morning Star flag') being deemed a legitimate cultural symbol under Papuan's Special Autonomy Law of 2001, the tension remains whether it should be considered a symbol of a separatist movement (through its use by the OPM rebel movement) or a symbol of cultural identity. Overall, cases in 2009 showed that security forces have given it the former interpretation.

As in past years, Brimob, or the mobile brigade police unit, continued to be behind a series of arbitrary arrests, particularly in Jayapura. In April 2009, prior to the election, more troops were sent into Papua with the purpose of reinforcing security services 'to ensure safety and order'. Running parallel to such events, was the establishment of a large number of regencies. This increased the demand for new organic military troops and police commands. Moreover, the involvement of Detachment 88, the Anti-Terror police unit, increased in a number of situations, most notably those related to violent incidents at the Freeport McMoran serviced mine in Timika.

2009 was also characterized by slow justice for cases of human rights violations. However, it provided a glimpse of hope with the acquittal of Sabar Olif Iwanggin, a human rights defender accused of incitement against the President, who had been under trial for over 12 months.

## ONGOING ISSUES

A number of issues affecting indigenous Papuans remained unaddressed and continued to impede the full development and realization of human rights and social conditions within Papua and West Papua. Although many issues remain outstanding, this report concentrates on education; the effects of investment-oriented policies, most notably favoring palm-oil plantations; and the continuous increase in military presence which has maintained the pattern of impunity and abuse.

Both the education and investment-oriented policies have borne no effects on the indigenous population, driving more indigenous Papuans into a situation of extreme poverty (as exemplified by UNDP reports throughout this decade). Education does not adequately address the needs of indigenous Papuans, and provides many disadvantages for those who are not within easy reach of urban areas. This has effectively led to greater disparities between the indigenous population and the 'migrant' population. Large-scale palm oil plantations and further projects approved, many of which have taken place without a prior consultation that involves a free, prior and informed consent, as established under the UN Declaration on the human rights of Indigenous Peoples.

The increased military presence, gives little hopes that the central government's security-related policies towards its easternmost provinces will change. Indonesia's border with Papua New Guinea continued to be heavily militarized based on the government's continued 'fight' against the rebel Free Papua Movement. This continued to prove to be to the detriment of indigenous Papuans who live in these areas. The report as a whole also shows the extent to which many Papuans fear the actions of the military and feel their presence is threatening—as in the case of the continued ties of the army with business interests, their involvement in abuse and human rights violations and suspicious actions, as exemplified by the tense and violent situation in and around the Freeport mining concession area.

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## SECTION 1

# ELECTIONS IN 2009: PAPUA OVERVIEW

## INCIDENTS

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### 1.1 ELECTIONS IN 2009: PAPUA OVERVIEW

Indonesia held its legislative elections on 9 April, and its Presidential election on 9 July. According to the Asian Network for Free Elections, one of the eight international organisations that monitored the elections in Aceh, the overall environment during election day was congenial, even festive in a number of areas. However, it reported some incidents of intimidation and pre-election violence (four prominent members of the Partai Aceh were killed). In Papua, in contrast, no international observers were present. Whilst this may give the impression that elections went smoothly, the opposite was true.

In the months before the elections, a massive deployment of troops took place. The month of April, which saw the first round of elections, was marked by inter-communal tension, intimidation and incidents of violence resulting in 11 deaths. ALDP, a local human rights organisation, monitored the elections and found that between 25 to 35 percent of those who voted for the legislative election, did not vote again for the presidential elections. The violence witnessed in April was representative of the continuous pattern of fear instilled in the population, fabricated by State and non-State forces. Despite reports of progress in the overall security situation in Indonesia, Papua should continue to be regarded as a distinct example of the intervention of security forces in the daily lives of citizens.

There was an atmosphere of tension in Jayapura and in other regions of Papua since the beginning of the year, created by regular demonstrations of civil society and by a strong presence of armed security forces. In March and April, the media reported on several demonstrations that called for an election boycott in amongst others the districts of Jayawijaya, Wamena, Jayapura and Nabire. Four Dutch journalists, who were in Papua reporting on the visit of former OPM leader Nicholaas Jouwe, covered a demonstration in Jayapura and were arrested as a result, allegedly for not obeying Indonesian immigration rules.

After the night of elections on 9 April, violent incidents continued, prompting observers to fear that both State and non-State actors intentionally wanted to cause a conflict between indigenous Papuans and immigrants, as well as within the indigenous community. An overview of violent incidents and human rights violations related to these incidents in the period around the elections is provided below. Not all incidents have a proven link to elections, but they aim to provide an image of the atmosphere at election times. Such an image contrasts with the overall picture of the Indonesian elections sketched by international observers.

## I. ELECTIONS 2009 - LISTED INCIDENTS

DATE AND PLACE/ DISTRICT	INCIDENT
<b>3 APRIL, WAENA, JAYAPURA</b>	<p>Police raided the office of the Papuan Customary Council (DAP, Dewan Adat Papua) in Waena (approx. 15 km from Jayapura).</p> <p>Fifteen persons were arrested without an arrest warrant, including: Mariben Kogoya and Dina Wanimbo (accused of possession of weapon); and thirteer who were in the DAP premises including Charles Asso, Herad Wanimbo, Ogra Wanimbo, Terry Wetipo, Fendi Taburai, Nerius Sanibo, Urai Keny (Uri), Yance Mote (Amoye), Leonard Loho, Sepa Pahabol, Viona Gombo, Nus Kosay and Yohanes Elopere.</p> <p>The police also further arrested two persons, Serafin Diaz and Mako Tabuni (Musa). After interrogating the 17 detained, the police proceeded with the cases of Yace Motte, Serafin Diaz, Mako Tabuni (Musa) and charged them with treason.</p>
<b>6 APRIL, NABIRE</b>	<p>Police opened fire on a protest demonstration in the city of Nabire, injuring at least seven people including a 10 year-old student who was shot as he was returning from school. A police officer was also injured by an arrow (see page 11).</p>
<b>7 APRIL, JAYAPURA</b>	<p>In the evening shots are heard in Waena, within the vicinity of Jayapura.</p>
<b>7 APRIL, JAYAPURA</b>	<p>Arrest of Markus Haluk [see paragraph Students]</p>
<b>8 APRIL, MUARI TAMI DISTRICT</b>	<p>A home-made bomb explodes under a bridge in Tami, area of Jayayapura, close to the border and the military post.</p>
<b>8 APRIL, WAMENA</b>	<p>Five migrants who work as motorcycle taxi drivers are attacked by unknown people with knives at nearly the same time in Wamena, Jayawijaya district. Three men are stabbed to death, two others are seriously injured.</p> <p>The victims are Aris (27), Rasid (29) and Sugiman (40). Daniel Palabean (30) and Imam Samito (30) are admitted to hospital in Wamena with serious injuries. The offenders leave a paper with the words: <i>"From the Military Commander for a free Papua"</i>.</p>
<b>8 APRIL SARAMON, BIAK DISTRICT</b>	<p>At 22.05 a tank of Pertamina oil company explodes. A four year-old boy dies in the fire, two other persons suffer serious injuries. 16 houses burn down. The cause of the explosion is unknown.</p>

The term 'migrant' is used to indicate a non-Papuan, non-indigenous inhabitant, from other Indonesian islands. A careful distinction is made between both due to the post-Suharto policies of transmigration, in order to populate other parts of the Republic of Indonesia. A number of cities in Papua have effectively seen a rise in the population of non-Papuan residents, effectively leading to an indigenous Papuan minority in many urban areas.

<b>9 APRIL, ELECTION DAY, BORDER AREA</b>	Around midnight there is a 15-minute long shooting between four policemen and a group of unknown people next to the Wutung police station, near the border with Papua New Guinea. At approx. 03.40 there is another shooting that lasts approx. three minutes.
<b>9 APRIL, ELECTION DAY, JAYAPURA</b>	At approx. 1 am, approx. 100 indigenous inhabitants of the highlands armed with traditional weapons gather together in the center of Abepura (Jayapura city) and attack the local police station (Polsek Abepura). The police and Brimob officers who guard a nearby polling station shoot at the group. One man dies on the spot from bullet wounds; four others are admitted to Jayapura hospital, with semi-serious injuries. Amongst them was Erik Logo, who later died [see page 11]. According to media statements the group was armed with traditional weapons, homemade bombs and Molotov cocktails.  Five Papuans are arrested as suspects by the police: <b>Johny Hisage</b> and <b>Kanitius Hisage</b> are in police custody, <b>Yance Agobi</b> , <b>Dino Agobi</b> and <b>Andi Gobay</b> are injured in Jayapura hospital.
<b>9 APRIL, ELECTION DAY, JAYAPURA</b>	At approximately 03:30h, the first and second floor of the Dean's office of the Cenderawasih University in Jayapura is burned down by unknown people. The canteen behind the Dean's office is damaged by the fire. During the fire the archive with data from students and lecturers is totally destroyed. The police discovers an empty petrol can on the scene of the crime.  Following the attack, 8 students from the Ninmin Dormitory were arrested and held at Polda Headquarters in Jayapura, including Mutianus Mijele, Frengki Gwijangge, Matthias Kogoya, Gerson Gwijangge, Tarni Anderto Wandikbo, Alex Pokniange and Laurent Kogoya. Additionally, the police also arrested Permenas Young, Frans Wouw and Demianus Wandik.
<b>9 APRIL, ELECTION DAY, NABIRE</b>	The body of <b>Abet Nego Keiya</b> (19) is found at Waharia village, Nabire district. His chest was crushed and he presents numerous injuries. According to local sources, police had arrested him in the city of Nabire on 6 April during a protest [see page 11].
<b>9 APRIL, ELECTION DAY, PUNCAK JAYA</b>	Exchange of shots between an armed group of civilians and the police in the district of Tingginambut, Puncak Jaya Regency.
<b>9 APRIL, ELECTION DAY</b>	105 additional Brimob officers are sent by the police from South-East Sulawesi to Papua. These reinforcements include a bomb squad and riot police, with the task of <i>'providing backup to Papuan police in maintaining security and order in the region.'</i>

11 APRIL, JAYAPURA	<p>The police arrests and maltreats <b>Yuranus Wenda</b> (30), under accusations of being involved in demonstrations and for being responsible for the fire in the Dean's office of Cenderawasih University. On 12 April, Yuranus Wenda is released from police custody after suffering from ill-treatment during custody [see page 12].</p> <p>Cases of ill-treatment by police prompts fears of further arbitrary arrests and ill-mistreatment among the population.</p>
11 APRIL, JAYAPURA	Home-made bomb explodes in Kamp China, Abepura, Jayapura City.
11 APRIL, WAMENA JAYAWIJAYA	Rumours about attacks on migrants spread fear and panic amongst the migrant population in the city. Hundreds of migrants seek the protection of military and police.
12 APRIL, WAMENA, JAYAWIJAYA	A migrant motorcycle taxi driver is murdered by four unknown people with machetes. The victim is recognized as <b>Supandi Juhari</b> (31). The offenders leave a paper with the words: " <i>From the Military Commander for a free Papua</i> ".
12 APRIL, WAMENA, JAYAWIJAYA	A bomb explodes in a garbage heap in the centre of Abepura. The bomb does not cause any damage. In the morning, waste collectors had already discovered two other bombs next to the police station of Abepura. These bombs were confiscated by the police.
13 APRIL, WAMENA, JAYAPURA	Three migrants, Alexander Pong (Ongko), Ngatiman and Maria Waren, are attacked at separate occasions and injured with knives by an unknown number of individuals.
14 APRIL, WAMENA	43 prisoners escape from Wamena prison. This escape increases the already tense atmosphere amongst the population.
14 APRIL, JAYAPURA	Rumours about a bomb attack on a mall in Abepura cause panic amongst the population. Police examine the shop and cannot find any bomb.
14 APRIL, JAYAPURA	At 22:30 the <b>head office of the Commission for the Elections (KPU, Komisi Pemilihan Umum) of Papua province, burns down</b> . It is announced that the fire was caused by a short-circuit.
15 APRIL, LAMBUK, TINGGI NAMBUT	<p>At 14:00, a group of unknown people opens fire on two cars of the Indonesian Police in Lambuk village, Puncak Jaya Regency. Brimob officer Musa Aninam is killed and six other Brimob officers are injured.</p> <p>The police suspects supporters of the armed independence movement OPM/TPN under Goliath Tabuni's command.</p>

<b>17 APRIL, WAMENA, JAYAWIJAYA</b>	At 04:45, the building of a secondary school (SMPN I Asologaima) burns down. The cause of the fire is unknown. More inhabitants leave the city because of fear of further attacks.
<b>17 APRIL, SKOW WUTUNG, JAYAPURA</b>	A five minute exchange of fire takes place in Skow-Wutung market, close to the border with Papua New Guinea, between members of the Indonesian military (Yonif 725) and alleged supporters of the armed independence movement OPM/TPN under Matias Wenda.
<b>18 APRIL, SENTANI</b>	At approximately 15:00, seven people are arrested by Detachment 88, Anti Terrorism Police Special Unit, at BTN complex Purwodadi, for their alleged involvement in the attack on the Papua police station (15 April). These include Kani Hisage, Jhoni Hisage, Jefri Haluk, and Tina Dabi.
<b>18 APRIL, NAFFRI, JAYAPURA CITY</b>	At 18:00, Bripda Elly Fingkreuw, a policeman, suffers injuries following a shot with bow and arrow by an unknown person.
<b>18 APRIL, NAFRI, JAYAPURA CITY</b>	At 21:00, Hengky Modow, an indigenous motorcycle taxi driver is shot at by an unknown person with a firearm, causing slight injuries.
<b>19 APRIL, ABEPURA, JAYAPURA CITY</b>	Two civilians, <b>Pesut Lokbere</b> , active in the Community of Victims of the Abepura 2000 case, and his family member <b>Elsi Lokbere</b> , are arrested by the police. They are released after providing testimony on an earlier incident.
<b>22 APRIL, ABEPURA, JAYAPURA CITY</b>	John Erick Logo dies, after suffering gun wounds on 9 April [see below: 'iii. Jayapura, 9 April, Legislative Elections day'].

## II. NABIRE DISTRICT, 6 APRIL PRE-ELECTION INCIDENTS

On 6 April, police open fire on demonstrators during a protest in the city of Nabire, injuring at least seven people. Four of them were sent to hospital in critical conditions, including a 10 year-old student who was shot as he was returning from school. A police officer was also injured by an arrow. The 200 demonstrators had called for a boycott of the upcoming parliamentary elections and calling for investigations into past human rights violations in Papua. They also celebrated the launch of the International Lawyers for West Papua (ILWP) in Guyana in early April 2009. Prior to the demonstration, police arrested

at least 15 political activists for “rebellion” [see page 18]

On 9 April, the body of Abet Nego Keiia, aged 19, was found at Waharia village, Nabire district. His chest was crushed and he had numerous injuries, including to his armpit, stomach, wrists, right thigh and left calf. According to local sources, police had arrested him at the Karang Tumartis market in the city of Nabire on 6 April during a protest. Local contacts reported that police punched, kicked and beat him with rifle butts and stabbed him with bayonets

until he died. His body was then reportedly hidden for three days in a black plastic bag in a warehouse before being dumped in Waharia. Human rights activists were prevented from observing a medical examination of the body at the morgue and taking photos of the body. Following the medical examination, the body was buried by the police. His family was not present during the medical examination nor informed of the burial location.

### III. JAYAPURA, 9 APRIL, LEGISLATIVE ELECTIONS DAY

On 9 April, the day of nationwide legislative elections, several security posts had been set up along the road in Abepura, to safeguard the electoral process. Reportedly, at approx. 1 am, an unknown group of approx. 100 indigenous Papuans gathered and approached the Abepura Circle, shouting protests. Seven Brimob members were watching over the election booths (Tempat Pemungutan Suara, TPS) with other local officers and opened fire directly on to the crowd, from approx. 70 metres away. The protestors ran west but one unknown person was killed on-site and four more were injured. The police arrested five protestors: Johny Hisage, Kanitius Hisage, Yance Agobi, Dino Agobi and Andi Gobay.

Among the five arrested protestors, Johny Hisage and Kanitius Hisage were not reported to have been injured; Yance Yogobi's left shoulder was wounded; Dini Agobi sustained injuries to his right knee and Andi Gobay, to his left ankle. The three wounded who were arrested, were brought to the same district hospital one day later on 10 April. It is reported that Yance Yagobe remained handcuffed until his surgery on 17 April. No one was allowed to visit him, including his family.

Erik Logo, a by-stander, sustained a bullet wound to the left side of his stomach and was taken to the Dok II Jayapura District Hospital (RSUD). It is reported that the bullet was removed in surgery that evening, but neither religious representatives nor human rights activists were allowed to visit him in the hospital despite concerns about his treatment. On 22 April he died in hospital; and access to the location of his corpse was denied.

It is reported that the police were informed of the protest on 9 April in Abepura. However, the police took no apparent steps to diffuse the situation peacefully, nor did they apply any measures to caution protestors. The police have since described this event as an attack.

### IV. JAYAPURA, 11 APRIL

The police arrests and ill-treats Yuranus Wenda (30) a farmer from Kamp Wolkar, Waena, city of Jayapura. He is accused of being involved in several demonstrations and for being responsible for the fire in the Dean's office of the Cenderawasih University. He is also accused of being a supporter of Goliath Tabuni, the leader of the armed liberation army OPM/TPM in Puncak Jaya Regency. Yuranus Wenda denies the accusations. He is released from police custody on 12 April.

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## SECTION 2

# CIVIL AND POLITICAL RIGHTS

1. FREEDOM OF EXPRESSION AND THE USE OF MAKAR
2. INCIDENTS AROUND FREEDOM OF EXPRESSION
3. STUDENTS
4. CASES OF MILITARY ABUSE
5. JOURNALISTS, CIVIL SOCIETY AND HUMAN RIGHTS DEFENDERS
6. ACCESS TO JUSTICE

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## 2.1 FREEDOM OF EXPRESSION AND THE USE OF MAKAR

In recent years, Indonesia made some important steps in removing formal restrictions on the freedom of expression. This tied in with its international commitments to sign international human rights treaties since the fall of Soeharto in 1998. However, the conflict areas of Aceh, Papua and Maluku, faced severe restrictions of the freedom of expression. Repressive legislation continues to be used to criminalize non-violent, political expressions. Articles 104 through 111 of Indonesia's Penal Code criminalize treason or rebellion (makar), and are often used to imprison people who have attended, organized or participated in peaceful political events, such as raising flags that symbolize local identities. These are often levelled at individuals who have had no involvement in violent or disruptive acts, including human rights defenders, church workers and non-violent independence activists. There has been an increase in the use of makar as a criminal offence. This may be due to the disproportionate interpretation of cases that related to makar, the broad legal definition of what falls under 'treason'; and its disproportionate punishment, including up to life imprisonment.

**Government authorities have opted for makar and have widely used 'treason' as a general claim, rather than prosecuting individuals for specific criminal offences.**

Article 160 ('*incitement*') and articles 154 and 155 ('*hate sowing articles*') of the Indonesian Criminal Code criminalised '*public expressions of feelings of hostility, hatred and contempt toward the government*' and attracted prison terms up to seven years. These articles have been declared unconstitutional by Indonesia's Constitutional Court in July 2007, because they violate the right to freedom of speech protected in Indonesia's Constitution of 1945. However, contrary to this, at least one Papuan defendant—Buchtat Tabuni—has been brought to trial on charges of incitement under Article 160 of Indonesia's Penal Code [see *v. The morning star flag*].

Human rights defenders and peaceful political activists are among those who have been targeted. In 2009, dozens of people were arrested for raising the Morning Star Flag in Papua, the Star and Crescent flag in Aceh and the Benang Raja flag in Ambon.

Currently, more than 170 people are imprisoned throughout Indonesia for peaceful expression, 43 of them in Papua. Some flag raisers have been sentenced to lengthy prison terms, such as Filep Karma and Yusak Pakage, who are serving 15 and 10-year sentences respectively. Furthermore, there were at least two cases where raising the Papuan flag has led to excessive use of force or violence by both the Indonesian police and the army.

The arrests and convictions of the protestors violates their right to freedom of expression, opinion and association, guaranteed under Article 19 of the International Covenant on Civil and Political Rights, which Indonesia ratified in 2006. Moreover the right to freedom of expression is protected under Indonesia's 1945 Constitution.

## V. THE MORNING STAR FLAG

Many incidents in which Freedom of expression was restricted followed the raising of the Morning Star flag. In 1961, under Dutch rule, an elected council consisting mainly of indigenous Papuans commissioned the creation of a national anthem and flag. On December 1, 1961, the Morning Star flag was flown beside the Dutch flag for the first time. The flag became a regional and cultural symbol of huge significance for indigenous Papuans, for some a symbol of Papuan identity, for some a symbol of Papuan nationalism and self-determination. Former Indonesian President, the late Abdurrahman Wahid, once called the

Morning Star flag a cultural symbol, and in 1999 and 2000 allowed the flag to be flown on the condition that it was flown alongside and lower than the Indonesian flag. Furthermore, under the 2001 Papua Special Autonomy Law, symbols of Papuan identity, such as the Morning Star flag, are permitted, but Article 6 of Government Regulation 77/2007 prohibits the display of any flag and logo used by separatist groups. In court this is interpreted as prohibition of the Morning Star Flag in Papua, as well as the South Maluku Republic flag in Ambon and the Crescent Moon flag in Aceh.

## 2.2 INCIDENTS CONCERNING RESTRICTIONS ON THE FREEDOM OF EXPRESSION

### VI. INCIDENTS CONCERNING FREEDOM OF EXPRESSION

	DATE AND PLACE OF INCIDENT	NAME(S)	REASON FOR ARREST (IF APPLICABLE)	COURT DECISION	SENTENCE
1	3-12-2008 Sentani, Jayapura district	Buchtar Tabuni	Organisation of peaceful rally, October 16 2008. Arrest took place without arrest warrant	Found guilty of <i>incitement (penghasutan)</i> (article 160) June 17, 2009	3 years imprisonment
2	17-12-2008 Sentani, Jayapura district	Sebby Sembon	Arrested after holding a conference demanding the release of Buchtar Tabuni	Found guilty of <i>incitement (penghasutan)</i> (article 160) by the court in Abepura, Jayapura district. Treason ( <i>makar</i> ) (article 106) could not be proven by the prosecutor.	2 years imprisonment
3	1-1-2009 Manokwari / Bintuni	Roni Rubem Iba Isak Iba Piter Iba	Attending a peaceful rally	Found guilty of treason ( <i>makar</i> ) (article 106) on 12-11-09 by the district court of Manokwari	3 years imprisonment

4	28-1-2009 Jayapura	Sabar Olif Iwanggin (Human Rights Defender)	Human Rights activist Iwanggin of ELSHAM Papua was arrested on 17 October 2007 by the joint apparatus of the Reserse (Criminal Unit) Polda Papua and Special Anti- Terror Detachment Unit 88. Iwanggin was accused of committing an offence against the President through a forwarded text message.	Charged with ' <i>inciting in public to commit a punishable act or a violent action against a public authority</i> ' (article 160).  Acquitted after a 12 months trial. The prosecutors could not prove that Iwanggin is guilty.	-
5	6-4-2009 Nabire	Januarius Tigi Derianus Anouw Naftali Ogetai Frans Kataoki Dominggus Pakage Benutus Pekey Elias Pigome Yohanes Gobay Marten Anouw Marthinus Youw Nadi Pigome Yusak Kayame Yohanes Agapa Beny Gobay Matias Adii	Preparation of a rally before the general elections; alleged arms possession.	Acquitted from charges of treason ( <i>makar</i> ) and released, on September 14, 2009 after 160 days in prison.	-
6	3-5-2009 Mamberamo Raya	Yusuf Animan Yeret Runaweri Nataniel Runggaimusi Yance Muabai	Face charges of treason ( <i>makar</i> ) under Article 106 for their alleged involvement in a flag- raising incident in Kapeso.	-	-
7	14-7-2009 Bolakme, Jayawijaya regency	Approximately 500 people fled and 30 houses were burnt	Not applicable. The raising of the Morning Star flag led to a sweeping operation by the Indonesian Army on the 5 September	-	-

8	25/26-7-2009 Wembi	Members of the armed wing of the OPM under the command of Lambert Pkukir	Flag raising, intervention by the TNI, no arrests.	-	-
9	6-9-2009 Klamono, Sorong district	Jonah Wenda	Detained on 6 September, but formally arrested on 11 September on charges of treason ( <i>makar</i> ) under article 106. Wenda was denied legal assistance until September 16.	-	Released from the Papuan Police Detention Centre on September 30 and placed under house arrest.
10	21-10-2009	Victor F. Yeimo	Arrested on the charges of <i>makar</i> for participation in the rally of October 16 together with B. Tabuni and S. Sambom; involvement in an attack of Abepura police station on April 9; and for demanding a referendum in West Papua at a demonstration in front of the Papua parliament building in Jayapura on March 21.	According to the police spokesperson, Victor Yeimo can expect to face charges under Article 106 for treason ( <i>makar</i> ) and Article 160 for incitement.	-
11	16-11-2009 Jayapura	Semuel Yaru Luther Wrait	Accused of treason ( <i>makar</i> ) under Article 106, for demanding self-determination and carrying the Morning Star Flag during a demonstration in Jayapura on 16 November.	-	-

12	01-12-2009 Biak	Septinus Rumere	Facing charges of treason ( <i>makar</i> ) under Article 106, for raising the Morning Star Flag (with an Indonesian flag) in Orwer Village, East Biak District on 1 December. Reportedly, he has been detained since 22 December and is suffering health problems that have not been tended to by police authorities.	-	-
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A number of cases are reported in-depth in Human Rights issues paragraphs:

- 2.3 Students;
- 2.4 Cases of abuse by security forces;
- 2.5 Journalists, Civil Society and Human Rights Defenders;
- 2.6 Access to Justice.

#### VII. JANUARY MANOKWARI/BINTUNI FLAG RAISINGS

Roni Ruben Iba, Isak Iba and Piter Iba were arrested for raising a banner, similar to the Morning Star flag, on the venue of the Bintuni Bay district Governor, near Manokwari, after having attended a rally on January 1, 2009. According to their lawyer, Yan Christian Warinussi, Director of the Institute of Research, Analysis and Development for Legal Aid in Manokwari, West Papua, they were subject to ill-treatment during and after the arrest.

On November 12 2009, Roni Ruben Iba was sentenced to three years imprisonment; Piter

and Isak Iba were sentenced to two years of prison for treason (*makar*), Art. 106 at the district court of Manokwari.

There was unrest in the courtroom, following the sentence. The defendants, deeply unsatisfied with the verdict, demanded that Mathius Sarwa, who appeared as a witness and confessed to have incited the flag raising, should also be convicted. However, he has not been charged.

## VIII APRIL: NABIRE, DETENTION OF 15 ACTIVISTS AT RALLIES

In the night of April 6, at approx. 03:00 the police raided the improvised centre of the *National Committee of West Papua (KNBP)* at Taman Bunga Bangsa, Oyehe, Nabire where 20-30 Papuans were preparing for a rally on the same day, prior to the general elections on April 9. During the police raid, Jerry Nawipa (18), a student, was injured when police opened fire.

15 individuals were arrested and were charged under the Criminal Code with treason (makar): Januarius Tigi, Derianus Anouw, Naftali Ogetai, Frans Kataoki, Dominggus Pakage, Benutus Pekey, Elias Pigome, Yohanes Gobay, Marten Anouw, Marthinus Youw, Nadi Pigome, Yusak Kayame, Yohanes Agapa, Beny Gobay, and Matias Adii. Some of them suffered injuries due to police violence during and after the arrest. Subsequently the improvised KNB site was burnt down by police forces. The police alleged that they had discovered firearms at the site.

At about 06:00 several hundred demonstrators gathered at the Taman Bunga Bangsa for the rally which was set up to welcome the launch of the *International Lawyers for West Papua (ILWP)* three days before, and to call for a boycott of the upcoming general elections. Enraged by the preceding attack and arrests by the police, the crowd proceeded to the local police station and demanded the release of the detainees.

The situation escalated after heavily armed Brimob riot police officers arrived at the scene. In the resulting melee the riot police first fired warning shots. When the protesters started to throw stones and attempted to storm a Brimob truck, they opened fire on the protesters.

At least 11 demonstrators were hospitalized due to gunshots, four of them were in a critical status including a 10 year-old boy, who was shot while returning from school. One policeman was injured by an arrow. According

to Amnesty International this was the third demonstration since December 2008 where demonstrators in Nabire had been shot by police.

The former Papua police chief, Drs Bagus Edokanto, had issued a warning a few days before against staging mass meetings that called for an election boycott a few days before the election day. He mentioned in particular the *National Alliance of the People of West Papua (KANRPB)* as likely to be 'dealt with' by the police.

On July 14 the defence counsel's request to dismiss legal proceedings against the 15 detained members of the National Committee of West Papua (KNBP) was denied. Their lawyers argued that the arrests didn't conform with legal procedures, that police denied the detainees access to legal representation and to interpreters while in custody. Neither the defendants nor the advocates received the documents related to the charges before they appeared in court. In several cases, lawyers were only allowed to meet their clients when the trial began on June 18.

On September 14, after 160 days in prison, the 15 activists were acquitted from charges of treason and released.

## IX. JULY: WEMBI, KEEROM DISTRICT: FLAG-RAISINGS

On July 25- 26, the raising of the Morning Star flag resulted in an exchange of fire between soldiers of the Keerom based Infantry Battalion 725 and seven members of the TPN/OPM under the command of Lambert Pkikir. His group had appealed to the UN to uphold West Papua's right to self-determination of West Papua. The armed

group asked for an international dialogue between Papuans, the security forces and government under supervision of a third party.

Units from other regencies were rushed to assist the Infantry Battalion 725 that was trying to pursue the group. The roads around the area were closed by military posts. The spokesman of the military command in Papua, LtCol Susilo stated that according to Indonesian law the police would be in charge of flag raisings.

The Head of Police (Kapolres) of Keerom requested mediation by a neutral actor, to solve the dispute between the military and the armed rebels on the afternoon of July 25.

The Morning Star flag was eventually lowered by Pkikir's group, however, he refused to surrender the flag to the authorities. Reportedly, he handed over his banners, stating "The Papuans demand the Republic of Indonesia to respect their basic rights" and "We want all the human rights problems in Papua to be resolved". Following the meeting Lambert Pkikir and his fellows disappeared in the jungle.

On July 1, 2009, there were at least two flag raisings to celebrate the Proclamation Day of the OPM, in Arso, Keerom district, in the vicinity of Wembi.

#### **X. SEPTEMBER: BOLAKME, FLAG RAISING**

On September 5, approximately 400 Indonesian military and police forces from Wamena and Tolikara conducted a sweeping operation in four villages near Bolakme in the Jayawijaya region. On July 14 and onwards, the Morning Star flag, alongside the Indonesian and UN flag, were flown in Lakwame village. The sweeping was ordered after an ultimatum to take down the flag expired on August 15.

This resulted in the burning of about 30 houses and gardens, as well as the killing of livestock. Reportedly, approx. 500 inhabitants fled the villages hiding in the surrounding forests for approximately six weeks. Some fleeing villagers tried to avert the burning of their village by shooting arrows and throwing stones on the troops out of the forests; the troops in turn dispersed the group by responding with fire.

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## 2.3 STUDENTS

Students were possibly one of the most affected groups throughout 2009. Largely involved in protests, their actions were met with violent response from security services, or preemptive sweeping operations targeting particular groups of students or associations.

### XI. INTIMIDATION AND HARASSMENT

**Markus Haluk**, Secretary General of the Central Highlands Students Association of Papua (AMPTPI), leader of the Papua National Consensus Committee and Deputy Secretary of the Papua Indigenous Peoples Council.

Haluk has been exposed to threats with a weapon, death threats, defamation in the mass media, and detention. He has also experienced telephone threats and threats via text message for more than two years.

On December 3, 2008, following protests against the arrest of Buchtar Tabuni, in front of the Papua provincial police office, one of the police officers approached him in the crowd, threatened him with his weapon, and told him, *"I will see you again, and I will kill you."* On December 18, 2008, one of the local media (Cenderawasih Post, Papua's major daily newspaper) issued news about his alleged arrest, despite him being in Jakarta at the time.

#### 2009 events

On April 7 he was arrested and accused of plotting to boycott the general election and the presidential election. The accusation was baseless, and he was eventually released. There has been no further information from the police about his detention or his current status.

On August 5, 2009, Military Special Forces (Kopassus) reported to the Commander of XVII Cenderawasih Unit that as leader of the Papua National Consensus team Haluk had submitted a report on violence in Papua

during the general election to the Director of the National Unity Agency (Kesbangpol) at a meeting on July 31, 2009 at the office of the Mamta Indigenous Council in Sabron Yaru, Jayapura Regency. The Commander issued a memo, to which the Cenderawasih XVII Intelligence Service responded. The accusation was unfounded, as he did not personally deliver the report to the Director.

As a result of the false report, he has become one of the targets of military intelligence agents, along with Mrs. Eni Tan, organizer of the meeting between Mamta indigenous people and the National Unity Agency.

In the last seven months he received as many as 57 death threats over the telephone and up to 30 death threats via text message. His movements have also been closely followed by security forces, especially intelligence agents.

### XII. BUCHTAR TABUNI

On December 3 2008, the Criminal Investigation Department of the Police of Papua arrested Buchtar Tabuni, Deputy Secretary of the *Central Mountain Papua Indonesia Students Alliance (AMPTP)*, without an arrest warrant in his house in Sentani Timur, Jayapura Regency. Mr. Tabuni had organised a peaceful rally in Waena, Jayapura Regency, on October 16 to welcome the establishment of the *International Parliamentarians for West*

Papua (*IPWP*) in London the day before.

Following his arrest he remained imprisoned until his trial began on February 17. He was accused of treason (*makar*) at the demonstration which took place on October 16 2008, as well as of provoking officers and resisting arrest as listed in Article 106, 110, 212 and 216 of the Indonesian Penal Code.

Buchtar Tabuni's hearings were attended by hundreds of supporters outside the courthouse demanding his release and the right to self-determination in accordance with international standards on human rights and the Charter of the United Nations.

On January 19, the *Central Mountain Papua Indonesia Students Alliance (AMPTP)*, reported that Mr. Tabuni together with six other political prisoners, Yusak Pakage, Selpius Boby, B. Cosmos Yual, Nelson Rumbiak, Ricky Jitmau and Elias Tameka had been repeatedly beaten, threatened and subjected to inhumane treatment by police officers and prison staff in the Police Detention Centre, Jayapura.

Buchtar Tabuni was sentenced to 3 years of imprisonment on June 17 on charges of incitement (*penghasutan*) under Article 160. He was also charged for producing Morning Star flags at the rallies on October 16 2008 and at two speech ceremonies at the Cendrawasih University in Abepura, Jayapura Regency, on the same day.

On November 26, the *Central Mountain Papua Indonesia Students Alliance (AMPTP)* reported another violent incident against Buchtar Tabuni, in Abepura prison, where he was beaten and injured by five imprisoned police and military officers. The incident triggered a rally and rioting of several hundred Papuans outside the prison.

### **XIII. SEBBY SAMBOM**

On December 17 2008, Seby Sambom, a student leader, was arrested without an arrest warrant by the Papuan Police Criminal Investigation Unit, at the Theys Eluay Memorial Park in Sentani, district of Jayapura. The arrest occurred after he gave a press conference on behalf of a student group demanding the release of Buchtar Tabuni.

His trial started on May 6, 2009 in Jayapura on charges of treason (*makar*) related to the demonstration on October 16, 2008 which was carried out to welcome the introduction of the *International Parliamentarians for West Papua (IPWP)* in London, the day before.

Seby Sambom's legal counsel reported that his client as well as Buchtar Tabuni had been subjected to inhumane treatment on January 15, 2009 while in custody at the Police Detention Centre in Jayapura. Reportedly, police officers also denied providing him with water for more than 48 hours.

Seby Sambom was sentenced to 2 years of imprisonment on charges of incitement (*penghasutan*), Article 160, on September 10, 2009 by the court in Abepura, district of Jayapura.

### **XIV. VICTOR F. YEIMO**

Yeimo, chairman of the National Committee of West Papua (KNBP), was arrested on October 21 at hotel Martapura in Sentani, Jayapura Regency. The police sought him since May on charges of treason (*makar*) related to his participation in the rally of October 16 2008 together with B. Tabuni and S. Sambom, carried out to welcome

the introduction of the International Parliamentarians for West Papua (IPWP) in London the day before. The police further accused him of being involved in an attack against Abepura police station April 9, 2009; and for demanding a referendum in West Papua at a demonstration in front of the provincial Parliament in Jayapura on March 21.

The spokesman of the Papuan police headquarters, Drs. Agus Rianto, said that he can expect to face charges under Article 106 for treason (*makar*) and Article 160 for incitement.

As of January 18, 2010 he was in detention at the Papua Police Detention Centre in Jayapura.

#### **XV. JONAH WENDA**

Activist Jonah Wenda was detained on September 6 in Klamono, district of Sorong and formally arrested on September 11 on charges of treason (*makar*) according to Article 110. He was denied legal assistance until September 16 and was eventually released from the Papuan Police Detention Centre in Jayapura on September 30 and placed under house arrest.

Wenda acted as a spokesperson for the military wing of the TPN/OPM in the past two years. He is also a key member of the *West Papua National Coalition Front for Liberation (WPNCL)*, a movement which aims to unite Free Papua Organisations in order to set up a dialogue with the Indonesian government through an international third party. The WPNCL was founded on November 28, 2005 and is based in Port Villa, in the Pacific island state of Vanuatu. Wenda had spent five years in prison from 1989 to

1994 as a political prisoner on charges of treason (*makar*) for organising a peaceful student demonstration calling for Papuan self-determination.

#### **XVI. MONIKA ZONGGONAU**

Monika Zonggonau, a mother of five, was sentenced on 7 September to ten months' imprisonment for '*inciting in public to commit a punishable act or a violent action against a public authority*' under Article 160 of the Criminal Code. This was due to her alleged involvement in Nabire demonstrations. During the trial, police witnesses alleged that she used the word 'attack' during the demonstration. She denies the allegations and is currently appealing her conviction.

According to reports, at the time of her arrest, police beat her with a rattan cane on the back of her head and hands at the time of arrest. During her initial detention, police repeatedly threw a shoe at her head, causing injuries above her eye. She experienced severe injuries to her head and suffered headaches as a result. Police officials also intimidated her during interrogation. She was neither allowed to read the statement she gave to police nor to have a lawyer present during questioning.

She was not given medical assistance throughout the first three months of her detention, despite the provision in Indonesia's Criminal Procedure Code for medical care for suspects.

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## 2.4 CASES OF ABUSE BY SECURITY FORCES

### XVII. MINOR

A 16 year-old civilian, Isak Psakor, from the village of Kibay, Sub-District of East Arso in Keerom was severely injured after being shot by a soldier from the Infantry Battalion 725 at Sungai Bewan on June 22, 2009 while returning from a family visit in Skotyauw (PNG). He travelled together with his relatives (Wenus Psakor, Margareth Psakor, Izak Psakor (15) and Sisika Psakor (2)). The border command was warned of a group of people smuggling arms and they thought the Psakor family were OPM members. The family had reported at the border post before travelling to Skotyauw and obtained their *surat jalan* (travel permit).

### XVIII. ARBITRARY DETENTION

On July 21, in Jalan Baru within the vicinity of Timika, the counter-terrorism Unit (Densus 88) surrounded the house where **Matthias, Tomy, Yan, Hengky Uamang** and **Solm Polce** were gathering. As they entered, their hands were tied up with plastic cords. Police officers searched the house, allegedly looking for bullets and weapons. The officers confiscated machetes, bow arrows, knives and bank account books. The five were taken out of the house and put into a patrol car, where they were later taken to Mile 53, the scene of the shooting of a Freeport employee (see section on Freeport on page 39).

The five were kept for interrogation over 3 days; the interrogation focused on where they had hidden the bullets and guns allegedly used in Freeport incidents. When one of the victims refused to answer, he was struck on the head. On July 24, they were released with apologies from the police.

### XIX. SEXUAL VIOLENCE

This section is based on the findings of 30 cases of military involvement in sexual violence by the Justice and Peace Promoter of the Missionaries of the Sacred Heart (SKP-MSC), Merauke

The border area between Papua and Papua New Guinea (PNG) has always been a ground for many cases of military abuse, including sexual violence. The phenomenon of sexual violence in the border region, from Wensi, in the north, to Kondo, in the south, has seen the rapid proliferation of military outposts. Cases increased following the arrival of army troops from the Pattimura unit in the year 1992-1993. A number of children have been born as a result of the sexual violence perpetrated against young women. These children have no social or customary status, which has led them to be socially excluded.

The placement of military outposts along the border has not created safety for the people of Papua, especially since most of the victims suffering from violence were indigenous women.

Military law stipulates that the placement of military outposts in border areas should be within 5 to 10 km from township residents. However, the military post in the respective region is located one kilometer away from the village, providing close military access to the population.

It has been found that at least 41 cases of sexual violence involving military elements have occurred in thirty military posts along the road of the Merauke Palm Oil Plantation.

The National Commission for Women (Komnas Perempuan) and the National Commission for the Protection of Women (Komnas Perlindungan Perempuan) has filed a court process against the Supreme Commander of the Army, pushing for border security to be reviewed.

The Bupul area has been the highest with 15 cases of women victims of violence by army officers. In a few cases, sexual violence leading to rape occurred behind the Cave of Mary in Merauke.

<b>15 VICTIMS</b>	Bupul
<b>7 VICTIMS</b>	Toray
<b>1-5 VICTIMS</b>	Kweel, Erambu, Sota, Yanggandur, Rawa Biru, Ndalir Tomer, Muting, Nasem

## 2.5 JOURNALISTS, CIVIL SOCIETY AND HUMAN RIGHTS DEFENDERS

The UN Special Representative of the Secretary General on the Situation of Human Rights Defenders, Ms. Hina Jilani, concluded that a climate of fear undeniably prevails in West Papua, especially for defenders engaged with the rights of the Papuan communities to participation in governance, control over natural resources and demilitarization of the province. The series of concerns of the then Special Representative regarding the situation of human rights defenders in West Papua, articulated in this report, persist despite the assurances given to her by the police and military authorities in Papua that there was no institutional policy to target defenders.

In 2009, three years after her visit, the situation in Papua did not improve. Security apparatus, including police, military and intelligence officers, continue to attack human rights defenders (HRD) in Papua.

### XX. JOURNALISTS

A number of journalists became the target of surveillance, intimidation and attack. **Odeodata Julia**, journalist of **Sinar Harapan newspaper**, was attacked by a supporter of the Democratic party in the public campaign of Boediono, the candidate for Vice President of the Democratic Party in June 2009. This case was reported to the police.

### XXI. CIVIL SOCIETY - RELIGIOUS PERSONNEL

Father Yohanes Jonga, of the Catholic Diocese of Jayapura, was the 2009 awardee of the Yap Thiem Human Rights Defender award of Indonesia. He was suspected of being a separatist supporter by the military and became target of surveillance. In July, he was requested by Lambert Pkikir, OPM leader in the district of Keerom - Papua to become a mediator between the OPM and the police. However, the military argued that Fr. Jonga's role as

a mediator between the police and the OPM was against Indonesian law.

Seeking protection from the State became a contentious issue. Fr Jonga received death threats from army special forces, and reported his case to the Chief of Regional Police of Papua. However, the chief of Police explained the police cannot protect individuals who receive death threats from the military. Instead, he was asked to seek protection from the Commander of the Papua Military Command and request him to investigate his subordinates.

## XXII. HUMAN RIGHTS DEFENDERS

Yosefa Alomang, a prominent HRD from Timika, received death threats due to

her involvement in campaigns against Freeport, on the environmental impact of mining, and pointing to the human rights violations of indigenous Papuans. She has been carrying out similar work since the 1980s.

In December, following a number of killings of employees and security services at the Freeport mine, as well as the killing of Kelly Kwalik, head of TPN/OPM, military and police intelligence officers began a targeted search for Alomang. Such intelligence searches related to suspicions of her involvement with the OPM. On the other hand members of the TPN/OPM were also suspicious of her involvement as an Indonesian agent. This prompted Alomang to seek refuge in Jayapura.

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## 2.6 ACCESS TO JUSTICE

### XXIII. SLOW JUSTICE: OPINUS TABUNI

**Opinus Tabuni** of the **Papua Customary Council (Dewan Adat Papua, DAP)** was killed by a gunshot, allegedly by the military, when security services dispersed people who had gathered at the celebration of the International Day of Indigenous People, marked by Papua Customary Council in Wamena – Papua on 9 August 2008. In the same event Tabuni was killed, unknown people brought four flags: Red and White Indonesia's flag, Morning star's Papua Free Organization, UN Flag and white flag written "SOS, Papuan people are in dangerous".

Rather than processing Tabuni's case, the police focused instead on the flag-raising incident and interrogated five leaders of

the Papua Customary Council: **Foskorus Yaboisembut, Sayid Fadhal Al Hamid, Lemok Mabel, Yulianus Hisage, Dominikus Sorabut, and Adolf Hisage** as witnesses of treason (article 106 of the Indonesian Penal Code). The police also accused the Papua Customary Council (DAP) for organizing an illegal event in Wamena on 9 August 2008.

### XXIV. SLOW JUSTICE: THE 'HAMADI TRIAL'

**Alex Wanda and Helen Walli**

On 18 May 2008, Alex Wanda and Helen Walli were coerced and humiliated into having sexual intercourse before seven Navy officers, who issued orders to both victims. They were threatened with being

forced to walk around naked. The victims identified marines who wore Lantamal X (navy) shirts. Due to the close proximity to Naval offices, both victims stated Navy officers were involved. They immediately reported the acts to the Angkatan Laut TNI post. The next morning, the victims had to identify the perpetrators and by-standers of the acts, but were only able to identify the Commander, who had issued most of the orders.

Despite being filed before the police within a few days, long delays due to a limited evidence and a lack of willigness from the Military Police to process the case, meant the trial started late 2009. The initial trial took place in November 2009, continuing over to December 2009.

#### **XXV. FAIR TRIAL: SABAR OLIF IWANGGIN**

The very long judicial process of human rights activist Iwanggin, came to an end when he was acquitted by the Panel of Judges of Abepura - Jayapura District Court on 29 January after a 12 month trial. The prosecutors could not prove that Iwanggin was guilty. This acquittal gives hope to HRDs working in the promotion and protection of human rights, as it differs from many previous rulings that were characterized by unfair procedures.

*Iwanggin, a lawyer and member of ELSHAM Papua, a Papuan human rights NGO, was arrested on October 17, 2007 by the joint operation of Reserse (Criminal Investigation Unit) Polda Papua and Special Detachment Anti-Terrorism Unit 88, Iwanggin was accused of committing an offence against the President and was charged with article 160 of the Indonesian Penal Code (KUHP).*

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## SECTION 3

# SOCIAL AND ECONOMICAL RIGHTS

1. PALM OIL PLANTATION INVESTMENT IN PAPUA
2. CONDITIONS OF POVERTY
3. PAPUA AS FOCUS OF PALM OIL PLANTATION INVESTORS
4. PRO-INVESTMENT POLICY
5. EDUCATION
6. HEAVY SECURITY PRESENCE IN PAPUA

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### 3.1 PALM OIL PLANTATION INVESTMENT IN PAPUA

The government's policy to attract investment to Papua has increased throughout the years, particularly in relation to palm oil plantations. Although the population has not openly supported palm oil plantations, a number of indigenous communities have accepted them in so far as they recognize peoples rights and have proved to be advantageous for the community. However, the increase in palm oil plantations is also tied with ad-hoc ways of taking land through coercion or violence to the detriment of the indigenous population, often involving security services. Many indigenous Papuans have seen their land being used for palm oil plantation, yet with little or no improvements to the poverty they face.

The local and central government must reevaluate the investment policy on palm oil plantation. Moreover, the government must ensure there is free, prior and informed consent in any land acquisition that affects indigenous Papuans. Long-term measures should address the extreme poverty faced by many who have given up their land for such large-scale investments.

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### 3.2 CONDITIONS OF POVERTY

Papuans, especially those who live in Arso District (Keerom Regency) and Prafi Distric (Manokwari Regency) have known palm oil plantations for more than 25 years. Palm oil plantations were first brought in to Papua in 1983 by PTPN II, a state owned plantation company) with the promise that palm oil would increase welfare. Most agreed to plant palm oil based on the company and Government's promise that it would indeed increase their welfare. However, this promise has been hard to come, as most of the population living in these areas continues to live in poverty.

The government's pro-investment policy, leading to more palm oil plantations, has neglected the conditions of the population whose land is used for palm oil. In 1992, for example private company PT SMG started operations in Jayapura district, with a message that it would bring prosperity for indigenous Papuans from many tribal groups, including the Siday, Urubab, Masita, Bitaba, Winim, Yable, Auri and the Yeru in the Nawa valley. Indigenous groups affected by plantations continue to live in poverty and misery.

In 2008, Pt Tandan Sawita received a permit to plant 26,300 hectares in Keerom district, largely embraced by Papua's Governor Barnabas Suebu. When the company started its activities, a number of demonstrations were staged against it; thus prompting the company to stop its activities temporarily.

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<b>1983</b>	State owned company PTPN II begins palm oil plantations in Arso (Keerom district) and Prafi (Manokwari district)
<b>1992</b>	PT Sinar Mas Group begins plantations in Yapi and Lereh, Jayapura district
<b>2008</b>	PT Tandan Sawita, Rajawali Group receives permit to plant 26,300 hectares of palm oil in Keerom district

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### 3.3 PAPUA AS FOCUS OF PALM OIL PLANTATION INVESTORS

#### 3.3.1 PERMITS FOR PALM OIL PLANTATIONS IN PAPUA FROM DEPARTMENT OF FORESTRY FOR 2010:

##### XXVII. PLANTATION PERMITS

<b>PT BIO INTI AGRINDO (BIA)</b>	35,000 hectares in Kali Tapi- Ulilin Sub-district, Merauke district 25 years lease
<b>PT DOGIN PRABHAWA</b>	38,000 hectares in Okaba Sub-district, Merauke district 25 years lease

#### 3.3.2 EFFECTS OF PALM OIL PLANTATIONS:

- Poverty caused due to reduced land to plant sago, other subsistence products and changes to local economy
- Environmental damages
- Loss of natural plantations (and ancestral lands)
- Incoming migrants to work in plantations (rather than generating local jobs)
- Further marginalization of indigenous Papuans through reduced welfare
- Security presence which creates environment of fear
- Guaranteeing the investment will proceed with limited interruptions.

Although the behaviour of security forces involved in protection of investments has changed in the last few years; their past involvement in violent events, torture and death threats to suppress indigenous Papuans movements against the setting up of plantations, has deeply scarred indigenous communities that continue to be afraid. In the past, indigenous communities who opposed giving up their land to investors companies and plantations, were violently dealt with and labeled as separatists, thus justifying tough action by security apparatus. It is still the case that indigenous populations feel they cannot refuse to accept plantations for fear of becoming further targets of torture or death threats.

##### XXVIII. INVOLVEMENT OF SECURITY FORCES TO GUARD PALM OIL PLANTATIONS

Security forces, including the police and the military (organic troops and non-organic troops, special force, and intelligence officers), will often provide protection following the establishment of companies. They are most often involved in the initial preparations for the establishment of plantations.

Such partnerships between investors and security forces are for the purposes of:

- Protecting investor's large assets;

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### 3.4 PRO-INVESTMENT POLICY

Papuan Governor Barnabas Suebu's policy indicates sustainability of people's welfare in Papua will be achieved if economic growth is significant, with the main condition being on investment. Papua must create political, social and governance stability to attract investment. To open Papua's door for investment, Suebu travelled to Tian Chin Province in China, to discuss China's interests in developing palm oil plantations.

The local government has a policy to protect peoples rights from the impacts of investment. The policy involves:

1. Investors recognition of peoples rights over the land (*hak ulayat*)
2. Adequate consideration and recognition of negative impacts of environmental damage, leading to compensation

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### 3.5 EDUCATION

Based on a forthcoming publication "*Hand in Hand for a better Future: Communities, Children and Teachers in Papua. Research on education Sector in Papua*" (Justice and Peace Netherlands, ICCO, Cordaid and People on a Mission)

Indonesia incorporated the **right to education** in its 1945 Constitution, three years prior to the Universal Declaration of Human Rights. For education to be a meaningful right it must be **Available, Accessible, Acceptable** and **Adaptable**. While Indonesia has laws in place to cover most aspects of the 4A's, the implementation of the laws varies a lot throughout the archipelago and leads to unequal access to quality education.

In UNDP ratings, the two provinces of Papua lag far behind when it comes to achieving Millennium Development Goal 2, "*Education for All*". This is partly due to the very difficult geographical conditions in Papua, it being the most inaccessible provinces of Indonesia. Additionally, the education provided is not adjusted to the living conditions of indigenous Papuan children.

#### XXIX. AVAILABILITY OF FREE EDUCATION IN PAPUA

Availability entails that education is **free, compulsory** and **government funded** and that **adequate infrastructure** and **trained teachers** to support education delivery are in place. The National Law on the Education System of 2003, a Provincial Decree of 2006 and a recently issued Governor Decree fully support free and compulsory education. However, the definitions of those being economically

not capable and having the right to extra support for the costs of uniforms, books and materials, are not sufficiently explained. In practice, parents do not always receive compensation for these costs, while they are felt as a burden.

The constitution secures 20% of the state budget for education and 30% of the

provincial budget in Papua. The governments both at provincial and at national level so far fail to spend the prescribed 30% respectively 20% of their budget. In 2008, a Constitutional Court decree was issued, stipulating an ultimatum for the central government to comply with the minimum 20% share for education.

In Indonesia, education is compulsory for nine years. The average of years of schooling on average in Papua is not much lower than in the rest of Indonesia. However, this average is much higher (6-10 years) in the cities where most *migrants* live than in rural areas, where mainly indigenous Papuans live (2- 4 years). Additionally, girls in Papua receive one year less of schooling, since they are often expected to take care of their younger siblings and/or marry at a young age.

Inappropriate conditions in almost half of schools:

- No electricity
- Broken desks
- Students share one textbook with two other pupils on average
- Some village schools have no books at all

Working in the remote areas that characterises much of the Papua provinces does not attract teachers.

Inappropriate conditions for teachers:

- Poor school conditions
- Insufficient education equipment and materials
- Insufficient housing facilities for teachers
- Travelling time needed to collect wages in the nearest district office

Effects:

- Teachers carry out side jobs to make ends meet
- Teachers do not work the required 18 hours a week
- Fluctuating and low teacher availability in remote areas
- Shortage of teachers
- Imbalanced distribution of qualified teachers:
  - Total average number of teachers per school: 6
  - Average number of teachers per school in urban areas: 12
  - Average number of teachers per school in rural areas: 3

### XXX. ACCESSIBILITY

*Accessibility* refers to **non-discriminatory education** and education **accessible to all**.

The UNDP reports that nowhere else in Indonesia do less children go to school than in Papua. Around 80% of the children go to primary school; for senior secondary education, the enrolment is even less than 25%. Statistics will be lower amongst indigenous Papuans, who live in the rural areas where less schools are available.

The Indonesian Government has taken positive steps to include the most marginalised. According to the National Law on the Education System of 2003, education with special services is provided for those in remote areas, isolated areas or less developed regions (Article 5 and 23). However, the reality at the moment is:

- Almost one third of all villages in Papua do not have their own school
- Children sometimes have to go

to school by boat or walk for 10 miles

- Parents report many requests for payments, despite education being 'free'
- Parents are burdened by costs of uniforms, writing materials and transportation

As a way to provide special services, the local government plans to build more small schools for grades 1-3. Simultaneously, teachers should be trained to provide special education. Efforts to provide a sufficient number of schools to reduce distance to school are taken but are in need of further work. Furthermore there is no requirement in Indonesian law on a minimum of one elementary school/education unit per village.

### XXXI. ACCEPTABILITY

Acceptability ensures that the content of education is relevant, non-discriminatory and culturally appropriate, and of quality; the school itself is safe and teachers are professional and a proper monitoring system is in place.

National Law on the Education System of 2003 provides:

- Possibility to teach in local languages, with no further requirements
- No clear article stipulating the government's obligation to provide sufficient and qualified teachers
- No clear indicators for quality and frequency of monitoring of implementation of programmes (stipulated in the law)

Provincial Decree No. 5/2006 stipulates:

- Instruction from the district head is needed to allow the use of local

languages in the first years of primary education.

- The local government has to supply teaching staff needed for all education units (Article 5)

This leads to a number of contradictions in policies, and limited use of opportunities. Thus:

- Papuan pupils entering schools are mostly taught in the national language, which they do not master
- Monitoring of implementation is poorly implemented and budgeted
- Some schools in remote areas are only visited once a year by a monitoring team
- In order to overcome the shortage of teachers, the government of Papua province has drafted teacher rotation regulations
- In order to increase teacher's standards, it has established teachers colleges

### XXXII. ADAPTABILITY

*Adaptability* refers to the ability of education to **adapt to the needs of changing societies** and communities and to **respond to the needs of students** within their diverse social and cultural settings, **whilst contributing to gender equality**.

Provincial Decree No. 5/2006 provides possibilities to respond to specific needs of the children in the local context (linguistic and cultural minorities). However, few steps have been taken so far.

- Funds have not been secured to provide a contextualised curriculum

- The use of local languages in the first years of education
- The minimum age for employment in Indonesia and school leaving age is 16 years, therefore providing no clash.
- For marriage of girls the minimum age is 16, but marriage at a younger age is allowed with approval of parents. This may be one of the

reasons for higher drop-out rates for girls.

Positive developments include the drafting of a Provincial Decree to incorporate HIV/AIDS prevention in the curriculum, in order to respond to the dramatic increase of AIDS.

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### 3.6 HEAVY SECURITY PRESENCE IN PAPUA

Special Autonomy granted Papuan provinces the opportunity to opt for 'pemekaran' or the establishment of new regions- a practice that increased significantly in Papua from 2004-2009. Papua currently consists of 29 districts and 2 municipalities; each district and municipality with its own security institutions. Such rapid creation of districts has led to a higher presence of military and police authorities. Impartial research has found that such heavy security presence leads to an atmosphere of fear and has increased tension between the military and indigenous Papuans.

In November 2009, the Chief of the Army highlighted military plans to establish new military commands in Papua. Indonesia's Chief of the military, General Djoko Santoso, responded that the Military Headquarters will conduct a study to assess whether a new regional military command in Papua will be established or not.

#### XXXIII. STRENGTHENING MILITIAS

In 2009, the Government also pushed the Parliament to deliberate on several bills on security, especially the bill on the State Defense Reserve Command. If passed, this bill will potentially give a chance for militia groups in Papua, such as *Barisan Merah Putih* (BMP, The Red and White Group), to join the Reserve Command in order to guard security and defense. The power of militia group has become stronger in Papua.

Ramses Ohee, the BMP's leader, has requested a judicial review of the Special Autonomy Law No.21/2001 to allow for 11 seats for indigenous Papuans in Papua's local parliament from 2009-2014. It will also lead to the group's greater involvement in governance, after the Constitutional Court verdict in February 2010 allows Papuan local parliament to add 11 seats for Indigenous Papuans in 2009-2014.

Lukas Enembe, Puncak Jaya's Regent, stated the heavy military presence does not guarantee adequate safety and security of Papuans and, following frequent violence perpetrated by the security services, specifically requested the government to withdraw military and other security apparatus from Puncak Jaya. On the other hand, the Head of Information of the Military Headquarter, Brigadier General TNI Christian Zebua explained that deployment of the military to Papua is needed, especially to combat separatism. In the Puncak Jaya case, however, the military only deployed its organic troops from Cendrawasih Regional Military Command, not new troops from outside Papua.

Imparsial predicts the heavy presence of the military in Papua will increase in 2010 in order to support the government's open door policy for massive investment and industrialization in Papua. Predictably, from a security point of view, an unstable and insecure situation will be kept in order to give space for military and other security forces to increase and justify their presence in Papua.

#### **XXXIV. IMPARSIAL'S REPORT ON SECURITY REFORM IN 2009 HIGHLIGHTS THE FOLLOWING REASONS FOR A HEAVY MILITARY PRESENCE IN PAPUA**

- Guard the NKRI (Negara Kesatuan Republik Indonesia or the United of the Republic of Indonesia) with 2 reasons: Papua is the eastern part of Indonesia and geographically difficult for security monitoring with its valleys, forests and mountains,
- Combat separatism of the Free Papua Movement (TPM/OPM) and its supporters;
- Control civil society by keeping *territorial command* from provincial level to village level, including through the involvement of intelligence officers as civil servants in local governments (KODAM-KOREM-KODIM-KORAMIL-BABINSA);
- Grow on military experiences and use it as a place for battle field training, effectively making Papua a training center or "*kawah Candradimuka*", using examples of Timor Leste and Aceh;
- Safeguarding investments and industries;
- Get side income by conducting illegal activities.

#### **XXXV. CONFLICTS BETWEEN THE POLICE AND THE ARMY**

Although the police force has overall responsibility for internal security, this is often interfered by the military. This has increased the tension between military and police personnel, leading to acts of revenge, which in turn have affected the indigenous population.

Presidential Decree No. 63 (2004) on the *Safeguard of the Vital Industries* stipulates that local guards and the police are responsible for the security of investments and private companies; however, the long history of the military involvement in industrial safeguard keeps the military present in all industries in Papua.

The military and the police continue to compete on the issue of side businesses for alternative ways of sourcing money, often through illegal businesses. These have included, illegal logging, illegal fishing and alcohol or drug smuggling.

## XXXVI. FREEPORT VIOLENCE: LINKS WITH MILITARY, POLICE AND BUSINESS

Historically, Freeport's presence dates back to the time when the Trikora command of the Indonesian military (TNI) occupied West Papua in the 1960s. Politically, its concession and operation contracts, which were signed before Papua officially became part of Indonesia in the so-called 'Act of Free choice' in 1969, are disputed by Papuans as well as Indonesians. Papuans object to Freeport's status due to human rights and land rights abuses while the Indonesian Government is questioning their legitimation based on economical and fiscal discrepancies.

Economically, Freeport McMoran is of paramount importance for the central government as it is the biggest taxpayer in Indonesia. However, Freeport is most likely the payer of the biggest security allowances to the Indonesian military, having reportedly paid an estimated USD 8 million in 2008 to the TNI and Police forces in the mining area. Thereby Freeport represents the most attractive single income source for security forces in the heavily militarized Province of West Papua.

### 2009 events

The spokesman for the Indonesian Armed Forces, Air Vice Marshall Sagom Tamboen denied again reports of continued direct payments for the TNI's protection of Freeport in 2009. In March 2009 Freeport spokesman Bill Collier told AFP media PT Freeport Indonesia paid USD 1,6 million directly out of a USD 8 million budget of 'broader support costs' for the 1850 security forces at the mine.

While most of the direct payments went to the police-led Amole task force officially assigned to guard the mine, soldiers and

police in surrounding areas were also receiving payments.

However, Papua Police chief Bagus Ekodanto acknowledged that direct Freeport payments had been made amounting to 750.000 Rp/month to each team member.

Following the Freeport violent incidents from July 2009, a number of reinforcements were sent to the Timika-Tembagapura area, which was already heavily guarded by both police and TNI troops. According to the deputy spokesperson of the Indonesian Police, Sulistyio Ishak, the additional troops are required as enforcements for the planned special operation 'Tegak Cendrawasih 2009' foremost targeting Jayawijaya, Nabire, Puncak Jaya, Mimika and Sarmi out of the 23 districts of Papua and deploying 1,794 officers from the national Police, with 1,329 from Papua Police.

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## SECTION 4

# **FREEMPORT INCIDENTS 2009**

### **FREEMPORT INCIDENTS 2009**

- **INCIDENTS BETWEEN JULY 2009 - JANUARY 2010**

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## 4.1 FREEPORT INCIDENTS IN 2009

Freeport McMoran's presence and activities in Papua are a micro-cosmos of its own, mirroring the historical, political, economical, and social development of West Papua since it became part of Indonesia. As a consequence, every security incident at the Freeport mine raises international attention and possibly reactions towards the central government. Furthermore in the political fragile circumstances of the power struggle during the elections in 2009 it impacts on the policies of the newly elected and constituting government by publicly questioning its political, economical and internal security competencies.

On a national level every serious security incident in the Freeport area is a setback for President Susilo Bambang Yodhoyono's security sector reform, which would have its deepest impact in the heavily militarized province of West Papua. The imposed handover of the responsibility regarding the security at PT Freeport from the TNI (army) to the Police in 2006 was step by step reversed in the course of the shootings of 2009. Out of a final number of over 1500 security personnel deployed with the primary role to guard the PT Freeport mine roughly 1000 are TNI troops.

The dissimilar statements and interactions of Police, TNI and other high level stakeholders about the perpetrators and their motives point to a concealed struggle for supremacy in the security sector of Papua.

In more than 22 military style ambushes, where high-power military style weapons and a massive amount of TNI ammunition are used, at least three persons are killed:

Drew Nicholas Grant, PT Freeport Indonesia project management employee (Australian)  
Markus Alloo, PT Freeport Indonesia security staff  
Marson Pattypeilohy, Mobile Police Brigade (Brimob) officer

An estimated 40 PT Freeport, Brimob and TNI personnel are reported injured.

In spite of having on several occasions close fire and even visual contact with the assailants, more than 1500 experienced troops including the Police elite counter-terror unit Densus 88 could not successfully detain any perpetrators over a period of six months.

The brutal sweepings around Timika in which more than 30 persons are illegally arrested out of which six Amungme tribe indigenous Papuans are charged for accessories to murder are in contradiction to previous statements of the Police concerning the perpetrators and their possible motives. Nor do the arrests avert the continuing shooting ambushes.

The six charged suspects under Articles 340, 338, and 351 (3) are:

Amin Yawame (PT Freeport Indonesia), Dominikus Beanal (PT Freeport Indonesia), Tommy Beanal, Eltinus Beanal, Simon Beanal, and Yani Beanal.

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**XXXVII. DETAILED OVERVIEW OF FREEPORT RELATED INCIDENTS FROM JULY 2009-JANUARY 2010**

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**JULY 8** An employee bus and a Freeport security guard vehicle are burnt down on the road between Timika and Tembagapura at mile 71-72 on the PT Freeport Indonesia mine range, at approx, 3.30 a.m. by unidentified persons.

At the same time police reported a traffic post is burnt down by a group of about 20 persons, at the entrance to a mining tunnel at mile 71.

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**JULY 10** A parking police patrol car is shot at by unknown persons in the area of Tembagapura on the Freeport site.

Police officers find three calibre 5,56mm rounds, which point towards weapons used by security forces.

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**JULY 11** At approx. 5.20 a.m., a Freeport company vehicle coming from Tembagapura and heading to Timika is shot at on Mile 52, killing Drew Nicholas Grant, an Australian Freeport project manager working in the Expert Municipal Construction department (see 'xxxviii. Drew Nicholas Grant and the Mile 52 case' on page 42).

Three other occupants were slightly injured in the incident.

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**JULY 12** A Freeport security guard is shot dead by unknown gunmen at approx. 10.45 a.m. on the heavily guarded road from Timika to Tembagapura at mile 51. The attack occurs while Brimob officers and the counter-terrorism unit Densus 88 are on patrol using Freeport vehicles.

Two security guards and a driver were seriously injured in the incident.

A Brimob officer is reported missing. His body is found the next day after tracking his mobile phone in a 60-meter deep ravine at mile 64. His weapon is found in the ravine around mile 51. The body apparently showed stab wounds. The Chief of Papuan police later denied the officer had been stabbed or shot, stating he died of falling into the ravine next to the shooting site, thereby contradicting former police statements.

Shortly after the incident at mile 51 at approx. 12.00 a.m. members of the police counter-terrorism unit Densus 88 rushing to the scene are ambushed by unknown gunmen, leaving two officers injured.

According to the magazine Tempo in the vicinity of the shooting site five fully armed members of the TNI Special Forces were arrested, disarmed and interrogated late in the evening. Papua police chief Bagus Ekodanto denies the arrest of any security forces in a press statement on July 14.

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**JULY 14** At approx.12.00 a.m. a minibus carrying Freeport employees is fired at while passing mile 48. At approx. 3.30pm, a second employee bus is fired at while passing mile 49. Following the incident, Freeport closes the connecting road between Timika and the mine to all traffic, except for security forces.

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**JULY 15**

The company orders approx. 1000 workers who are affected by the security situation on the road to the operation area to stay home.

At mile 54, unknown gunmen fired on a Brimob vehicle injuring all five officers, at least one of them severely.

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**JULY 17**

At mile 48, two Freeport vehicles carrying security staff, police and military personnel is ambushed by unknown gunmen at about 1.45 p.m. No casualties are reported.

In a meeting in Timika between the Head of the Indonesian Police (POLRI) and the Indonesian armed forces Command, it is announced that more than 300 additional troops and several Brimob units totaling more than 400 Police officers, are going to be deployed to the mining area. This rises the combined total number of Police and military personnel in the broader Freeport mine area to approx. 2500.

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**JULY 20 & 21**

During a sweeping operation members of the elite counter-terrorism unit Densus 88, TNI and the Criminal Department of the Papuan Provincial Police (Polda Papua) detain at least 32 persons in different locations around the Freeport mine. (36)

The 15 are identified as Domingus Beanal, Tommy Beanal, Yani Sarin Beanal, Eltinus Beanal, Yonas Uwamang, Viktor Beanal, Simon Beanal, Petrus Kanisius Taturdas, Samuel Totti, Amom Yawame, Yoseph Sikora, Matius Agustinus Yeritono, Bernadus Natipe, Yustinus Boaka and Andel Kiwak.

Three of them are minors: Jan Jamang (15 years old), Ponce Uanmang (15 years old) and Hengki Uanmang (17 years old). They are arrested in their houses in the village of Kwamki Baru.

Most of the detainees belong to the Amungme indigenous tribe including tribal leaders Yonas Uamang and Victor Beanal. Two Freeport employees were also among the suspects detained.

According to Papua Police head Bagus Ekodanto, several bows, axes and machetes were confiscated at Kwamki Baru.

Ammunition for several types of weapons is found at mile 27 where traditional miners operate on the tailings from the Freeport mine.

Local sources report the arrests were carried out without arrest warrants. The detainees were not granted access to legal representation for at least one month, nor were their names disclosed by the Police in the days following the arrest.

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**JULY 22**

A vehicle contracted by Freeport carrying a group of three mechanics and five Brimob officers is ambushed at mile 51 at approx. 11.15 a.m. After several minutes of exchanging fire, leaving one police officer and three mechanics injured, the group manages to escape and get to the security post at mile 52.

According to local sources a joint unit of police and TNI soldiers from the post at mile 52 responding to the ambush also comes under fire.

At approx. 11.45 am, police report a car accident at mile 45 where a Brimob officer dies. Two TNI soldiers, a Brimob officer and the driver of the vehicle are seriously injured. Regional Police spokesman denies the car was under fire when it flashed over.

A convoy of at least 12 buses transporting Freeport employees to Tembagapura is forced to return to the post at mile 50.

Following these incidents the road connecting Timika to Freeport's mine is closed for the rest of the week.

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**JULY 24**

Six persons are charged for premeditated murder under Article 340 of the Indonesian Penal Code, for the shootings on July 11/12. All of them belong to the Amungme indigenous tribe.

Amin Yawame (PT Freeport Indonesia), Dominikus Beanal (PT Freeport Indonesia), Tommy Beanal, Eltinus Beanal, Simon Beanal, and Yani Beanal are charged with Article 340, 338, and 351(3) while Anandel Kiwak is charged for illegally storing ammunition according to Indonesian Police spokesperson, Yoga Ana. He refers to the perpetrators of the July shootings as belonging to a criminal armed group, rather than OPM.

The Deputy Director of the Papuan Police Crime Department Ade Sutiana stated ammunition for military use high power military use weapons was found in TNI labelled boxes at mile 54 while conducting a routine patrol.

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**JULY 29**

Papuan Governor Barnabas Suebu, representatives of the civil society and tribal leaders of the Mimika region agree to prohibit traditional mining of the tailings at Kali Kabur inside the Freeport concession area.

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**JULY 31**

One out of five more suspects is detained by the police. Yamius Uamang, a Freeport employee is charged for accessory to murder in the July shootings

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**AUGUST 4**

Following the July shootings at the Freeport mine, Indonesia and PNG agree to keep the border closed. The borders were closed on July 8 due to the Presidential election.

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**AUGUST 12**

The Police closes the Tembagapura-Timika road for one day after three shooting incidents targeting Freeport vehicles. The first shooting occurs at approx. 6.30 a.m. at mile 45-46; the second at 9.35 at mile 45; while the third happens at 12.05 p.m. also at mile 45, engaging the occupants, members of the joint Police and TNI guarding 'Amole' force in an exchange of fire. No injuries are reported.

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<b>AUGUST 16</b>	At 2.45 pm a heavily guarded convoy of 20 Freeport buses is shot at when passing mile 41-42 on the way to Temangapura, injuring six Freeport employees. The road between Timika and Tembagapura is closed to all traffic except security forces until August 17. The mine workers cannot reach their workplace for almost two weeks.
<b>AUGUST 22</b>	At approx. 4.30 pm a convoy of Freeport contracted trucks accompanied by Police/TNI vehicles is shot upon at mile 40 resulting in the road from Timika to the operation area of Freeport being closed again till August 27.  Two dark clothed suspects described as non-indigenous wearing masks are pursued in vain at the shooting site.
<b>AUGUST 27</b>	Responsibility about the security on the connecting road between Timika and the Freeport mine is handed over to the TNI after a conference between the CEO of PT Freeport Indonesia, A. Mahler, the Papuan Police chief, Bagus Eko-danto, the minister for Mining and Energy, Purnomo Yusgiantro, and the minister of Politics, Law and Security, Djoko Suyanto concerning the security situation of Freeport.  The road to the mine is reopened after two weeks, allowing approx. 1000 employees to go back to work.
<b>AUGUST 28</b>	A convoy of eight Freeport buses accompanied by armoured personnel carriers is shot at between mile 46 and 41. The ensuing fire exchange between the assailants and the security forces lasts for approx. 10 minutes.
<b>AUGUST 31</b>	The Military Command announces it will send at least 600 additional troops to guard the Freeport mining area
<b>SEPTEMBER 9</b>	At approx. 6 am unidentified gunmen strafe a PT Freeport vehicle carrying the Chief of the Military Sub-district Command (DANRAMIL), Capt. Roland Naing-golan, while passing mile 41-42. At 7.30 p.m. the security post at mile 54 is strafed. No injuries are reported.
<b>SEPTEMBER 12</b>	Two Freeport security guards are injured by gunfire from unknown gunmen while passing mile 42 on the road to Tembagapura.
<b>SEPTEMBER 16</b>	The commander of the Infantry Brigade XX of Mimika, Lt.Col. Viktor Deny is ambushed and injured on a side road 30 kilometres off the main Timika -Tembagapura road near Kampung Nayaro, Mimika district. A Freeport security guard is also injured in the incident. Brimob officers who later on responded to the ambush, also came under fire.  This marks the second time that a military leader of the local forces are targeted since responsibility over the security on the road between Timika and Tembagapura was handed over to the TNI on August 27.
<b>OCTOBER 8</b>	A PT Freeport bus travelling in a convoy with escort is shot at while passing mile 44. No injuries reported.
<b>OCTOBER 20</b>	A PT Freeport bus convoy is strafed by unknown assailants injuring three employees at mile 42 on the road to the Grasberg mine. The road is closed for traffic to the mine during the following 24 hours.

**OCTOBER  
23**

A TNI soldier is shot and injured while on patrol with his unit at mile 37. The national Police dispatches 150 additional officers to support security operations at the PT Freeport mine.

**NOVEMBER  
17**

Six detainees are charged with being *accessories to murder*: Simon Beanal, who apparently suffers a mental disability, Eltinus Beanal, Tommy Beanal, Apius Uamang, - all residents of Timika - and two Freeport employees, Dominikus Beanal and Amon Yawame. Five are released on condition to report daily to the police station while awaiting their trial. According to one of their lawyers, the four Timika residents were at home at the time of the shootings while the two Freeport employees were in their hotel.

Reportedly, they had confessed after having been beaten with rifle butts and threatened with executions and electric shocks. Simon and Apius were handcuffed for almost two months.

**DECEMBER  
16**

Kelly Kwalik (60), the leader of the Free Papua Movement (TPN/OPM) is shot dead by members of the counter-terrorism unit Densus 88 and Brimob during a raid in a house in Gorong-Gorong 2, Mimika Regency. (see 'xxxix. Kelly Kwalik, leader of the Free Papua Movement killed' on page 42)

Five people are arrested during the raid: **Jeep Murip, Noni Sanawarme, Martimus Katarambe** (91 years-old), **Yosep Kwantik** and **Yorni Murid** (10 years-old).

**JANUARY  
24, 2010**

Freeport ambushes continue with unknown assailants shooting on a convoy at mile 60-61 leaving six employees and Brimob officers injured, including an American citizen. The road is closed to traffic following the incident.

According to the Minister of Politics, Law and human rights, Djoko Suyanto, the security forces are still investigating who is behind the attacks at PT Freeport.

### **XXXVIII. DREW NICHOLAS GRANT AND THE MILE 52 CASE**

After conducting investigations into Grant's death, Bagus Ekodanto, Chief of Papuan police, stated the shooting would have been pre-planned and carried out with weapons belonging to the police or the Indonesian military (TNI). According to police investigators the shots were fired on the moving vehicle, from a high-power rifle of 5,56mm calibre from a distance of approx. 25m from a hill.

Following the shootings, employee transports were organised in cordons with military and police escort. All media was blocked from

entering the Freeport McMoran concession area.

The autopsy at Jakarta's RSCM hospital conducted by Dr. Mun'im Idries, Chief of the Forensic Department, in the presence of Australian embassy officials, revealed that Grant was killed by four bullets. However, no bullets were found in the body. According to the pathologist the bullets might have been removed before the examination to conceal evidence. Two officers of the Australian Federal Police are joining the investigations in Papua.

In the evening, General Djoko Santoso, Chief of the Indonesian Armed Forces, and LtCol. Soesilo, Spokesman of the Papuan province military headquarters, blamed the OPM/TPN separatist group of Kelly Kwalik for being responsible because military style weapons would have been used.

Kelly Kwalik, the commander of the OPM/TPN in the region of Mimika has denied responsibility and condemned the killing subsequently on July 13.

Papuan police chief Bagus Ekodanto refused to blame the separatist movement at a press conference on July 12 stating there was no proof. According to him, the perpetrators appear to be professionally trained.

Defence Minister Jowono Sudarsono stated deserters from police and the military might be responsible.

#### **XXXIX. KELLY KWALIK, LEADER OF THE FREE PAPUA MOVEMENT KILLED**

Kelly Kwalik, a leader of the separatist wing of the Free Papua Movement OPM, was killed on December 16 at approx. 3 a.m in the village of Gorong-Gorong, in the vicinity of Timika. Fifteen members of the counter-terror police unit Densus 88 and Brimob participated in the raid, which resulted in his killing.

According to Papua Police spokesman, Agus Rianto, Kwalik had tried to escape and had pointed a revolver at the police which responded by shooting him in the left thigh. Kelly Kwalik who was in his sixties allegedly died shortly after arriving at the hospital in Kuala Kencana, Mimika. Local sources said Kwalik died at the site a few minutes after being shot in the forehead, abdomen and loins. His body was sent to Jayapura for an autopsy

on the same day. However, the results were not made public. An independent autopsy was not carried out.

After hundreds of Papuan protesters beset the Regional Parliament Building (DPRD) demanding his body to be returned to the Amungme tribe, Kwalik was flown back to Timika on December 18.

Five people were arrested during the raid including a pregnant woman and a child: Jeep Murib, Noni Senawarme, Martinus Katagame, Yorni Murib (10) and Yoseph Kwantik. Jeep Murib and Martinus Katagame were accused of sheltering separatist leader Kwalik and are still in custody.

On October 23, following a series of investigations into the ammunition and military logistics used in the events, Papua Police Chief in Jayapura stated Kwalik and TPN/OPM forces were not responsible for the fatal shootings at the Freeport mine in 2009. These statements contradicted the accusations of the Trikora Military Command of West Papua.

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## SECTION 5

# RECOMMENDATIONS

1. TO THE GOVERNMENT OF INDONESIA
2. TO THE EU AND OTHER NATIONAL GOVERNMENTS

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## 5.1 RECOMMENDATIONS TO THE GOVERNMENT OF THE REPUBLIC OF INDONESIA

- Independently and impartially investigate allegations of human rights violations in Papua, in particular in relation to the parliamentary and presidential elections in 2009, including torture, ill-treatment, arbitrary arrest and detention.
- Prosecute the perpetrators of human rights violations in Papua and hold them accountable through existing legal procedures.
- Decrease the number of military forces in Papua and ensure the adherence to human rights by the Indonesian security forces.
- Guarantee legal safeguards for detainees in accordance with international standards.
- Define and criminalize torture in accordance with article 1 and 4 of the International Convention against Torture.
- Give access to detention facilities in Papua for human rights monitoring institutions including the International Committee of The Red Cross.
- Guarantee the right to freedom of expression and freedom of assembly in Papua and release those who have been imprisoned for making use of those rights.
- In the light of freedom of expression guarantee the peaceful use of cultural symbols such as the Morning Star Flag.
- Guarantee the safety of human rights defenders in Papua, including the safety of religious leaders, pastors and church workers.
- Guarantee the safety of journalists and their right to freedom of press, freedom of expression and freedom of information.
- Implement the European Union Guidelines on Human Rights Defenders.
- Acknowledge, guarantee and protect the rights of indigenous people, in particular indigenous land rights and the rights over indigenous natural resources.
- Guarantee access to basic health care, education and economic opportunity for the indigenous people of Papua.
- Establish a Human Rights Court and a Truth and Reconciliation Commission in Papua as stipulated in Article 45 of the Law No. 21/ 2001 on Special Autonomy for the Province of Papua.
- Guarantee that the Attorney's General Office will take up its responsibility to further investigate cases of gross human rights violations in Papua, in particular the Wasior Case 2001/ 2002 and the Wamena Case 2003 which were already submitted to the Attorney's General Office by the National Human Rights Commission (Komnas HAM) in 2004.
- Independently and impartially investigate the cases of violence around the Freeport Mine in Timika and hold the real perpetrators behind the violence accountable through existing legal procedures. Guarantee the safety of civil society during these investigations and guarantee that innocent civilians will not become the black-sheep for third parties interests.
- Give free access to Papua for international humanitarian and human rights organisations, international journalists and parliamentarians.

- Implement the recommendations of the Universal Periodic Review on Indonesia by the United Nations Human Rights Council from May 2008
- Implement the recommendations on combating torture made by the United Nations Special Rapporteur on Torture and other cruel, inhuman or degrading treatment or punishment, Manfred Nowak, in his report to the UN Human Rights Council in March 2008.
- Implement the recommendations on human rights defenders made by the United Nations Special Representative of the Secretary-General on the situation of human rights defenders, Hina Jilani, in her report to the UN Human Rights Council in March 2008.
- Engage with the indigenous people of Papua into an open dialogue on the unresolved problems in Papua.

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## 5.2 RECOMMENDATIONS TO THE EU AND NATIONAL GOVERNMENTS

To raise the following items in the Human Rights Dialogue between the European Union and the Republic of Indonesia starting in June 2010, or in other meetings between the EU and Indonesia:

- Ask the Indonesian Government to guarantee the right of freedom of expression and freedom of assembly in Papua and release those who have been imprisoned for making use of those rights
- Ask the Indonesian Government to guarantee the safety of human rights defenders, journalists, religious leaders and church workers in Papua
- Ask the Indonesian Government to acknowledge, guarantee and protect the rights of indigenous people, in particular indigenous land rights and the rights over indigenous natural resources.
- Ask the Indonesian Government to guarantee access to basic health care, education and economic opportunity for the indigenous people of Papua.
- Encourage the Indonesian Government to fully implement the recommendations of the Universal Periodic Review on Indonesia by the United Nations Human Rights Council from May 2008
- Encourage the Indonesian Government to fully implement the recommendations on combating torture made by the United Nations Special Rapporteur on Torture and other cruel, inhuman or degrading treatment or punishment, Manfred Nowak, in his report to the UN Human Rights Council in March 2008.
- Encourage the Indonesian Government to fully implement the recommendations on human rights defenders made by the United Nations Special Representative of the Secretary-General on the situation of human rights defenders, Hina Jilani, in her report to the UN Human Rights Council in March 2008.
- Encourage the Indonesian Government to fully implement the European Unions Human Rights Defenders Guidelines

Other topics to be raised in communication with the Indonesian Government:

- Ask the Indonesian Government to decrease the number of military forces in Papua and ensure the adherence to human rights by the Indonesian security forces.
- Ask the Indonesian Government to guarantee that the Attorney's General Office will follow-up submitted cases of gross human rights violations such as the Wasior Case 2001/ 2002 and the Wamena Case 2003.
- Ask the Indonesian Government to establish a Human Rights Court and a Truth and Reconciliation Commission in Papua as stipulated in Article 45 of the Law No. 21/ 2001 on Special Autonomy for the Province of Papua.
- In the light of freedom of expression ask the Indonesian Government to guarantee the peaceful use of cultural symbols such as the Morning Star Flag.
- Ask the Indonesian Government to give access to detention facilities in Papua for human rights monitoring institutions including the International Committee of The Red Cross.
- Ask the Indonesian Government to give free access to Papua for international humanitarian and human rights organisations, international journalists and parliamentarians.
- Encourage the Indonesian Government to engage with the indigenous people of Papua into an open dialogue on the unresolved problems in Papua.

**The following organisations are part of this network:**

Cordaid

Dominicans for Justice and Peace

Franciscans International

Geneva for Human Rights

ICCO

Kerk in Actie

Justice and Peace Netherlands

Mensen met een Missie

Mission 21

Pax Romana

Quakers

United Evangelical Mission

Uniting World

West Papua Netzwark

World Council of Churches

