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ETAN ALERT:
Call Congress to support Human
Rights in West Papua

West Papua Report

August 2010

This is the 75th in a series of monthly reports that focus on developments affecting Papuans. This series is produced by the non-profit West Papua Advocacy Team (WPAT) drawing on media accounts, other NGO assessments, and analysis and reporting from sources within West Papua. Beginning with this edition the West Papua Report will include a Bahasa Indonesia translation of the summary and subject titles. This report is co-published with the East Timor and Indonesia Action Network (ETAN) Back issues are posted online at <http://etan.org/issues/wpapua/default.htm> Questions regarding this report can be addressed to Edmund McWilliams at edmcw@msn.com.

Summary:

Fifty members of the U.S. Congress, under the leadership of House Foreign Affairs sub-committee chairs Faleomavaega and Payne, have written to President Obama to express their deep concern about West Papua, noting indications of Indonesian "slow-motion genocide" against Papuans. The Representatives strongly urged President Obama to give West Papua a high priority in U.S. policy towards Indonesia and also called on him to meet with Papuans in his scheduled November visit to Indonesia. The Obama Administration has announced it will open contact with the infamous Indonesian Special Forces (Kopassus), notwithstanding a decade old Congressional consensus against ties with that group unless and until that unit undergoes fundamental reforms. Papuan Political Prisoner Filep Karma told international media that U.S. support for Kopassus would only increase that units capacity to repress Papuans. An International Court of Justice opinion granting Kosovo the right to declare its independence would appear to have implications for Papuans pursuit of self-determination. Indonesian analysts assess that Indonesian central government unwillingness to dialogue with Papuans inevitably leads Jakarta to resort to its repressive "security approach." Reports of abuse of Papuan prisoners in Indonesian prisons by their Indonesian guards continue. The Indonesian Seafarers Association has revealed Navy and Fisheries Ministry collusion with foreign fishing vessels illegally fishing in Papuan waters. The report also notes the role of foreign fishermen in the transmission of HIV/AIDS in Papuan ports of call.

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Fifty Members of U.S. Congress Write to President Obama over "Strong Indications" of Indonesian Genocide in West Papua

The Chairs of the U.S. Congressional Subcommittees on Asia, the Pacific and the Global Environment, Rep. Eni F.H. Faleomavaega, and Chairman Donald M. Payne of the Subcommittee on Africa and Global Health have spearheaded an effort in Congress calling upon President Obama to "make West Papua one of the highest priorities of the Administration."

As a result of their efforts, 50 members of the U.S. Congress signed a letter to the President stating that there is strong indication that the Indonesian government is committing genocide against Papuans. Many of those who signed the letter are members of the Congressional Black Caucus. The signatories include men and women who fought for civil rights in America in the 1960s. In addition to the Congressional Black Caucus, many others who are long-time advocates of human rights joined this request to the President of the United States, including members of the Hispanic Caucus. The last remaining member of the Kennedy family in Congress, Rep. Patrick Kennedy from Rhode Island, also joined the letter to President Obama.

An [August 1 press release](#) from Representative Faleomavaega's office notes that the letter to the President "suggests that slow motion genocide has been taking place in West Papua and reviews findings by human rights organizations and scholars who have conducted extensive research about crimes against humanity and genocide by Indonesian security forces."

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The press release also observes that "according to international agreements, other nations are legally obligated to intervene when a genocide is in process and Members of Congress remain hopeful that President Obama and the U.S. State Department will hold Indonesia accountable."

Members concluded their letter by encouraging the President to meet with the Team of 100 from West Papua during his upcoming visit, noting that President Obama has the opportunity to bring lasting change to this part of the world. While Papuan leaders have repeatedly tried to engage in dialogue with the Indonesian government, dialogues have failed to produce concrete results and Papuan leaders are now calling for an International Dialogue. In this context, signatories of the letter have asked President Obama to meet with the people of West Papua during his upcoming trip to Indonesia in November.

U.S. Government Resumes Collaboration with Military Unit Long Associated with Human Rights Abuse in West Papua

The [U.S. government announced that it is resuming contact with the Indonesian Special Forces \(Kopassus\)](#). U.S. Secretary of Gates, visiting Jakarta July 22, announced the decision with caveats, noting that the resumption of contact would proceed "in accordance

with U.S. law, only on the basis of future reforms within Kopassus." Specifically, [Gates told media](#) that the U.S. would undertake a "gradual, limited program of security cooperation activities," conditioned on "continued reform" (sic) within Kopassus and the TNI. According to Gates, the engagement "may be initially limited to including Kopassus officials in "conferences and events involving non-lethal subjects like rule of law, human rights and the military decision-making process."

According to the 2001 Leahy Law, the the U.S. Administration can not proceed beyond contact/consultations to actually resuming training and weapons funding for Kopassus absent Indonesian government action to ensure justice in any cases of "gross violations of human rights" involving Kopassus personnel (past, current or future). In the language of the law, "If the Secretary of State has credible evidence that such unit has committed gross violations" the U.S. Government is disallowed from expending funds unless "the Secretary determines and reports to the Committees on Appropriations that the government of such country is taking effective measures to bring the responsible members of the security forces unit to justice."



The career fates of a number of prominent and not so prominent Kopassus officers with credible claims of human rights violations in their records have been and continue to be the focus of much debate in Washington regarding U.S. aid to Kopassus. In recent months the U.S. has quietly pressed for the Indonesian government to scrub abusive officers from Kopassus's rolls.

One of the Kopassus officers upon the policy debate has focused is [Lt. Col. Tri Hartomo](#) who was convicted in 2003 of the "torture murder" of Papuan political leader Theys Eluay. Hartomo was sentenced to 42 months in prison. That sentence, and even shorter sentences handed down against the other six Kopassus personnel convicted in the case, pale beside those handed out to Papuans for nonviolent crimes such as displaying the Papuan "morningstar flag." Moreover, Hartomo upon release returned to Kopassus ranks. General Sjafrudin Sjamsuddin, [appointed deputy Defense Minister](#) earlier this year, is a Kopassus officer similarly charged with egregious human rights abuses, notably in East Timor. The U.S. administration's casual claim that the general was "only implicated" and not "convicted" of numerous human rights abuses begs the broader reality that Sjamsuddin, like so many other senior Kopassus and TNI officers, has managed to evade any trial for his behavior in Indonesia's flawed justice system. The U.S. administration's willingness to look the other way regarding Sjamsuddin contrasts with its decision in September 2009 to deny Sjamsuddin a visa to visit the U.S.

The U.S. Administration's decision to move forward to resume ties to Kopassus notwithstanding its insubstantial reforms has particular relevance for West Papua. Twenty percent of Kopassus's 5,000 personnel are stationed in West Papua. Human Rights Watch, in a [June 2009 report](#), documented continued Kopassus human rights abuse targeting Papuans in the Merauke area. Political Prisoner Filep Karma, convicted of non-violent protest in 2001 and sentenced to 15 years imprisonment, [told media in late July](#) that U.S. assistance to Kopassus would simply increase the capacity of that unit to torture and kill Papuans.

see

- [ETAN Condemns U.S. Plan to Get Back in Bed with Indonesia's Kopassus Killers](#)
- WPAT: [Statement Regarding the U.S. Government's Decision to Resume Cooperation with Indonesian Special Forces \(Kopassus\)](#)
- ETAN: [Background on Kopassus and Brimob](#)

International Court of Justice Ruling of Kosovo Independence May Have Relevance for West Papua

The [International Court of Justice ruled](#), July 22, 2010, that the Kosovo 2008 declaration of independence from Serbia did not violate international law. The decision flowed from the submission of a question by the government of Serbia to the ICJ which won the support of 77 members of the UN General Assembly (including Indonesia). That initiative sought (unsuccessfully) to secure an ICJ ruling that the Kosovo declaration was illegal under international law.

The ICJ decision has drawn broad international comment, much of it arising from the prospect that other cases involving secessionist movements might be advanced by this "Kosovo precedent." The Kosovo case was the first case of unilateral secession to be brought before the ICJ.

Thus far, there has been no systematic attempt to apply the ICJ decision to the case of West Papua. Nevertheless, several principles established within the ICJ decision may apply to the call by some Papuan organizations and individuals for a Papuan "right to self-determination." These include the ICJ's acceptance of the presumption in international law that civil and human rights, including the rights of minorities, should be protected. A Dutch government submission to the ICJ in the Kosovo case, for example, would appear to be relevant to the West Papua circumstance:

"The people of Kosovo had the right to self-determination and secession from Serbia because the Belgrade authorities systematically violated civil and human rights of Albanians for years. International law thus allows the proclamation of Kosovo's independence."

The violation of Papuan civil and human rights is well-established including by reports of UN special rapporteurs, various governments (including annual reports by the U.S. State Department) and respected international NGOs and journalists.

A second principle established by the July 22 ICJ ruling of possible relevance to West Papua addresses the "right to self-determination" itself which the ICJ earlier found in the case of East Timor to be jus cogens, a fundamental principle of law accepted by the international community, and that this right extends to all peoples, not only those emerging from a colonial context. The right is also enshrined in Article 1 of the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights. Indonesian is a party to both covenants.

Jakarta's Unwillingness to Dialogue with Papuans Endangers Peaceful Resolution of Papuan Claims

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The Jakarta media in July reported on the deteriorating prospects for peaceful settlement of a rising tide of Papuan discontent over the failure of "special autonomy" in West Papua. The [July 29 Jakarta Post](#) carried a report by Max Sijabat which emphasized that efforts to address "long-standing problems" were in "limbo" due to an absence of dialogue. Analysts cited in the report drew special attention to the June 9-10 consultation in Jayapura among 450 leading Papuans (see [July 2010 West Papua Report](#)) who urged among other things, formal rejection of "Special Autonomy." The report cited leading Papuan civil society figure Benny Giay as noting that the consultation that Special Autonomy funds "only enriched local elites, while most indigenous people have been marginalized by immigrants or remain isolated in the jungle."

Statistics revealed by consultation participants underscored the extent to which Papuans remain marginalized in their own lands: Poverty among Papuans stands at over 81 percent while 70 percent of residents with HIV/AIDS in West Papua are indigenous Papuans. Underscoring Giay's point regarding failure of special autonomy to address Papuan needs, the consultation revealed that 95 percent of local budget funds "are spent outside Papua."

According to the Jakarta Post, Agus Alua, spokesman for the Papuan Peoples Consul (MRP), noted that Jakarta has declined to draft regulations that would allow the Papuan MRP and the provincial legislature to issue regulations, including affirmative action for indigenous people and the settlement of human rights abuses.

Muridan S. Widjojo of the Indonesian Institute of Sciences (LIPI), who was assigned by President Susilo Bambang Yudhoyono in 2005 to identify the most serious problems in Papua, spoke candidly about the current situation. He told the Jakarta Post that the Indonesian Government "should learn from now independent Timor-Leste and the peace talks ending the war with separatists in Aceh. In Timor Leste, he said, "we relied too much on the Indonesian Military and the National Intelligence Agency."

As in the Suharto era, Jakarta has relied heavily on the "security approach" to address Papuan discontent and, also as in the Suharto era, has sought to hide the resultant suffering of the Papuans behind a curtain of restrictions that impede or bar journalists and others from covering developments in West Papua.

A [July 27 Jakarta Post article](#), authored by prominent Papuan religious leader Father Neles Tebay, argued that the symbolic action of handing back the Special Autonomy law would complicate an already difficult situation for the government, specifically in its diplomatic efforts to convince the international community that the autonomy law is fully implemented and has improved Papuan prosperity.

More Reports of Prisoner Abuse in West Papua

The [Jakarta Globe on July 12](#) carried a detailed report of a July 11 prisoner "riot" in Abepura prison. The violence reportedly erupted after prison guards beat another inmate and stole his money.

The report comments that "Abepura Penitentiary has a wretched security record, with mass breakouts occurring regularly at the facility. In May, 18 inmates escaped during a protest by correctional guards over the sacking of then chief warden Antonius Ayorbaba.

In June, 26 prisoners broke out by scaling down a prison wall using a rope strung together with bed sheets. Only two inmates have been recaptured.

"Several correctional guards refuse to cooperate with the new warden, leading to gross derelictions of duty that have left security at the penitentiary in an appalling state," Nazaruddin said after the June breakout.

Separate reporting of prisoner beatings, failure to provide adequate medical care are common. A [UN Special Rapporteur in 2007 detailed systematic abuse of prisoners](#). More recent reporting by Human Rights Watch, Amnesty International and others have reconfirmed those findings.

A resolution addressing the detention of Papuan political prisoners is currently gaining co-sponsors in the U.S. Congress.

Indonesian Navy and Fisheries Ministry Collude with Illegal Foreign Fishing Vessels

Papuans and foreign observers have long been critical of the Indonesian government for failing to protect Papuan forest resources which have been exploited, often illegally, with no attempt by security forces to protect those resources. There are many well documented reports of security force collaboration with those involved in the illegal exploitation.

Recent studies by the Indonesian Seafarers Association (KPI), reported in the [July 28 Jakarta Post](#), document security force failure to protect Papuan sea resources as well. The KPI study revealed that although the Maritime Affairs and Fisheries Ministry had stopped issuing permits to foreign fishing vessels, thousands were still freely operating. The foreign vessels, mostly from the Philippines, South Korea and Thailand, fish illegally with impunity due to the failure of the Indonesian Navy and Maritime Affairs and Fisheries Ministry ships to protect Indonesian waters. Instead, "many Navy and Ministry ships regularly patrol the waters - not to catch illegal fishing vessels but to extort money from them," according to KPI chairman Hanafi Rustandi.

The Seafarers study also revealed that the government's failure to control the operation of foreign fishing vessels, contributed to an increase in cases of HIV/AIDS in the country's eastern regions of Papua and Maluku. The KPI study revealed that the highest prevalence of HIV/AIDS cases are in two fishing ports in Maluku and in Papua's coastal regencies, including Merauke, Mimika and Fakfak.

KPI Chairman Rustandi noted that foreign ships cost Indonesia dearly in terms of fish, and have caused incalculable damage in terms of facilitating the spread of HIV/AIDS in the region.

[Back issues of West Papua Report](#)

Correction: This is the 75th (not 74th) issue of the report. The error has been corrected above.

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