



NO POLITICAL PRISONERS?

taapol

The suppression of political protest in West Papua

April 2013



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Note

Some of the names in this report have been changed to protect identities, indicated by a *

introduction

*Herman and his friends begin another day in Wamena prison, in West Papua's central highlands. They do not know whether they will eat today, and long for news of their families, who live up in the mountains, some hours away by truck.

Arrested on 20 November 2010 in Yalengga, Jayawijaya district, the men were ordinary farmers on their way to a funeral. They were carrying the banned Morning Star flag¹ – a symbol of Papuan independence – out of respect for the political beliefs of the deceased. Arrested and tortured by the military, the men were found guilty of treason under Article 106 of the Indonesian Criminal Code, and are now serving eight-year prison sentences. With no money to pay legal fees or travel costs for lawyers from the provincial capital, the opportunity to appeal the decision has been lost. Their liberty now rests in the hands of the Indonesian President, who can grant clemency if he wishes.

But the Indonesian government says that these men do not exist.

West Papua is a highly militarised region of Indonesia in which political activity is criminalised in order to suppress the ongoing struggle for independence. The security approach deployed by the state results in the continued arrest and conviction of Papuan political activists, who are commonly punished with heavy sentences.

The government of Indonesia has repeatedly denied the existence of these political prisoners, stating that 'there are no political prisoners in West Papua.' Meanwhile, political arrests and convictions continue.

A diverse group, West Papua's political prisoners comprise men and women from a wide variety of backgrounds, all with different stories. Some have

campaigns actively for independence and been jailed for acts of peaceful political expression. Some stand accused of involvement in politically-motivated acts of violence against property or the state. Others are known as political leaders or were simply ordinary people who were in the wrong place at the wrong time.

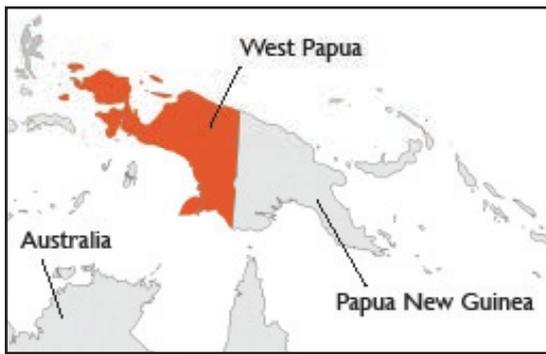
They raise the flag, demonstrate and protest. If we analyse this, we can see that it's because there's a problem.

Markus Haluk, human rights activist

Despite their differences they share many common experiences, including arbitrary arrest, beatings, torture, abuse, isolation and neglect. Each political prisoner represents a wider circle of those affected, including their families, those who defend their rights, and the wider indigenous community.

West Papua's political prisoners are symbolic of both the ongoing political struggle and the Indonesian government's reluctance to seek a political solution.

As long as the security approach prevails, free expression will continue to be criminalised. This represents a major barrier for attempts to resolve the conflict peacefully, as dialogue is impossible if the expression of opinions or aspirations results in arrest. The Papuan political prisoner issue can therefore be seen as a barometer for Indonesia's commitment to end the security approach and fulfil the promise of democracy.

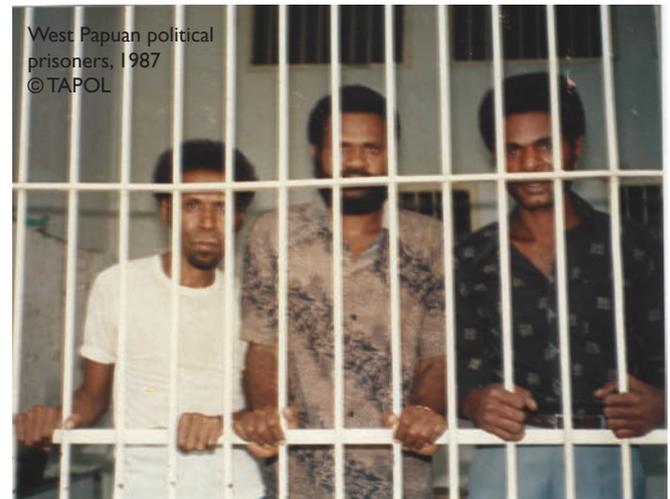


About West Papua

West Papua is the western half of the island of New Guinea. It borders independent Papua New Guinea and became part of Indonesia following a discredited process known as the 'Act of Free Choice' in 1969. Many indigenous Papuans continue to assert their right to self-determination and independence.

The government of Indonesia does not recognise the right to self-determination of the West Papuan people and regards their struggle as criminal, regardless of the means deployed. As a result, over the past five decades thousands of West Papuans have been arbitrarily detained for political activity. West Papua has previously been known as West New Guinea, West Irian and Irian Jaya. In 2003, the territory was separated into two provinces, Papua and West Papua, by the Indonesian government.

However, both provinces together are commonly referred to by Papuan people as West Papua. This is because of their shared identity, history and cultures, as well as a sense of the wholeness of the island of New Guinea and the common bond with ethnic Papuans in the eastern half of the island. TAPOL uses the name West Papua in accordance with that common usage.



This report highlights issues affecting the right to free expression and assembly in West Papua. It offers analysis of developments in government policy and practice, and presents experiences of current and former political prisoners, as well as those affected by their detention. The report also presents data on political arrests and political prisoners during 2012, providing a concrete baseline against which to measure democratic space in West Papua. The concluding recommendations are intended to support relevant stakeholders in taking action to resolve the problem.

This report is based on research and interviews carried out by TAPOL and data from *Papuans Behind Bars*, a civil society collaboration initiated by members of the Civil Society Coalition for the Upholding of Law and Human Rights in Papua.² Data on political arrests was collected from reports submitted by lawyers and NGOs, police investigation reports, government documents, information received from individual activists, and online media in both English and Indonesian, from local, national and international media outlets. Information was cross-checked with contacts in the relevant areas. TAPOL conducted 14 interviews with former political prisoners, family members and human rights defenders between January 2012 and February 2013.

summary of findings

According to data collected by the Papuans Behind Bars project, there were at least 40³ political prisoners in jail in West Papua as at 31 March 2013 (see Appendix 1). The latest figures are published monthly by Papuans Behind Bars.⁴

During 2012 there were over 200 political arrests in the territory, and dozens of members of the West Papua National Committee (*Komite Nasional Papua Barat*, KNPB)⁵ were targeted. A significant number of those arrested were women.

Many political arrests reportedly involved torture or ill treatment and forced confessions. A number of activists were shot while allegedly resisting arrest, some of them fatally.

Indonesia's treason laws continued to be used to punish free expression, and Emergency Law 12/1951 on the possession of weapons,

ammunition and explosives was used increasingly frequently against political activists. The language used by police and the use of anti-terror squad Special Detachment 88 in political arrests suggested a shift towards the use of the 'terror' discourse in relation to the independence movement in West Papua.

Those defending the rights of political prisoners were targeted for arrest, intimidation and harassment.

The deteriorating health of several political prisoners was a major cause for concern, with prison authorities being unable or unwilling to provide for serious and even minor health needs.

There were some positive developments in terms of sentencing, indicating a shift towards lower sentences in treason cases, at least in Jayapura, the capital of Papua province.



the silencing of political activism

During 2012, Papuans Behind Bars recorded 210 political arrests⁶ in West Papua, in 28 separate incidents. The true number is likely to be higher as some arrests go unreported or cannot be confirmed. Many of these arrests did not result in long-term detention or prosecution. However, the arrest data indicates a pattern of targeting and harassment which is being used to limit freedom of expression and assembly in West Papua.

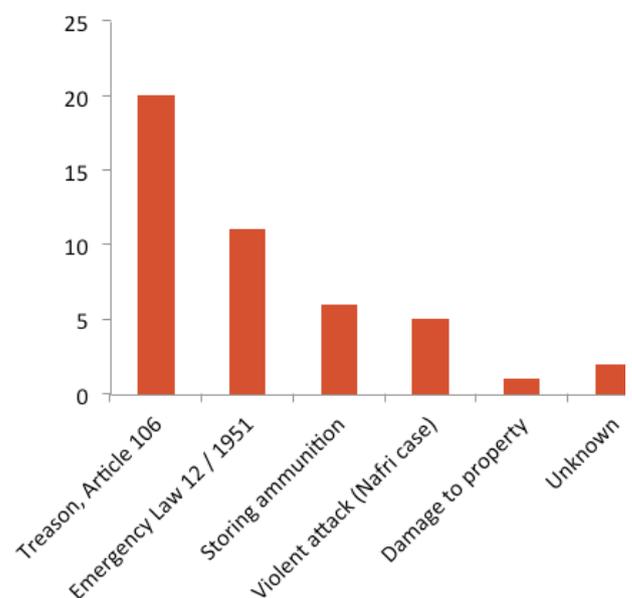
Of the 210 arrests, over half took place at demonstrations (109), and the majority of arrests at demonstrations were of KNPB members (60). There were eight cases of mass arrests⁷ at demonstrations in locations across West Papua, including protests against UP4B,⁸ an anti-AIDS protest, a street fundraising effort to help sick political prisoners, several KNPB demonstrations, a flag-raising at which protection for human rights was requested, and a celebration of the United Nations Day of the World's Indigenous Peoples.

Of those arrested, 134 were released without charge (64%), 45 were reportedly charged (22%), and the fate of the remainder remains unknown. Of the 45 people charged, the most common charge was treason under Article 106 of the Indonesian Criminal Code, which was used in the cases of 20 people.⁹

Torture or ill treatment on arrest and in detention was reported in the case of 28 political arrests.¹⁰ Seven cases of forced confessions were reported.¹¹

At least three political activists and a leader of the Free Papua Movement (*Organisasi Papua*

Breakdown of charges/allegations against political detainees in 2012



After we were arrested, we all fell out of contact. Papuans are traumatised by these kinds of arrests under the treason laws.

**Yance, former political prisoner*

Merdeka, OPM) were shot by police while allegedly resisting arrest. In the case of Mako Tabuni¹² and Hubertus Mabel,¹³ the gunshots were fatal. In the case of Dani Kogoya the resulting wound to his leg required amputation,¹⁴ and Natalias Alua was reportedly in a coma following the shooting.

A significant number of the political arrests in 2012 involved women. In cases where the sex of the detainee was reported, 9% were women.

A significant number of the political arrests in 2012 involved women. In cases where the sex of the detainee was reported, 9% were women. This is a significant proportion, particularly in view of the fact that women make up around 5% of the adult prison population in West Papua.¹⁵

All of the women arrested were released without charge with the exception of Wioge/Natalia Kosay, arrested in connection with the Wamena explosives case on 29 September 2012,¹⁶ and Anike Kogoya, charged together with five other KNPB activists held under suspicion of storing ammunition.¹⁷



Funeral of Mako Tabuni © KNPB News

Megawati Papua

“I had two children, both girls; one seven years old and one at three years, she was still breast-feeding. I just thought of my kids, I couldn’t eat because of thinking about my children. I didn’t think of my husband really, just my children! I was traumatised, so even now if people say there is an activity for Papua I say ‘you go ahead, my time is over, the rest of my time is for my kids now.’

While I was in jail my kids were like street children. My children also suffered in the world of education... the situation was unstable for them, and their education was delayed by a year. It was very difficult... but it got easier as time went on.

My husband, parents and friends came to visit me. We couldn’t eat that food and the water was dirty, so our families cooked for us. There were lots of letters from Amnesty International, and we found that to be an extraordinary support, to know that outsiders knew about us.

The Head of the Prison was scared of me, and I was picked as the Head of the prisoners. I’m a nurse so I gave them medicine, and took them to hospital. They called me ‘Megawati Papua’! My kids still feel it. Sometimes I’m scared for my kids... I worry about them. One of my kids once refused to raise their hand to the Indonesian flag, and I was scared!” *Yogote

meet the prisoners



This section introduces the stories of just a few current and former West Papuan political prisoners and their families. To read about all the political cases for which Papuans are currently serving time or on trial, see Appendix II.

In 2003, Apotnalogolik Lokobal was arrested following an alleged raid on the Jayawijaya District Military Command weapons arsenal. Like many West Papuan political prisoners he was severely tortured on arrest, being handcuffed and kicked unconscious by ten members of Indonesia's military Special Forces (*Komando Pasukan Khusus*, or 'Kopasus'), who tried to force him to sign a confession. He was later tortured again by the police Mobile Brigades (*Brigade Mobil*, or 'Brimob'). Kicked unconscious again, he had a bottle rammed into his mouth and was burnt on the armpit, knee and genitals with cigarette butts.¹⁸ Apotnalogolik is currently

imprisoned in Biak, and like many other political prisoners he is in poor health. According to a shaky handwritten letter received by TAPOL, in January 2012 he was suffering from rheumatism, a swollen back and knee, and was 'wobbly on his feet.'

Almost ten years later when six KNPB activists were arrested in Timika under suspicion of possessing arrows and a fish bomb, investigation techniques had not improved. According to the activists' account as given to their lawyers, Alfret Marsyom was blindfolded, beaten, and forced to confess to having made indigenous arrows. Paulus Marsyom was threatened with being stabbed with an arrow if he did not confess, and Yantho Awerkion was beaten and poked in the eyes with a broomstick. Yakonius Womsiwor was beaten, blindfolded, handcuffed, forced to get in a box, pistol-whipped and threatened with death if he did not confess. At the time of writing, their trial continues.¹⁹



People who raise the flag are arrested, but also people who have pictures of the Morning Star flag, even mama-mama who make bags with the Morning Star motif, even that's seen as treason.

Human rights worker, Advocacy Network for the Upholding of Law and Human Rights

Filep Karma continues to serve a 15-year sentence for organising an event at which the Morning Star flag was raised in 2004.²⁰ In 2012 he was joined in Abepura prison by Darius Kogoya and Timur Wakerkwa, arrested on 1 May 2012 for raising the Morning Star flag at a demonstration in Waena which demanded protection for human rights.²¹ Sentenced to three and two-and-a-half years' imprisonment respectively,²² Darius and Timur can expect to be released in 2014 at the earliest.

*Matius is highly educated, but he does not have a job. Since he came out of jail, every effort he has made to get a job has been blocked. He says that if he wanted to become a civil servant (the main em-

ployment opportunity for indigenous Papuans), this is definitely not possible. To become a teacher at a University is not allowed. To work in the community to do some project, like open a kiosk is difficult for him. "We just want a kiosk," he says, "if we're really blessed, a shop."²³ However, since his release he has been constantly harassed by state intelligence agents. For many political prisoners the employment prospects post-release are grim, as most opportunities for Papuans are provided by state institutions.

*Tarius is a farmer from the central highlands of West Papua, and had been married for two years when he was arrested. His wife did not visit him in prison, as it was seen as unsafe. He explains that after a while, he heard the news that she had gone off with another man, saying ruefully "I guess you could say I am single again."²⁴ According to Human Rights Watch interviews with former political prisoners in Biak, the long years of imprisonment and harassment by the government have commonly taken a heavy toll on their families and marriages.²⁵

The children of political prisoners have sometimes been subjected to terrifying experiences on or following the arrest of a parent.

Yane's father has been imprisoned five times for his political activities. As a consequence she has grown up mostly without her dad. According to a video made by her father and published by Al Jazeera, when Yane was a teenager she was kidnapped on her way home from University, drugged and tortured by men who threatened to kill her if her father did not stop his political activities.²⁶ Following the kidnapping she went into hiding for some time,

We Suffered So Much

"That time was really hard. When he came out it was ok for a while, then he was arrested again. I was used to it by then so I knew I didn't need to worry about him. But then I got really sick with malaria and it was awful. I had to sell all my clothes and blankets, and when I was sick I had no money to buy medicine – it's very expensive here. When he was in prison nobody came

here. When he was out again, they came back. We used to talk on the phone; he'd borrow one and call me. I used to just tell him everything was fine, even though it wasn't, so that he wouldn't worry about me. We suffered so much. Please share this information, but use a different name or they will come looking for me." *Mina, wife of a former political prisoner.

but despite the intimidation her father continued his activities. He is currently in jail again serving a three-year sentence for treason.²⁷

The economic hardship of having the main breadwinner in jail can damage the education and economic opportunities for children of political prisoners, affecting them for the rest of their lives. Marked by the political stigma surrounding their parent, the marriage prospects for children can also be affected.

Several former prisoners mentioned the importance of solidarity actions for them. When Jhon* talked about his time in prison, he described with pride receiving 417 letters through Amnesty International. He added that other political prisoners imprisoned alongside him received 400, 500 and 300 letters each, saying, “The international community supported us, and that raised our spirits.”

Although political prisoners share many common experiences, the effects of these experiences impact people differently. Some political prisoners with families withdraw from political life following a period of detention, mindful of the effect on their families. Others remain undeterred by long periods of imprisonment and subsequently take actions which will likely lead to re-arrest.

Regardless of the effect on individual political prisoners, their arrest and detention does not seem to deter new generations of Papuans youths, students, farmers and intellectuals from continuing their political activities.

There is stigma against the children. For example *Wetius' kid is really pretty, but once guys find out she's his daughter... no way! If you marry into a family like that, you can't go very far in local politics, the civil service, the police, or government scholarships – you won't pass the first test.

**Ruth, Local journalist*

They Took Him Away...

“They didn't come in daylight hours but in the middle of the night. The ones who arrested him were military... They started shooting all round, hitting banana trees, wood. They came into the *honai* (traditional house) where we were sleeping above. They told us to come down, then came in and started searching. As we ducked to come out of the low door they kicked us out of the door, then continued to kick us all. One older guy was hiding at the top of the sleeping platform, and they found him with a torch and beat him with the end of a rifle. They made dad lie down on his front... and fired shots all

around the edge of his body. One guy ran off, and although they were shooting at him, he ran from side to side and was able to escape. Seeing his escape, another one tried to run off, but as he was climbing the fence they shot him. He died. I thought we were all going to die. I ran to my dad and held him but they kicked me and told me to get away. I was crying the whole time. They took him away and I didn't follow.... He went to jail and there was no money for college. There was no one to help or look after us, or to give us land to farm.”

**Saul*

inside the prison walls

There are many problems in Indonesian prisons, including overcrowding, overstaying due to administrative gridlock, and poor conditions. West Papua's prisons are no exception, with overcrowding a problem in Abepura, Fak-fak, Manokwari, Sorong and Merauke prisons.²⁸ Abepura prison, where at least 10 political prisoners are being held, is currently operating at 141% of its capacity, and has seen numerous riots over poor conditions and abuse of inmates.

According to human rights lawyers based in Jayapura, prisoners in West Papuan jails suffer from a lack of clean water, very limited medical facilities, arrogance of the prison warders, and the use of violence in the prison.²⁹

Political prisoners in West Papua may be particularly vulnerable to violence and abuse. The Head of the ICRC's Indonesia delegation noted this risk in 2009 when the ICRC was forced to leave West Papua, saying, "People accused of crimes which might be called subversion, or rebellion could be at risk of being discriminated against."³⁰

While the government asserts that political prisoners are simply ordinary criminals, in reality they are treated quite differently within the prison system. According to the annual report of Jayapura-based lawyers group Democracy Alliance for Papua (*Aliansi Demokrasi untuk Papua, ALDP*), this difference "Can be seen in the difference in visit times, parties allowed to visit, up to [the need for] certain permits from certain authorities." Furthermore, political prisoners are denied "certain privileges that should be maintained by a correctional house and the regional office of law and human rights."³¹



It's impossible to fall into a deep sleep here. If something bad happens to us I need to be able to act fast.

**Daniel, political prisoner*

wilful neglect

During 2012 West Papua's political prisoners experienced a range of both major and minor health complaints. The government failed almost entirely to meet its obligation to care for these prisoners. Filep Karma suffered health problems once again, and was eventually granted permission to visit Jakarta for medical attention.³² Kimanus Wenda suffered abdominal pains which were eventually diagnosed as a hernia.³³ Jafrai Murib, only 19 when he was arrested,³⁴ suffered a stroke in 2011 and received no initial care, which is critical for recovery in stroke victims.³⁵

The prisons initially stated that they were unable to pay for an operation for Kimanus Wenda or physiotherapy for Jafrai Murib, despite it being their legal obligation to do so. In Wamena, Kanius Murib, convicted alongside Kimanus and Jafrai in 2003, died in December 2012. His physical and mental health had been deteriorating for some time.³⁶ Local advocacy efforts to raise money for sick prisoners led to further arrests in July 2012, with 15 people de-

tained for carrying out street collections.³⁷ Eventually money was raised by local, national and international solidarity groups to cover the costs of operations.³⁸

Political prisoners experiencing minor health issues also required the support of local NGOs and intensive coordination with prison and hospital authorities to access treatment. Obstacles included the refusal of the prison authorities to pay healthcare costs, difficulty in obtaining permission to receive treatment, and in the case of Abepura prison, a local NGO reported that there is only one vehicle for transporting convicts. This vehicle often breaks down, leaving NGOs to tow the vehicle to a garage and pay to get it fixed, in order to secure access to healthcare for political prisoners.³⁹

ALDP reported some measure of progress in obtaining access to healthcare for prisoners during 2012, with officials in the prison and the regional department for Law and Human Rights reportedly more cooperative than in previous years.⁴⁰



rights defenders branded as traitors

One of the main problems preventing civil society from successfully addressing restrictions on freedom of expression in West Papua is the stigma of 'separatism' and 'treason' which surrounds any kind of political activity. This stigma is applied not only to political activists, political prisoners and indigenous Papuans in general, but also to those seeking to defend their rights.

Lawyers working on political cases reported that the stigma of 'treason' and 'separatist' which was applied to their clients was also often applied to them

The risk of being branded as a separatist is so dangerous that lawyers in West Papua work together in coalitions for treason or other political cases, using the 'safety in numbers' principle. This still does not guarantee safety; lawyer Gustav Kawer was himself threatened with prosecution while defending five treason suspects in early 2012.⁴¹

The treason stigma is also applied to human right lawyers by prison staff and officials from the provincial Law and Human Rights Department, who according to local NGO KontraS Papua tend to restrict their access to political prisoners, and behave rudely to the lawyers when they try to carry out advocacy on their clients' behalf.⁴² In its annual report, ALDP stated that, "There is a marked difference between the warders' behaviour towards the lawyers on the one hand and the prosecutors and their staff on the other... This is despite the fact that we too are part of the law enforcement system."⁴³

This ongoing dynamic is damaging the ability of civil society to act in its role of holding the government to account. As a lawyer from LP3BH explained, "In cases of injustice with for example economic,

social, health issues, which have to be dealt with on a national level, people are scared to say anything in case they're branded as fighting against the government, the state. So the function to control the government's unfair actions is very limited."⁴⁴



Gustav
Kawer,
Papuan
lawyer
© Jubi

If we're handling a treason case and defending them, we get stigmatised. And they often say that we're traitors too.

Lawyer, Commission for the Disappeared and Victims of Violence in Papua

article 106 still in frequent use

Despite broad-based campaigning for the repeal of Indonesia's treason laws at local, national and international levels,⁴⁵ Article 106 of the Indonesian Criminal Code (see right) continued to be used widely in West Papua. Of the 20 people charged under Article 106 during 2012, the alleged activities and context of arrest varied widely, from reportedly carrying KNPB and OPM documents, to organising a celebration of the UN Day of the World's Indigenous Peoples, to raising the Morning Star flag, to suspected involvement in a National Liberation Army (*Tentara Pembebasan Nasional*, TPN) training camp.

The wide variety of alleged activities prosecuted under Article 106 demonstrates the worryingly 'flexible' nature of this piece of legislation – one of the reasons why campaigners say the law should be repealed.⁴⁷

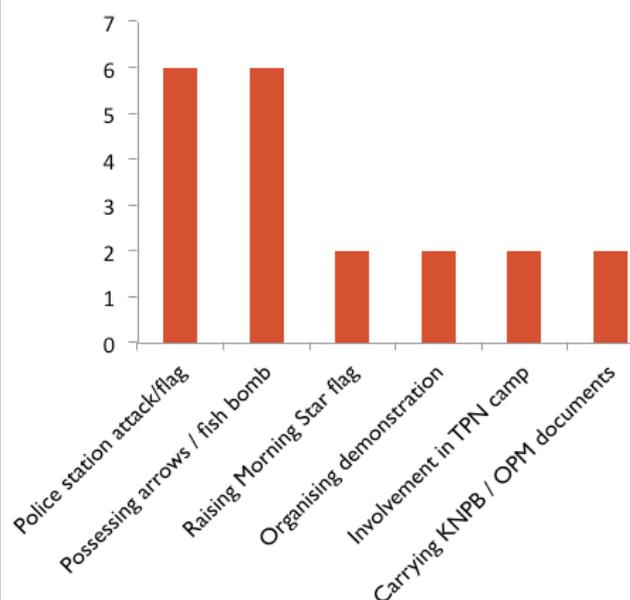
The treason article gets really manipulated. In all the media they said we were the perpetrators of the crime. They couldn't prove it so they used the treason charge.

**Jhon, former political prisoner*

Article 106

Article 106 of the Indonesian Criminal Code reads: "The attempt undertaken with intent to bring the territory of the state wholly or partially under foreign domination or to separate part thereof, shall be punished by life imprisonment or a maximum imprisonment of twenty years."⁴⁶

Breakdown of allegations in 2012 treason cases



The law is seen by lawyers in West Papua and other parts of Indonesia as an outdated piece of legislation, a remnant from Dutch rule which was used to suppress the Indonesian nationalist struggle and is no longer appropriate in a modern democracy.⁴⁸

There is also concern that the treason laws are being applied discriminatorily. In January 2012 an Indonesian commentator writing for a foreign policy blog noted that the government discriminates against Papuans in its approach to free speech, saying “Free speech for Papuans apparently does not go as far as expressing their wishes for an independent state, although such sentiments have been openly expressed by people in other parts of the country without inviting swift police reprisals.” He gave the examples of the Yogyakarta sultanate and threats by Hindu Bali to leave the republic over the pornography law controversy.⁴⁹

In 2012 there were some important developments regarding sentencing under this law. Two treason cases received three year sentences from the Jayapura State Court in that year,⁵⁰ compared with 15-year sentences handed down in 2003/2004.⁵¹

However, this apparent gain is by no means guaranteed, as judges in West Papua often fail to take account of the jurisprudence on sentencing,⁵² and sentencing in the more remote areas – where there is much less media attention – is often harsher.

The main goal of using this article is to stop people talking about justice. The problem relates to differences in our understanding of history, and this has to be brought out into the open and dealt with properly.

Lawyer, Institute of Research, Analysis and Development for Legal Aid



Papuan girl
© West
Papua Media

from treason to terror?

The dominant legal framework for addressing 'separatism' in West Papua (and other parts of Indonesia) has for many years been the treason laws, previously supplemented by the *lese majeste* and 'hate-sowing' provisions of the Indonesian Criminal Code, which are no longer used.⁵³

While the use of Indonesia's anti-terror unit Special Detachment 88 was first reported in West Papua in July 2009, during 2012 their presence was reported as an increasingly frequent element in the security forces response to political activity in the territory. This development has sparked fear of increased human rights abuses, given the unit's poor record in operations across Indonesia.⁵⁴ There is also concern that the move represents a worrying paradigm shift in the way that Indonesia deals with political activity in the territory.

The ex-head of Special Detachment 88, known locally as 'Densus 88', was appointed as the Chief of Papua police in September 2012.⁵⁵ A few weeks later there was a wave of arrests targeting KNPB members in multiple locations, in what appears to have been a cross-Papua operation. The arrests, which often reportedly involved Densus 88 troops, first occurred in Wamena in September,⁵⁶ followed by more arrests in Jayapura,⁵⁷ Timika,⁵⁸ and Biak⁵⁹ in October, and Wamena again in December.⁶⁰ The suspects were accused of possessing weapons, ammunition and explosives.

On one occasion in Wamena the apprehension of two activists in Kurulu, one of whom had been interviewed for a People and Power/ Al Jazeera documentary two weeks earlier,⁶¹ ended in their being shot by Densus 88 rather

than detained and prosecuted.⁶² The same thing happened to KNPB leader Mako Tabuni, who was shot dead in June 2012, allegedly by Densus 88.⁶³



Densus 88 making arrests in West Papua
© Jubi

While Indonesia's anti-terrorism laws have yet to be used in West Papua,⁶⁴ after the first set of Wamena arrests some commentators complained that had the detainees been Muslim, they would surely have been charged with terrorism.⁶⁵ Police stated that they were considering terrorism charges at the time,⁶⁶ however in the end many of the activists arrested in 2012, including those from the initial Wamena case, were charged under Indonesia's Emergency Law 12/1951. This law covers the possession of weapons, ammunition and explosives, and allows heavy sentencing.⁶⁷ These developments are seen by local activists as a new trend signalling that the security approach in West Papua could be moving towards the 'war on terror' discourse.⁶⁸

maintaining flat denial

While there have been indications that some elements within the Indonesian government are working to find ways to progress the issue, throughout 2012 the government maintained its position that there are no political prisoners in West Papua.

Everyone thinks that Indonesia is a democracy but free expression is the essence of democracy – the space has to be opened.

Markus Haluk, human rights activist

Following the Third Papuan People's Congress in October 2011, the violent response of the security forces and the arrest and conviction of five Papuan leaders for treason sparked a much-needed debate about freedom of expression in Indonesia, both inside and outside the country. Frits Ramandey, Secretary of the National Human Rights Commission in Papua, rejected the view that the meeting was treasonous. He challenged the police to take a broader view, saying, "If we consider there to be an element of trying to form a new country, or to separate oneself from a legally valid country, then there has to be a military occupation to seize territory. In this case they didn't seize anything, they just wanted to make a peaceful announcement... That is not treason."⁶⁹

International human rights watchdogs including Amnesty International and Human Rights Watch

called for charges against the five to be dropped.⁷⁰ Amnesty stated that it "...believes that the right to freedom of expression includes the right to peacefully advocate referendums, independence or any other political solutions that do not involve incitement to discrimination, hostility or violence."⁷¹ The case also drew attention regionally, with the Chair of the Pacific Freedom Forum Titi Gabi stating "There is no treason in freedom of expression shared peacefully, in Indonesia, or anywhere else."⁷²

The government's response to these developments was to state in December 2011 that there were no political prisoners in West Papua; only criminals who have broken the law.⁷³

In May 2012 the issue was raised again at the international level, when the human rights situation in Indonesia was reviewed at the Human Rights Council as part of the Universal Periodic Review (UPR) process. Freedom of expression in Indonesia was raised by a number of States,⁷⁴ and Indonesia accepted a recommendation to issue an invitation to the UN Special Rapporteur on Freedom of Expression.⁷⁵

The government needs to give a clear definition to the problem of treason... they apply that article [106] then say there's no political prisoners."

Lawyer, Democracy Alliance for Papua

Unfortunately, at the time of writing this visit has been postponed as the government of Indonesia reportedly refused to allow the Special Rapporteur access to visit West Papua and Maluku.⁷⁶ The United States, Canada and Germany made specific reference to the problematic use of Indonesia's treason laws during the UPR, mentioning in particular Articles 106 and 110. Canada called for the release of political prisoners, and Germany referred to the ongoing detention of political prisoner Filep Karma – jailed in 2004 for raising the Morning Star flag – asking whether Indonesia intended to release him.⁷⁷

The government responded in June 2012 via a statement from the Minister for Law and Human Rights, maintaining the position adopted six months earlier; “We have never detained anybody for expressing their freedom of speech as has been accused by some parties. The Papuans who were detained, including Filep Karma, are those who have obviously violated the law on treason. Therefore, it's misleading to address them as political detainees.”⁷⁸

While the government refuses to budge, Papuans are becoming increasingly indignant at being consistently denied the right to express their opinions and aspirations. Following 11 arbitrary arrests at a demonstration in Manokwari in October 2012, student activists in Jayapura protested in support of the detainees, with one activist, Benyamin Gurik, stating: “The stigmas of separatism, treason and terrorism were used by the police to refuse to

grant a permit for the rally, but this is against the law. We are being denied any space for democracy by the security forces.”⁷⁹

The government's policy for dealing with political dissent in West Papua is not only repressive; it is not working. Flag-raising and demonstrations continue, with seven arrested in January 2013 ahead of a planned demonstration in Serui,⁸⁰ and political arrests continuing unabated. Any serious attempt to move away from the security approach should be accompanied by a reduction in political arrests and convictions.

The opening of democratic space in West Papua is a critical pre-condition for progress towards a peaceful resolution of the conflict. Measures to support free expression are therefore of central importance for all those committed to a peaceful West Papua.

They are sentencing people but there is no effect and people still do it. So it is unfinished work for the government.

Lawyer, Democracy Alliance for Papua

recommendations

To the President of Indonesia:

- Take all necessary steps to ensure that the Indonesian Government complies with its international and national obligations to respect the right to freedom of expression.
- Order the unconditional release of West Papuan political prisoners as part of a comprehensive policy to end of the punishment of free expression.
- Engage meaningfully with Papuan leaders towards resolution of the conflict in West Papua, using a democratic/political approach rather than the security/military approach.

To the Attorney General:

- End the practice of charging persons engaged in peaceful political activities with criminal offences such as treason under Article 106 of the Indonesian Criminal Code.

To the Minister for Foreign Affairs:

- Expedite negotiations with the UN Special Rapporteur on Freedom of Expression concerning his visit to Indonesia and facilitate his free access to West Papua to assess the situation in the territory, as well as to Maluku.
- Invite the International Committee of the Red Cross to re-establish a presence in West Papua and provide humanitarian support to prisoners and their families.

To the Minister of Law and Human Rights:

- Ensure that the Department of Corrections complies with UN standards and principles on the treatment of prisoners and that all prisoners are provided with proper medical care and full access to health facilities.

- Protect human rights defenders working to defend free expression and the rights of political prisoners from violence, threats, intimidation and harassment.
- Assist victims of arbitrary detention, torture and ill-treatment in detention, and their families, to receive adequate reparations and assistance to access services needed for recovery and rehabilitation.

To the Chief of National Police:

End the practice of politically-motivated arbitrary arrests, mass arrests, torture and ill treatment in West Papua.

- End the inappropriate use of Special Detachment 88 personnel in operations against political or independence activists in West Papua.
- Investigate allegations of torture and ill-treatment in detention and instigate fair and credible prosecutions against those suspected of involvement.

To the International Community:

- Continue engagement with the Government of Indonesia on the questions of freedom of expression and political prisoners, and encourage the Government to review laws and regulations that have negative impacts on freedom of expression, as well as convictions secured under those laws and regulations.
- Provide support and training for police and the judiciary in West Papua to improve understanding of how to guarantee the right to freedom of expression whilst maintaining law and order.
- Support diplomatic representatives to make regular visits to West Papua and encourage the Government of Indonesian to withdraw restrictions on access to West Papua for foreign journalists and international human rights and humanitarian organisations.

Appendix I

Prisoners as at 31 March 2013

Prisoner	Arrested	Charges	Sentence	Case	Accused of violence?	Concerns reported re legal process?	Prison
Markus Yenu	6 March 2013	106	Trial ongoing	Manokwari demonstration and KNPP meeting	No	Pending	Manokwari
Isak Demetouw (alias Alex Makabori)	3 March 2013	110; Article 2, Emergency Law 12/1951	Trial ongoing	Accused of being TPN/OPM	No	Pending	Sarmi
Daniel Norotouw	3 March 2013	110; Article 2, Emergency Law 12/1951	Trial ongoing	Accused of being TPN/OPM	No	Pending	Sarmi
Niko Sasomar	3 March 2013	110; Article 2, Emergency Law 12/1951	Trial ongoing	Accused of being TPN/OPM	No	Pending	Sarmi
Sileman Teno	3 March 2013	110; Article 2, Emergency Law 12/1951	Trial ongoing	Accused of being TPN/OPM	No	Pending	Sarmi
Matan Klembiap	15 February 2013	110; Article 2, Emergency Law 12/1951	Trial ongoing	Terianus Satto and Sebby Sambom affiliation	No	Yes	Police detention, Jayapura
Daniel Gobay	15 February 2013	110; Article 2, Emergency Law 12/1951	Trial ongoing	Terianus Satto and Sebby Sambom affiliation	No	Yes	Police detention, Jayapura
Alfret Marsyom	19 October 2012	106, Emergency Law 12/1951	Trial ongoing	Timika explosives case	Possession of weapons	Yes	Timika
Jack Wansior	19 October 2012	106, Emergency Law 12/1951	Trial ongoing	Timika explosives case	Possession of weapons	Yes	Timika
Yantho Awerkion	19 October 2012	106, Emergency Law 12/1951	Trial ongoing	Timika explosives case	Possession of weapons	Yes	Timika
Paulus Marsyom	19 October 2012	106, Emergency Law 12/1951	Trial ongoing	Timika explosives case	Possession of weapons	Yes	Timika

Prisoners as at 31 March 2013

(cont.)

Prisoner	Arrested	Charges	Sentence	Case	Accused of violence?	Concerns reported re legal process?	Prison
Romario Yatipai	19 October 2012	106, Emergency Law 12/1951	Trial ongoing	Timika explosives case	Possession of weapons	Yes	Timika
Stephen Itlay	19 October 2012	106, Emergency Law 12/1951	Trial ongoing	Timika explosives case	Possession of weapons	Yes	Timika
Jamal Omrik Manitori	3 July 2012	106	Not yet tried	Serui 'TPN camp' case	Unknown	Yes	Serui
Yan Piet Maniamboy	9 August 2012	106	Trial ongoing	Indigenous people's day celebrations, Yapen	No	Yes	Serui
Edison Kendi	9 August 2012	106	Trial ongoing	Indigenous people's day celebrations, Yapen	No	Yes	Serui
Timur Wakerkwa	1 May 2012	106	3 years	1 May demo and flag-raising	No	No	Abepura
Darius Kogoya	1 May 2012	106	3 years	1 May demo and flag-raising	No	No	Abepura
Paulus Alua	21 October 2012	Emergency Law 12/1951	Trial ongoing	Biak explosives case	Possession of explosives	Yes	Biak
Barnabas Mansoben	21 October 2012	Emergency Law 12/1951	Trial ongoing	Biak explosives case	Possession of explosives	No	Biak
Forkorus Yaboisembut	19 October 2011	106	3 years	Third Papua Congress	No	Yes	
Edison Waromi	19 October 2011	106	3 years	Third Papua Congress	No	Yes	Abepura
Dominikus Surabut	19 October 2011	106	3 years	Third Papua Congress	No	Yes	Abepura
August Kraar	19 October 2011	106	3 years	Third Papua Congress	No	Yes	Abepura
Selphius Bobii	20 October 2011	106	3 years	Third Papua Congress	No	Yes	Abepura
Wiki Meaga	20 November 2010	106	8 years	Yalengga flag-raising	No	Yes	Wamena
Oskar Hilago	20 November 2010	106	8 years	Yalengga flag-raising	No	Yes	Wamena
Meki Elosak	20 November 2010	106	8 years	Yalengga flag-raising	No	Yes	Wamena

**Prisoners as at 31 March 2013
(cont.)**

Prisoner	Arrested	Charges	Sentence	Case	Accused of violence?	Concerns reported re legal process?	Prison
Obed Kosay	20 November 2010	106	8 years	Yalengga flag-raising	No	Yes	Wamena
Yusanur Wenda	30 April 2004	106	17 years	Wunin arrests	Yes	No	Wamena
Dipenus Wenda	28 March 2004	106	14 years	Bokondini election boycott	Unclear	No	Wamena
George Ariks	13 March 2009	106	5 years	Unknown	Unknown	No	Manokwari
Filep Karma	1 December 2004	106	15 years	Abepura flag-raising 2004	No	Yes	Abepura
Ferdinand Pakage	16 March 2006	214	15 years	Abepura case 2006	Yes	Yes	Abepura
Luis Gede	16 March 2006	214	15 years	Abepura case 2006	Yes	Yes	Abepura
Jefrai Murib	April 2003	106	Life	Wamena ammunition store raid	Yes	Yes	Abepura
Linus Hiel Hiluka	27 May 2003	106	20 years	Wamena ammunition store raid	Yes	Yes	Nabire
Kimanus Wenda	12 April 2003	106	20 years	Wamena ammunition store raid	Yes	Yes	Nabire
Numbungga Telengen	11 April 2003	106	Life	Wamena ammunition store raid	Yes	Yes	Biak
Apotnalogolik Lokobol	10 April 2003	106	20 years	Wamena ammunition store raid	Yes	Yes	Biak

Appendix II

Overview of Cases

This section provides an overview of cases for which those convicted are still serving time, those who served time during 2012, and cases from 2012 which are still on trial. To learn more about any of these prisoners or cases, visit www.papuansbehindbars.org for fully referenced profiles.

Currently serving sentences

Third Papuan People's Congress

In October 2011 six people were arrested following the Third Papuan People's Congress. In March 2012 five of them were sentenced to three years' imprisonment for treason for their participation in the Congress. The sixth, Gat Wenda, was convicted of carrying a sharp weapon during the Congress, and sentenced to five months' imprisonment. The five who remain in jail, Forkorus Yaboisembut, Edison Waromi, August Sananay Kraar, Dominikus Surabut and Selpius Bobii were prominent activists before their arrest, and have not allowed prison to silence them. Some of the five continued to issue statements and opinions throughout 2012. Dominikus Surabut, a documentary film-maker, NGO worker and activist was awarded the Hellman/Hammett Appreciation award in December 2012. The Hellman/Hammett grants are awarded to writers who have faced persecution for their work, generally by repressive government authorities who seek to prevent them from publishing information and opinions.

Wamena weapons raid

Throughout 2012, six men continued to be held in prisons across Papua, accused of participating in a raid on a weapons arsenal in Wamena in April 2003.

Although there were grave problems with the procedures used in their prosecution and trial, all were sentenced to 20 years' or life imprisonment. The men were heavily tortured in military detention following their arrest, and three were seriously ill during 2012, one of whom died (see 'Wilful neglect' in main text above).

Filep Karma

Filep Karma, sentenced to 15 years' imprisonment for raising the flag in 2004, remains in his cell in Abepura prison, and appears to be as resilient as ever, despite also suffering health problems.

Abepura anti-Freeport demo

Luis Gedi and Ferdinand Pakage, accused of killing security forces personnel during a 2006 demonstration against Freeport which became lethally violent, are each serving 15-year sentences in Abepura prison. They are the two remaining prisoners from an incident which saw 23 people spend time behind bars, with convictions based on evidence obtained under torture in trials which have been widely condemned as unfair and intimidatory.

Wunin, central highlands

Yusanur Wenda was arrested in 2005, accused of belonging to the OPM and burning down schools and public buildings in Wunin, Karubaga – despite witness statements having been published before his arrest attributing the arsons to Kopassus and Brimob special forces. He is serving a 17-year prison sentence. The other men charged in connection with the same case have since escaped.

Bokondini election boycott

Dipenus Wenda, also in Wamena prison, was sentenced to 14 years' imprisonment after he was arrested for handing out leaflets calling for an election boycott in 2004.

Yalengga flag-raising

Meki Elosak, Obeth Kosay, Wiki Meaga and Oskar Hilago were each sentenced to eight years in prison, after being arrested in November 2010 for carrying the Morning Star flag to a funeral in Yalengga in the central highlands. The other five men charged in connection with the same case have since escaped, with four remaining in Wamena prison.

Jayapura flag-raising

Timur Wakerkwa and Darius Kogoya are currently serving three-year and two-and-a-half year sentences respectively after being convicted of treason for raising the Morning Star flag at a demonstration at the Theys Eluay memorial park in Sentani on 1 May 2012. Their sentences are currently being appealed.

Sentence served in 2012

Buchtar Tabuni and Yusak Pakage

In 2012, two former political prisoners became police targets for a second time. Buchtar Tabuni was rearrested in June 2012 and initially accused of being behind a string of recent violent acts in Papua, including a stabbing. He was then accused instead of co-ordinating a prison riot in Abepura prison in 2010 which was triggered when prisoners learned of the death of a former inmate. Mr Tabuni was released in January after serving a seven month sentence for destruction of property. Yusak Pakage, after being pardoned from his 10-year sentence for raising the Morning Star flag, was rearrested after he kicked over a rubbish bin while watching Buchtar Tabuni's hearing. He was then jailed for seven months for possession of a penknife, and released on 19 February 2013.

2012 cases still on trial

Pugima KNPB case

In July 2012, Enos Itlay and Semi Sambom were walking home to Pugima village when they were arrested and accused of carrying OPM and KNPB documents. Both men were charged with treason, however after some months in detention without trial both men escaped from prison.

Serui UN Indigenous Day celebrations

In August 2012, Edison Kendi and Yan Piet Maniamboi were arrested in Serui, Yapen Island for organising a demonstration to commemorate the United Nations Day of the World's Indigenous Peoples.

TPN camp case

Also in Yapen, Jon Nuntian and Jamal Omrik Manitori were separately arrested on 29 May 2012 and 3 July 2012 respectively. They were accused of participating in TPN/OPM training activities, and the arrests followed several days of police searches which terrorised local villages. It is thought that Jon Nuntian was released in March 2013.

Wamena KNPB explosives arrests

In September 2012 a series of arrests began, as police accused the West Papua National Committee (*Komisi Nasional Papua Barat*, KNPB) members of possessing explosives with which to make bombs. The KNPB's main activity has been organising mass demonstrations in Papuan cities in recent years, and some of its leaders have strongly refuted that its members are involved in bomb-making. Eight people were reportedly arrested in Wamena on 29 September; Janus Wamu, Eddo Doga, Irika Kosay, Jusuf Hiluka, Yan Mabel, Lucky Matuan, Wioge Kosay, and Melianus Kosay. On 12 October, five KNPB activists were arrested in Jayapura, allegedly in connection with the same case. The five – Yasons Sambom, Denny Hisage, Anike Kogoya, Feliks Bahabol and Linus Bahabol – were released without charge. On 13 October an individual with the initials 'NL' was reportedly arrested in connection with the same case. On 1 December Athys Wenda of the Lani Jaya KNPB

was arrested in Wamena, and it is now thought that he is being seen as linked to the case. On 15 December seven more KNPB activists in Wamena were reportedly arrested in connection with the same case; Simeon Dabby, Mekky Jikwa, Jon Huby, Pie Huby, Herae Huby, Ima Mabel and Wene Hilakombo. Simeon Dabby was released in January 2013, and it is believed that a number of others were also released, although it is not known whether they have been charged and bailed or were released without charges. At the time of writing, it is thought that the following eight people: Edo Doga, Yan Yunus Wamu, Jemi Mabel, Melias Kosay, Ribka Kosay (female), Yusuf Hiluka, Lucky Matuan, and Athys Wenda, remain in jail facing trial. There is so far not enough information available about this case to determine whether the defendants should be considered as political prisoners or not.

Timika explosive case

Twelve KNPB activists were arrested in Timika on 19 October 2012, following a period of activity organising peaceful demonstrations. Six were released without charge, and the following six are currently being tried for treason and possession of indigenous arrows and a fish bomb: Steven Itlay, Romario Yatipai, Paulus Marsyom, Alfret Marsyom, Yantho Awerkion and Yakonuius Womsiwor. A number of them were reportedly tortured and forced to confess. Trial documents provided by lawyers via Papuans Behind Bars suggest the six to be political prisoners, as there seems to be little evidence of the crimes of which they were accused, and plenty of evidence that the arrests were politically motivated.

Jayapura KNPB ammunition arrests

On 30 October 2012, six KNPB activists were arrested in Jayapura under suspicion of storing ammunition. Denny Hisage, Rendis Wetipo, Wene JWenda, Anike Kogoya, Jhon Pekey and Olis Pigay are being charged with Articles 187 and 55 of the Indonesian Criminal Code, as well as Emergency Law 12/1951. The trial began in March 2013.

Biak KNPB explosives arrests

On 21 October 2012 KNPB activists Paulus Alua and Barnabas Mansoben were arrested under suspicion of possession of bomb-making materials, just days before a planned KNPB rally in the area. They have been charged with Emergency Law 12/1951. A further individual, 'AK' was also arrested in connection with this case. At the time of writing, the trial continues.

Dani Kogoya case

Dani Kogoya, Albert Siep, Tandius Kogoya, Yupinus Dabi and Gidi Wenda are currently being held in Abepura prison and tried for an incident in Nafri, Jayapura, where four people were killed. Police have accused a group of OPM members under the leadership of Dani Kogoya of responsibility for this case, which involves both political and criminal elements.

Appendix III

Defining Political Prisoners

The reported number of political prisoners in West Papua often varies, for several reasons. Firstly, the number of political detainees fluctuates from month to month, as new people are arrested and others are released. Secondly, there is no standard, internationally-recognised definition of a political prisoner,⁸¹ so different organisations and institutions use different definitions.

In 2012 the Council of Europe passed a resolution putting forward a specific set of criteria for defining political prisoners, originally drafted in 2001 and based on the civil war in Namibia.⁸² The independent democratic freedoms watchdog Freedom House hailed the move as “the first time such criteria have been documented by a major intergovernmental organization,” calling on other international organisations to follow suit.⁸³

The data in this report was gathered by Papuans Behind Bars, which takes into account the Council of Europe criteria as well as the specific political historical context of West Papua in considering who is a political prisoner.

Papuans Behind Bars state that they include those prisoners where there is reason to believe that they have been detained for exercising rights and freedoms which are guaranteed in Indonesia’s Constitution, the Universal Declaration of Human Rights, and other international instruments which Indonesia has signed up to.

Many West Papuan political prisoners have been charged with treason. Some prisoners are politically active people who have been charged with very minor ‘crimes’ which are widespread but hardly ever prosecuted.⁸⁴ Many political prisoners in West Papua have been detained for activities such as dem-

onstrating, criticising the government, being politically active, or being affiliated to groups which are critical of or challenging to the government, or which advocate independence. Sometimes individuals who are not politically active at all are detained because they were present at a political event or were accompanying a politically active person. This often happens in the context of the mass arrests or ‘sweepings’ which frequently take place in West Papua.

Sometimes ordinary criminal laws are used to prosecute people who are being targeted for their political activity. This might be indicated by the personal political profile of the individual and their activities, and often the individual receives an unfair trial.⁸⁵ While the weak justice system and poor access to legal aid in West Papua means many people do not get a fair trial, political prosecutions often feature particular injustice in the arrest, detention and trial proceedings.

Sometimes people are charged with actions which have both criminal and political elements. The alleged crime may be violent one, such as attacking a policeman. If somebody is found guilty of a violent criminal act such as murder, in a trial which is seen as fair by human rights lawyers and independent observers, they are not considered as political prisoners by Papuans Behind Bars, even if the motivation was political.

These factors sketch the narrowest boundaries for political prisoners in a place like West Papua, where the endemic structural discrimination against indigenous peoples – which is fundamentally political in its nature and impacts – plays a strong role in the already weak police and judicial systems. Social prejudice alone can mean that a Papuan person may be arbitrarily detained, unfairly tried, beaten in prison or held in inhumane conditions.

Notes

1 While the Morning Star flag is allowed under Indonesia's 2001 Special Autonomy laws relating to the governance of Papua, it was subsequently banned by Presidential Regulation 77/2007. In practice the symbol continues to be treated as illegal by police in West Papua.

2 For more information see www.papuansbehindbars.org

3 This is the lowest possible figure. At the time of writing there are a number of other cases of concern, but there is not yet sufficient information on the case details or charges to decide whether they should be considered as political prisoners.

4 See www.papuansbehindbars.org/?cat=4

5 The West Papuan National Committee (*Komisi Nasional Papua Barat*, KNPB) emerged in 2008 as an organisation which organises mass demonstrations around West Papua, often to push for a referendum on West Papua's political status. Their actions appeal for the participation of large numbers of people and are mostly peaceful.

6 Political arrests are defined by Papuans Behind Bars as arrests which appear to be politically motivated, including: arrests which happen in political contexts such as demonstrations or places used by politically active organisations and people; arrests of politically active people or their relatives; arrests of people based on their alleged political affiliations; arrests for political activities such as raising a flag or engaging in civil resistance activities, and mass arrests occurring in political contexts. See www.papuansbehindbars.org/?page_id=315

7 The term 'mass arrest' is used here to describe an incident where large numbers of people are deprived of their liberty, including those apprehended or otherwise detained temporarily as well as those formally arrested and charged.

8 The Unit for the Acceleration of Development in Papua and West Papua provinces (*Unit Percepatan Pembangunan Provinsi Papua dan Provinsi Papua Barat*), known commonly by its Indonesian acronym UP4B, is a government initiative set up in 2011 to support development in West Papua. It has been highly controversial.

9 The remainder were charged in connection with storing ammunition (6), murder and other aspects of the Nafri case (5), possession of explosives (10) possession of a sharp weapon (1), damage to property (1) and in the other cases the charges remain unknown (2).

10 Reportedly tortured: Frengki Uamang; Paulus Alua; Barnabas Mansoben; Yantho Awerkion; Yakonius Womsiwor; Alfret Marsyom; Lodik Ayomi; Ericson Suhuniap; Enos Yoal; Efesus Payage; Yobet Pahabol; and Jursen Suhuniap. Reportedly ill-treated: Athys Wenda; Paulus Marsyom; Markus Murri; Octovina Iba; Tina Baru; Rosiana Hindom; Amaria; Agustina Hegemur; Dani Kogoya; Edison Kendi; Yusak Pakage; Niel Walom; Ishak Elopere; Buchtar Tabuni; Amos Wagab; Vasko Hindom, and 'YW' arrested in Pirime on 29 November 2012.

11 Reportedly forced to confess: Yantho Awerkion; Yakonius Womsiwor; Alfret Marsyom; Paulus Marsyom; Steven Itlay; Romario Yatipai, and Paulus Aloa.

12 BBC News, "Indonesian police kill Papua separatist Mako Tabuni," 14 June 2012, <http://www.bbc.co.uk/news/world-asia-pacific-18442620>

13 Michael Bachelard, "Two West Papuan activists shot," Sydney Morning Herald, <http://www.smh.com.au/world/two-west-papuan-activists-shot-20121217-2bj26.html>

14 Cenderawasih Pos, "Kaki Dani Kogoya terpaksa diamputasi," 5 September 2012, www.cenderawasihpos.com/index.php?mib=berita.detail&id=5781

15 This figure is based on the adult population of prisons in Papua and West Papua provinces as at 6 March 2013 (1,515 adult males, 79 adult females), according to data provided by the government and available at the Sistem Database Pemasyarakatan, <http://smslap.ditjenpas.go.id/>

16 Free West Papua Campaign, "Benny Wenda statement on the Wamena arrests 3rd of October 2012," 3 October 2012, <http://www.freewestpapua.org/index.php/news/2016-benny-wenda-statement-on-the-wamena-arrests-3rd-of-october-2012>

17 Jubi, "Aktivis papua merdeka ditangkap, KNPB minta advokasi NGO's internasional," 6 November 2012, <http://tabloidjubi.com/?p=1997>

18 To learn more about the arrest and torture of Apotnalogolik Lokobal, see http://www.papuansbehindbars.org/?prisoner_profiles=apotnalogolik-lokobal&lang=en

19 Information received from lawyers in Jayapura, via Papuans Behind Bars.

- 20** To learn more about the case of Filep Karma, see http://www.papuansbehindbars.org/?prisoner_profiles=filep-karma&lang=en
- 21** KontraS Papua report, "Peristiwa penangkapan 14 warga sipil," [undated], <http://kontras.org/pers/teks/kronologi%20papua.pdf>
- 22** Information received from Jayapura-based lawyers, via Papuans Behind Bars
- 23** TAPOL interview, January 2012
- 24** TAPOL telephone interview, February 2013
- 25** Information received by email from Andreas Harsono, Human Rights Watch, Indonesia, 24 January 2013
- 26** Jono van Hest, *Pride of Warriors*, Al Jazeera, 16 February 2010, www.aljazeera.com/programmes/witness/2010/02/2010210182855844350.html
- 27** Sydney Morning Herald, "Five jailed over West Papua independence push," 16 March 2012, <http://www.smh.com.au/world/five-jailed-over-west-papua-independence-push-20120316-1v9vz.html> For more information about Edison Waromi, see http://www.papuansbehindbars.org/?prisoner_profiles=edison-waromi&lang=en
- 28** Overcrowding rates as at 6 March 2013: Abepura prison, 141% of capacity; Fak-fak prison, 124% of capacity; Manokwari prison, 124% of capacity; Sorong prison, 121% of capacity; Merauke, 138% of capacity. Taken from government data available at the Sistem Database Pemasarakatan, <http://smslap.ditjenpas.go.id/>
- 29** KontraS Papua internal report 2011/12
- 30** Reuters, "Indonesia orders ICRC (red cross) out of Papua over jail visits," Faith-based Network on West Papua, 22 April 2009, http://www.faithbasednetworkonwestpapua.org/news_release/indonesia_orders_icrc_red_cross_out_of_papua_over_jail_visits
- 31** ALDP internal report, 10 June 2012
- 32** Karma was initially denied permission for treatment, see: Amnesty International, "Indonesia: prisoner's medical treatment prevented: Filep Karma," 19 April 2012, <http://www.amnesty.org/en/library/asset/ASA21/017/2012/en/d8138ce7-0337-4cb0-8208-2def34c6c7a1/asa210172012en.html> Treatment received, see: Amnesty International, "Urgent action: prisoner of conscience receives treatment," 1 October 2012, <http://www.amnesty.org/pt-br/library/asset/ASA21/040/2012/en/1e931a6f-e4f5-4beb-a061-7547af0d97c4/asa210402012en.pdf>
- 33** Andreas Harsono, "Kimanus Wenda's tumour operation," 5 April 2012, <http://www.andreasharsono.net/2012/04/kimanus-wendas-tumour-operation.html>
- 34** NGO coalition for the protection and upholding of Human Rights in Papua, Jayapura, "Initial report into the 4 April 2003 Wamena case," 6 May 2003, <http://hampapua.org/skp/skp06/var-04i.pdf>
- 35** ALDP, "Penanganan medis terhadap Jafrai dimulai," 15 May 2012, <http://www.aldp-papua.com/?p=2347>
- 36** Octovianus Pogau, "Kanius Murib, Tapol yang meninggal dunia di Wamena," Jubi, 14 December 2012, <http://forkompasemarang.blogspot.com/2012/12/kanius-murib-tapol-yang-meninggal-dunia.html>
- 37** West Papua Advocacy Team, "Police detain peaceful Papuan human rights activists," 24 July 2012, <http://www.etan.org/issues/wpapua/2012/1208wpap.htm#Activists>
- 38** Andreas Harsono, "Kimanus Wenda's tumour operation," 5 April 2012, <http://www.andreasharsono.net/2012/04/kimanus-wendas-tumour-operation.html>
- 39** Bersatu Untuk Kebenaran (BUK), internal report, 2013
- 40** ALDP annual report, 2012
- 41** TAPOL, "Urgent appeal to Special Rapporteur on HRDs: threat to prosecute Gustav Kawer," 7 March 2012, <http://tapol.org/news-and-reports/briefings/urgent-appeal-special-rapporteur-situation-human-rights-defenders-threat>
- 42** Internal report, KontraS Papua, 2013
- 43** Internal report, KontraS Papua 2011/2012
- 44** Interview with Lembaga Penelitian, Pengembangan, Pengkajian Bantuan Hukum, 24 January 2012
- 45** See: BUK and TAPOL, "Submission to Universal Periodic Review of Indonesia (second cycle), 13th Session," 21 November 2011, http://tapol.org/sites/default/files/TAPOL_UPR_Submission_2011.pdf
- 46** This is the translation given by hukumonline, available at <http://en.hukumonline.com/> The original Indonesian reads: "Makar dengan maksud supaya seluruh atau sebagian dari wilayah negara, diancam dengan pidana penjara seumur hidup atau pidana penjara sementara paling lama dua puluh tahun."

47 The treason Article 106 is often referred to as a ‘rubber’ Article, highlighting its flexible nature which is very open to interpretation. See for example KontraS Papua, “Makar jangan digunakan bungkam ruang demokrasi orang Papua,” 30 March 2011, <http://www.trunity.net/kontraspapua/news/view/164968/?topic=56138>

48 See for example, Jubi, “Bobii:WSC akan kaji pasal makar,” 28 February 2010, <http://tabloidjubi.com/z/index.php/2012-10-15-06-23-41/jayapura/5818-bobi-wsc-akan-kaji-pasal-makar> and West Papua Media Alerts, “Makar should be tested before Constitutional Court,” 6 April 2011, posted by Pacific Scoop, <http://pacific.scoop.co.nz/2011/04/makar-should-be-tested-before-constitutional-court/>

49 Endy Bayuni, “Indonesia loses its bragging rights,” Foreign Policy, 13 January 2012, http://transitions.foreignpolicy.com/posts/2012/01/11/indonesia_loses_bragging_rights

50 The first case was that of the Jayapura Five (Forkorus Yaboisembut, Edison Waromi, Dominikus Surabut, Selpius Bobii and August Kraar), who were each charged with Article 106 and received three year sentences in connection with their roles in the Third Papuan People’s Congress. The second case involved a flag-raising at a demonstration at the Theys Eluay memorial park on 1 May 2012. Two men were charged with Article 106; Darius Kogoya was sentenced to three years’ imprisonment and Timur Wakerkwa was sentenced to two years and six months’ imprisonment.

51 In 2003, three men were convicted for a 14-star flag-raising; Heri Asso and Gustav Ayomi were sentenced to ten years’ imprisonment, and Jean Hasegem was sentenced to eight years’ imprisonment. In 2004 Filep Karma and Yusak Pakage were charged under Article 106 for a Morning Star flag-raising and were sentenced to 15 and 10 years’ imprisonment respectively.

52 Interview with Democracy Alliance for Papua, 28 January 2012.

53 For more information see: Human Rights Watch, “Turning Critics to Criminal, the human rights consequences of criminal defamation law in Indonesia,” May 2010, pp. 11–13, <http://www.hrw.org/sites/default/files/reports/indonesia0510webwcover.pdf>

54 See: KontraS, “Special detachment 88, The anti-terrorism project and its implications for human rights in Indonesia,” preliminary research report, July 2012, available via TAPOL

55 Nethy Dharma Somba, “Tito gives new hope to Papua,” Jakarta Post, 26 September 2012, <http://www.thejakartapost.com/news/2012/09/26/tito-gives-new-hope-papua.html>

56 Jakarta Post, “Police name nine suspects in alleged Papua bomb plot,” 2 October 2012, <http://www.thejakartaglobe.com/news/police-name-nine-suspects-in-alleged-papua-bomb-plot/547749>

57 Asian Human Rights Commission, “Police arbitrarily arrested five activists and copy documents related to their political activity,” 18 October 2012, <http://www.humanrights.asia/news/urgent-appeals/AHRC-UAC-185-2012> and Jubi, “Aktivis papua merdeka ditangkap, KNPB minta advokasi NGO’s internasional,” 6 November 2012, <http://tabloidjubi.com/?p=1997>

58 Bintang Papua, “Polres Mimika Temukan Bahan Peledak di Timika, 2 Pelaku Ditangkap,” posted by Zona Damai blog, 22 October 2012, <https://zonadamai.wordpress.com/2012/10/22/polres-mimika-temukan-bahan-peledak-di-timika-2-pelaku-ditangkap/>

59 Jubi, “AK warga Supiori ditangkap, diduga DPO kepemilikan amunisi,” 28 December 2010, <http://tabloidjubi.com/?p=7802>

60 Jubi, “Ketua KNPB Balim belum didampingi pengacara,” 4 January 2013, <http://tabloidjubi.com/?p=8171>

61 Documentary available at: “Goodbye Indonesia,” People and Power, Al Jazeera, 31 January 2013, <http://www.aljazeera.com/programmes/peopleandpower/2013/01/201313018313632585.html> More information on the shootings: Radio Australia, “Papua activist Hubertus Mabel shot by Indonesian military: reports,” 17 December 2012, <http://www.radioaustralia.net.au/international/radio/program/connect-asia/papua-activist-hubertus-mabel-shot-by-indonesian-military-reports/1062038>

62 Tempo, “6 kasus kekerasan di Papua,” 21 December 2012, <http://www.tempo.co/read/news/2012/12/21/078449759/6-Kasus-Kekerasan-di-Papua>

63 Republika Online, “Australia terlibat aksi Densus 88 di Papua?” 30 Agustus 2012, <http://www.republika.co.id/berita/internasional/global/12/08/30/m9jgqw-australia-terlibat-aksi-densus-88-di-papua>

64 Sidney Jones, “Papuan ‘separatists’ vs Jihadi ‘terrorists’: Indonesian policy dilemmas,” lecture given at International Policy Studies program of Stanford University, 5 December 2012, published by International Crisis Group, <http://www.crisisgroup.org/en/publication-type/speeches/2013/jones-papuan-separatists.aspx>

65 Berita Satu, “Soal pengungkapan teror di Wamena, Basyir kritik Polri,” 2 October 2012, <http://www.beritasatu.com/hukum/75224-soal-pengungkapan-teror-di-wamena-basyir-kritik-polri.html>

66 Ibid

67 Undang Undang Nomor 12/DRT/1951, available at website of the Universitas Sam Ratulangi, Manado, http://hukum.unsrat.ac.id/uu/uu_12_drt_1951.htm

68 Meeting of Civil Society Coalition for the Upholding of Law and Human Rights in Papua, 26 February 2013

69 Papua Pos, "Alasan makar terlalu mengada-ada," 4 November 2011, http://papuapos.com/index.php?option=com_content&view=article&id=6096:alasan-makar-terlalu-mengada-ada-&catid=1:berita-utama

70 Amnesty International, "Release participants of peaceful gathering in Papua," 21 October 2011, <http://www.amnesty.org.au/news/comments/27058/> and Human Rights Watch, "Five Papuans convicted for peaceful protest, Amend treason law to uphold free speech," 16 March 2012, <http://www.hrw.org/news/2012/03/16/indonesia-five-papuans-convicted-peaceful-protest>

71 Amnesty International, "End police violence against demonstrators in Papua," 25 October 2011, <http://www.amnesty.org/en/for-media/press-releases/indonesia-end-police-violence-against-demonstrators-papua-2012-10-25>

72 Pacific Freedom Forum, "PFF supports no-treason call for Papua," 21 March, 2012, <http://pacific.scoop.co.nz/2012/03/pff-supports-no-treason-call-for-west-papua/>

73 Investor Daily Indonesia, "Menko Polhukam: Tak ada lagi tapol," 8 December 2011, <http://petapolitik.com/news/mahfud-md-demo-dan-makar-itu-berbeda/>

74 The Republic of Korea, the United States, Australia, Switzerland, Canada, France, and Germany. See: "Report of the Working Group on the Universal Periodic Review – Indonesia," 5 July 2012, http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session21/A-HRC-21-7_en.pdf

75 Ibid

76 West Papua Advocacy Team, "WPAT urges unrestricted visit by UN Special Rapporteur," 31 January 2013, <http://www.etan.org/news/2013/01/wpat.htm>

77 "Report of the Working Group on the Universal Periodic Review – Indonesia," 5 July 2012, http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session21/A-HRC-21-7_en.pdf

78 Jakarta Post, "Papuans angered by President's statement," 14 June 2012, <http://www.thejakartapost.com/news/2012/06/14/papuans-angered-president-s-statement.html>

79 Jubi, "Uncen students call for an end to stigmatisation," 24 October 2011, <http://tabloidjubi.com/?p=707>

80 West Papua Media Alerts, Arrests in Mantembu, Yapen ahead of major demonstrations, 16 January 2013, <http://westpapuamedia.info/2013/01/16/arrests-in-mantembu-yapen-ahead-of-major-demonstrations/>

81 PRS Newswire, "Quarrel over definition of political prisoners leads to split in the council of Europe," 28 June 2012, <http://www.prnewswire.com/news-releases/quarrel-over-definition-of-political-prisoners-leads-to-split-in-the-council-of-europe-160679385.html>

82 Resolution 1900 (2012) states that "A person deprived of his or her personal liberty is to be regarded as a 'political prisoner': a. if the detention has been imposed in violation of one of the fundamental guarantees set out in the European Convention on Human Rights and its Protocols (ECHR), in particular freedom of thought, conscience and religion, freedom of expression and information, freedom of assembly and association; b. if the detention has been imposed for purely political reasons without connection to any offence; c. if, for political motives, the length of the detention or its conditions are clearly out of proportion to the offence the person has been found guilty of or is suspected of; d. if, for political motives, he or she is detained in a discriminatory manner as compared to other persons; or, e. if the detention is the result of proceedings which were clearly unfair and this appears to be connected with political motives of the authorities." Those deprived of their personal liberty for terrorist crimes shall not be considered political prisoners if they have been prosecuted and sentenced for such crimes according to national legislation and the European Convention on Human Rights (ETS No. 5). The Resolution is available at the Council of Europe Parliamentary Assembly website at <http://assembly.coe.int/ASP/XRef/X2H-DW-XSL.asp?fileid=19150&lang=EN>

83 Freedom House, "New Criteria will help define 'political prisoners'," Washington, [undated], <http://www.freedomhouse.org/article/new-criteria-will-help-define-%E2%80%98political-prisoners%E2%80%99>

84 For example, a demonstration organiser might be arrested for carrying a sharp weapon at the demonstration, in an indigenous society where knives are frequently carried for everyday needs.

85 Unfair trials may involve allegations or evidence of torture of the suspect or witnesses; forced confessions; fabricated evidence; intimidation of witnesses, lawyers, or judges; heavy security forces presence at the trial, or other interference with the trial process.

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