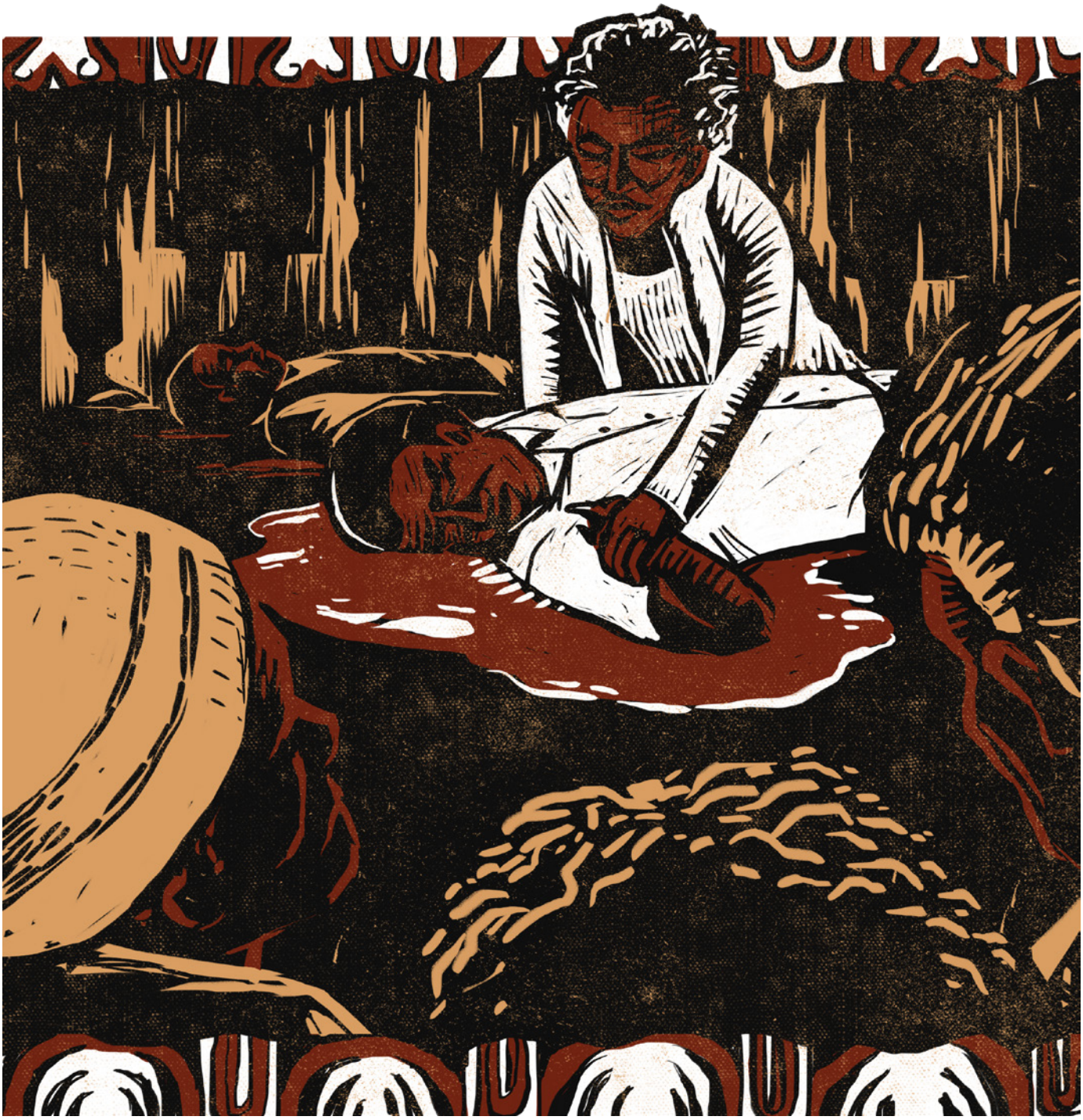


# "DON'T BOTHER, JUST LET HIM DIE"

KILLING WITH IMPUNITY IN PAPUA

INDONESIA
AMNESTY INTERNATIONAL

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***Cover photo:*** *A Papuan woman mourns the victim of shootings in Paniai*
*© Amnesty International Indonesia/Bagus Septa Pratama*

INDONESIA AMNESTY INTERNATIONAL

# "DON'T BOTHER, JUST LET HIM DIE": KILLING WITH IMPUNITY IN PAPUA

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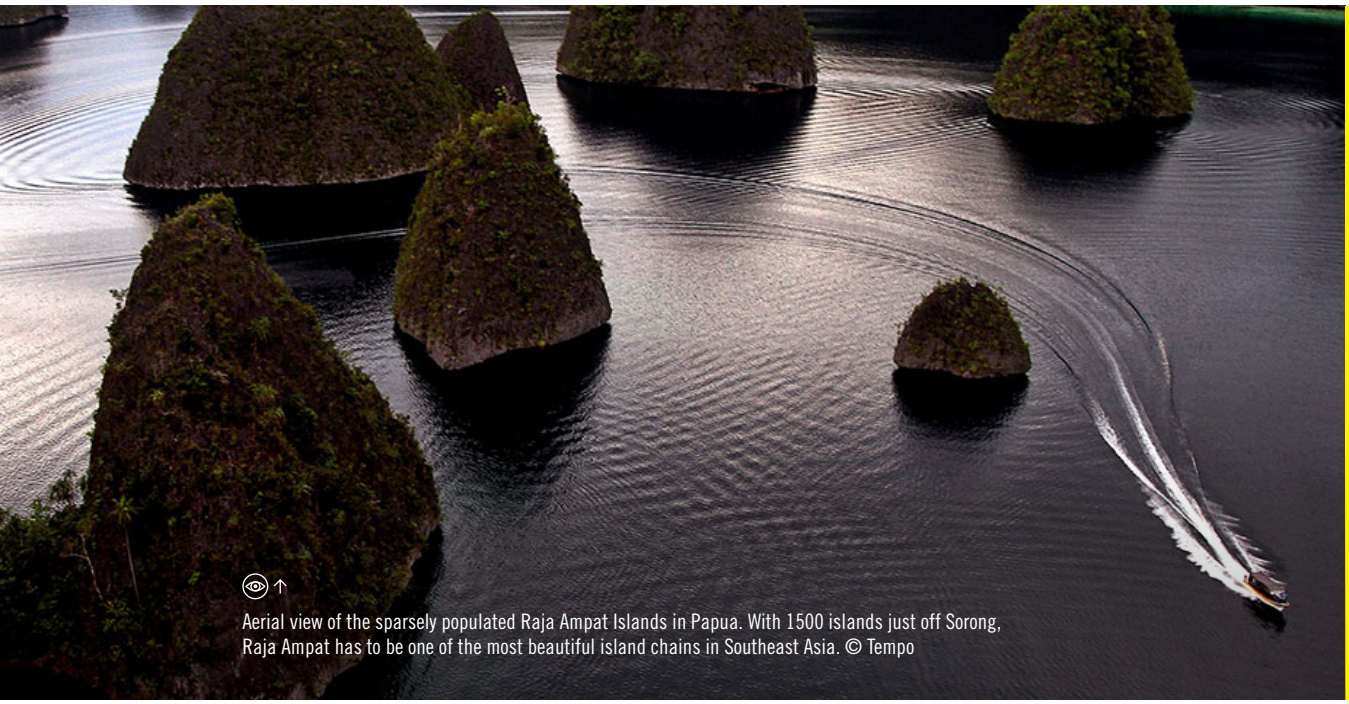
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# GLOSSARY

| ENGLISH | |
|---|---|
| **ICCPR** | International Covenant on Civil and Political Rights |
| **NGO** | Non-Governmental Organization |
| **UN** | United Nations |

| INDONESIAN | |
|---|---|
| **Brimob** (Brigade Mobil) | The Mobile Brigade Corps |
| **DAP** (Dewan Adat Papua) | Papuan Customary Council |
| **DPR** (Dewan Perwakilan Rakyat) | House of Representatives |
| **GIDI** (Gereja Injil di Indonesia) | Indonesian Injili Church |
| **HAM** (Hak Asasi Manusia) | Human Rights |
| **KNPB** (Komite Nasional Papua Barat) | National Committee of West Papua |
| **Kodam** (Komando Daerah Militer) | Military Command Area |
| **Komnas HAM** (Komisi Nasional Hak Asasi Manusia) | National Commission on Human Rights |
| **Kompolnas** (Komisi Kepolisian Nasional) | National Police Commission |
| **LIPI** (Lembaga Ilmu Pengetahuan Indonesia) | Indonesian Institute of Sciences |
| **OPM** (Organisasi Papua Merdeka) | The Free Papua Movement |
| **ORI** (Ombudsman Republik Indonesia) | Ombudsman of The Republic of Indonesia |
| **PEPERA** (Penentuan Pendapat Rakyat) | Act of Free Choice |
| **PETAPA** (Penjaga Tanah Papua) | Guardians of The Land of Papua |
| **PROPAM** (Profesi dan Pengamanan) | Profession and Security Division of Indonesian National Police |



Aerial view of the sparsely populated Raja Ampat Islands in Papua. With 1500 islands just off Sorong, Raja Ampat has to be one of the most beautiful island chains in Southeast Asia. © Tempo

# 1. EXECUTIVE SUMMARY

On the morning of 8 December 2014, hundreds of Papuan protesters gathered near the local military and police headquarters, in the town of Enarotali in Paniai District, Papua Province. The demonstration was a response to military personnel allegedly beating 11 Papuan children the day before. When protesters started throwing stones and pieces of wood at the buildings, security forces opened fire into the crowd, killing four people. At least 11 others were injured by bullets or bayonets. Witnesses told the National Human Rights Commission they saw police officers shoot a protestor at close range after he had fallen to the ground.

Several weeks later, at a national Christmas ceremony in Papua, newly elected President Joko "Jokowi" Widodo committed to bringing those responsible for the killings to justice as soon as possible. The Paniai shootings became a test for the new administration's commitment to end pervasive impunity for serious human rights violations by security forces in Papua and throughout Indonesia. It is a test that President Jokowi's government, like those before it, has failed.

Cases like the Paniai shootings are not uncommon in Papua. Over the two decades since Indonesia's 1998 reforms (Reformasi) began, Amnesty International has continued to receive allegations of unlawful killings by security forces in the eastern provinces of Papua and West Papua, even as they decline across Indonesia. These killings occur mainly in the context of unnecessary or excessive use of force during mass protests, during law enforcement operations or due to misconduct by individual officials. Amnesty International has recorded 69 cases of suspected unlawful killings by security forces in Papua between January 2010 and February 2018, with 95 victims. In 34 of the cases the alleged perpetrators came from the police forces, in 23 cases they came from the military, and in 11

cases both security forces were allegedly involved. One more case also involved the municipal police (Satuan Polisi Pamong Praja, or Satpol PP), a body under local government and tasked to enforce local regulations. Most of the victims, 85 of them, have Papuan ethnicity.

Indonesian and international groups have long raised serious concerns about unlawful killings and other serious human rights violations by security forces in Papua.[1] The subject is a frequent topic of discussion during Indonesia's human rights reviews by UN treaty and UN Charter based bodies.[2]

There is no explicit definition of unlawful killings, or "extrajudicial, summary or arbitrary executions" under international law. Amnesty International defines such acts as unlawful and deliberate killings carried out by order of a government or with its complicity or acquiescence, which is along the lines of descriptions provided by international experts. Extrajudicial, summary or arbitrary executions would under this understanding include unlawful killings both by state forces and by non-state groups and individuals that state authorities fail to properly investigate and prosecute.[3] All unlawful killings violate the right to life, a key human right protected by international law and Indonesia's Constitution. Indonesia has ratified several international human rights treaties that protect the right to life, chief among them the International Covenant on Civil and Political Rights (ICCPR).

Papua is now the only region in Indonesia that has both peaceful and armed pro-independence movements. Since the end of the Soeharto government in 1998, political activists in Papua increased their demand for independence through peaceful means.[4] The national government has been reluctant to respect their freedom of expression, arguing that their success would encourage other "secessionist" movements.[5] A variety of armed pro-independence groups[6] have carried out sporadic attacks, mainly on military and police targets. They have also engaged in clear human rights abuses, including unlawful killings, abductions and hostage-taking.

Amnesty International takes no position on the political status of any province of Indonesia, including calls for independence.

Successive national governments have pledged to bring economic growth to Papua and to end human rights violations. However, they have maintained an uncompromising stance towards independence movements, whether peaceful or armed. They have limited access to Papua for international human rights observers and shown little tolerance for freedom of expression.

Based on a review of 69 cases of suspected unlawful killings by security forces in Papua between January 2010 and February 2018, Amnesty International has documented several patterns.

---

1. Human rights annual reports by the National Human Rights Commission, see https://www.komnasham.go.id/index.php/laporan-tahunan/, Annual reports on violence against women by the National Commission on Violence against Women (Komisi Nasional Anti Kekeraan terhadap Perempuan) see https://www.komnasperempuan.go.id/publikasi-catatan-tahunan.

2. See for instance Indonesia: Draft report of the Working Group on the Universal Periodic Review (UPR) in the Third Cycle, 14 July 2017, UN Doc. A/HRC/36/7 and the Report of the Working Group on the UPR on Indonesia in the Second Cycle, 5 July 2012, UN Doc. A/HRC/21/7; Concluding observations of the Human Rights Committee on the initial report of Indonesia in 2013, UN Doc. CCPR/C/IDN/CO/1, 21 August 2013, focusing on the increased reports of excessive use of force and extrajudicial killings by the police and the military during protests, particularly in West Papua, Bima and West Nusa Tenggara, para. 16; and Concluding observations of the Committee on the Elimination of Discrimination against Women, UN Doc. CEDAW/C/IDN/CO/6-7, 27 July 2012m focussing on sexual violence in conflict areas, including Papua, para. 27; See also Report of the UN Special Rapporteur on the rights to freedom of peaceful assembly and of association (Addendum) on the Observations on communications transmitted to Governments and replies received, 31 May 2017, UN Doc. A/HRC/35/28/Add.3, paras. 337-341. The Special Rapporteur links the unlawful killings and injuries and attempts to restrict the right to freedom of expression and freedom of peaceful assembly by indigenous Papuans.

3. The UN Special Rapporteur on extrajudicial executions has defined the concept similarly. See, for instance, Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions: Mission to the United States of America, UN Doc. A/HRC/11/2/Add.5, 28 May 2009, para. 3; Center for Human Rights and Global Justice, UN Special Rapporteur on Extrajudicial Executions Handbook, available at http://www.extrajudicialexecutions.org/LegalObservations.html.

4. Richard Chauvel and Ikrar Nusa Bhakti, The Papua Conflict: Jakarta's Perceptions and Policies, East-West Center, Washington, 2004, p. 25-31 available at http://www.eastwestcenter.org/publications/papua-conflict-jakarta%E2%80%99s-perceptions-and-policies

5. Richard Chauvel and Ikrar Nusa Bhakti, The Papua Conflict, footnote No. 4, p. 25.

6. Institute for Policy Analysis of Conflict (IPAC), The Current Status of the Papuan Pro-Independence Movement, 24 August 2015, p. 2, available at http://www.understandingconflict.org/en/conflict/read/43/The-Current-Status-of-the-Papuan-Pro-Independence-Movement

First, the majority of cases, 41 of them, occurred in the context of events that were unrelated to calls for independence or a referendum for Papua. This type of unlawful killing often happens when security forces uses excessive force to handle peaceful social protests, incidents of public disorder, and attempts to arrest criminal suspects, or as a form of misconduct by individual members of the security forces.

In a second category are killings by security forces related to the issue of independence or a referendum for Papua. This type of unlawful killing, consist of 28 cases, happens when security forces deal with peaceful political protests, particularly flag-raising ceremonies or religious gatherings on commemoration dates.

Investigations into reports of unlawful killings by security forces in Papua are rare. There is no independent, effective, and impartial mechanism to deal with public complaints about misconduct by security forces, including criminal offences involving human rights violations, leaving many victims without access to justice and reparation.

In the 69 incidents documented in this report, not one has been subject to a criminal investigation by an institution independent of the one whose members were suspected of committing the killing. In 25 cases there was no investigation at all, not even an internal one. Meanwhile, in 26 cases the police or military claimed to have conducted internal investigation but did not make the results public. In only six cases were perpetrators held accountable for the deaths.

Most families of the victims of unlawful killings by security forces in Papua told Amnesty International that they still wanted to see the perpetrators brought to justice through trials in civilian court.

Amnesty International believes that there is a direct and causal link between impunity and the commission of human rights violations. Each failure to investigate or bring those responsible to trial reinforces the confidence of perpetrators that they are indeed above the law.

Amnesty International acknowledges the complex environment law enforcement officials often find themselves in when carrying out their duty in Papua, and when being attacked they certainly have the right to self-defence. However, even in such situations they must ensure full respect for the right to life, liberty and security of persons, including those suspected of a crime. Firing without warning and firing indiscriminately at a crowd without distinction as to who presents an imminent threat to themselves or another person and who does not, is clearly a violation of international human rights law as well as domestic legislation. And it contributes to an ever-escalating cycle of hostility and violence with an increasing risk of more lives being lost or in danger - including their own.

This report focuses only on unlawful killings committed by the security forces in Papua as Amnesty International's main mandate is to expose human rights violations. However, the organization acknowledge that there have been human rights abuses and incidents of violence, including lethal violence, committed by non-state actors in Papua and recognize that the Indonesian government's right and duty to protect its population, including police and other officials.[7] Such protection must, however, be exercised strictly within the framework of human rights law and standards, as explained below. Amnesty International calls on all governments to apply these law and standards and refrain from human rights violations whatever the political context in which they are committed, whether in Papua, in other regions in Indonesia or globally.

---

7. Amnesty International uses the term “human rights violations” in its legal sense, specifically to refer to actions by governments that contravene the state's obligations under international human rights law. The organisation uses the term “abuses” of human rights to refer to similar acts perpetrated by armed groups or other non-state actors, acts to which international human rights law generally does not directly apply. Acts by armed groups can however constitute violations of international humanitarian law, which applies in situations of armed conflict, or violations of national or international criminal law. Amnesty International recognises that victims of attacks and other abuses by armed groups or private individuals also frequently experience them as violations of their rights or personal integrity, regardless of how they may be characterised as a matter of international law. International human rights law and the mechanisms for its enforcement (including particularly the treaty bodies and the UN Human Rights Council) were developed in response to the special powers and responsibilities of the state in relation to individuals, and the recognition that those powers and responsibilities leave the individual particularly vulnerable to certain forms of government abuse of power.

# METHODOLOGY

This report builds on Amnesty International's work documenting suspected unlawful killings by security forces in Papua within the context of wider human rights violations in the region. It is part of a wider programme of work to monitor the Indonesian authorities' efforts to combat impunity for security forces abuses through the reforms of the last two decades.

An Amnesty International research team visited Abepura, Jayapura, Wamena, Nabire, and Timika, all in Papua Province, as well as Sorong in West Papua Province in August 2016. In February 2017, a researcher interviewed government officials in Jakarta. During these field missions Amnesty International team interviewed families of the victims, witnesses, lawyers, human rights NGOs, political activists, church-based organizations, members of the Papuan representative office of the National Human Rights Commission (Komnas HAM) and journalists. Amnesty International's team also met with human rights activists, academics, the lead research team on Papua for the Indonesian Institute of Science, Komnas HAM, the National Police Commission (Kompolnas) and government officials.

This report also draws on academic journals, court decisions, NGO reports and news monitoring, including a valuable digital database of print newspapers in Papua.[8]

The lack of prompt, independent and effective investigations and the failure to make public the results of investigations by internal accountability mechanisms made it difficult to determine the facts. Official failure to investigate obscures the circumstances of the killings, making it difficult to assess self-defence claims by the police or to discover whether the killings were done on the order of a superior. The lack of transparency also makes it harder to identify any signs that a killing was treated as a violation of official policy, subject to official disapproval, investigation and punishment. However, the available facts about many these 69 incidents, and the overall picture of impunity and toleration of unnecessary and excessive force, indicate that these are unlawful killings which need to be if thoroughly and independently investigated and those responsibility brought to justice.

Amnesty International would like to thank all those who assisted with this research, in particular the local civil society partners in Papua who provided tremendous support and expertise. The organization also extends its deep appreciation to all victims and their representatives, who courageously shared their stories, generously opened their homes, and entrusted Amnesty International to raise their concerns. When victims, witnesses and human rights activists have consented, their real names are mentioned. Otherwise, names have been withheld for safety and confidentiality.

# KEY RECOMMENDATIONS

Amnesty International's recommendations to the Indonesian authorities include:

- Acknowledge that the unlawful killings taking place in Papua and West Papua Provinces are serious human rights violations, including crimes under international law.
- Conduct a thorough review of police, military and other security forces' tactics in the use of force and firearms, including during public assemblies and arrests, to ensure they meet international standards, in particular the UN Code of Conduct for Law Enforcement Officials and the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials.
- Ensure that all unlawful killings alleged to have been committed by Indonesian security forces are investigated promptly, independently, impartially and effectively. The investigation, and any prosecutions, should not be limited to direct perpetrators, but also look into any involvement of commanders, irrespective of rank.

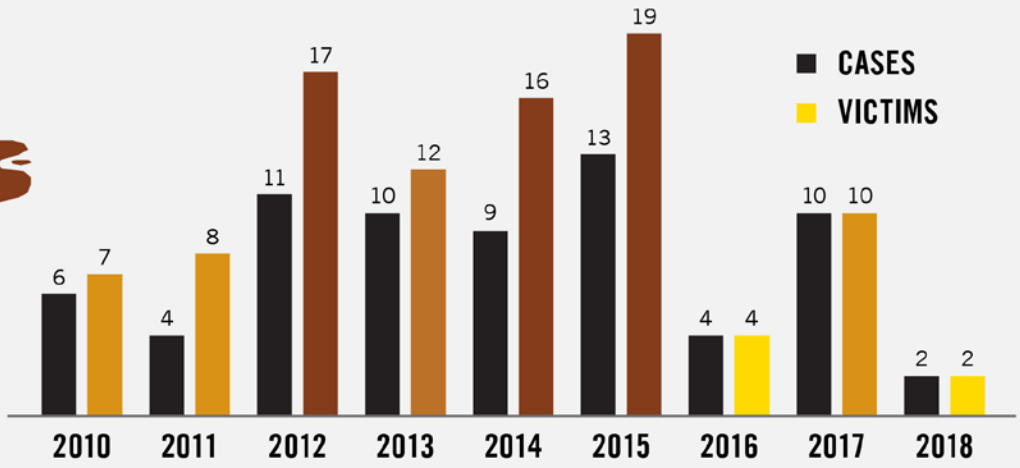
8. The database was created under the National Violence Monitoring System (Sistem National Pemantauan Kekerasan) developed by the World Bank's Conflict and Development Program, available at http://microdata.worldbank.org/index.php/catalog/2626.

# TOTAL CASES AND VICTIMS OF UNLAWFUL KILLINGS IN PAPUA

## 2010-2018*

**95** VICTIMS

**69** CASES

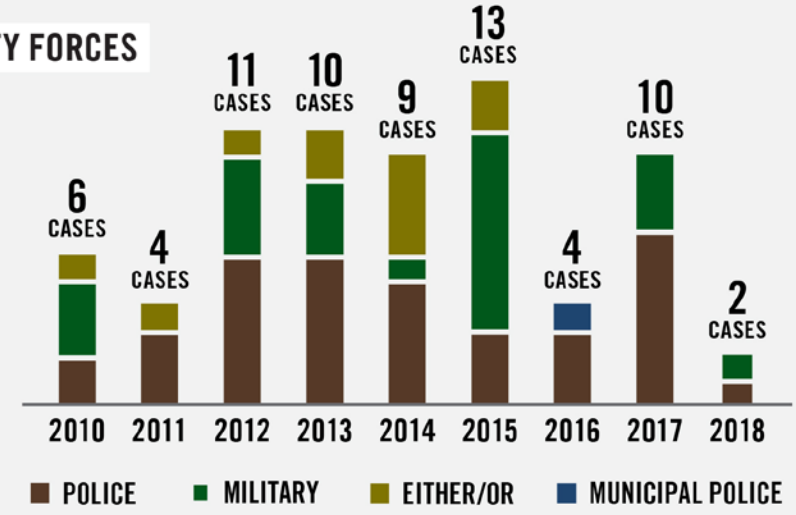



## TYPOLOGY OF UNLAWFUL KILLINGS IN PAPUA 2010-2018*

### ALLEGED INVOLVEMENT BY BOTH SECURITY FORCES



| POLICE | MILITARY | EITHER/ BOTH | MUNICIPAL POLICE |
|---|---|---|---|
| 39 VICTIMS | 27 VICTIMS | 28 VICTIMS | 1 VICTIMS |




### UNLAWFUL KILLINGS BY GENDER




MALE FEMALE

### UNLAWFUL KILLINGS BY ETHNICITY

| PAPUAN ETHNIC | NON-PAPUAN ETHNIC |
|---|---|
| 85 VICTIMS | 10 VICTIMS |

### UNLAWFUL KILLINGS BY AGE



| <10 | 11-20 | 21-30 | 31-40 | 41-50 | >50 | UNSPECIFIED |
|---|---|---|---|---|---|---|
| 3 VICTIMS | 18 VICTIMS | 31 VICTIMS | 11 VICTIMS | 5 VICTIMS | 5 VICTIMS | 22 VICTIMS |

*) This infographic recapitulated cases and victims that happened in 21 out of 29 districts in Papua Province an





UNLAWFUL KILLINGS UNRELATED TO POLITICAL ACTIVITIES | UNLAWFUL KILLINGS RELATED TO POLITICAL ACTIVITIES

## UNLAWFUL KILLINGS UNRELATED TO POLITICAL ACTIVITIES

**41** CASES  **56** VICTIMS 

### POLICING ASSEMBLY & MAINTAINING PUBLIC ORDER

**15** CASES **22** VICTIMS

### MISCONDUCT DRIVEN BY REPRISALS

**5** CASES **7** VICTIMS

### ATTEMPT TO ARREST CRIMINAL SUSPECT

**9** CASES **9** VICTIMS

### MISCONDUCT DRIVEN BY PERSONAL MISBEHAVIOUR

**12** CASES **18** VICTIMS

## UNLAWFUL KILLINGS RELATED TO POLITICAL ACTIVITIES

**28** CASES  **39** VICTIMS 

### POLICING PEACEFUL PROTEST RELATED TO POLITICAL COMMEMORATION

**10** CASES **19** VICTIMS

### TARGETED KILLINGS OF POLITICAL ACTIVIST

**10** CASES **10** VICTIMS

### SECURITY OPERATIONS

**8** CASES **10** VICTIMS

## STATE ACCOUNTABILITY AND/OR SETTLEMENT OF UNLAWFUL KILLINGS

**2** CASES — ONGOING INVESTIGATIONS

**26** CASES — INVESTIGATIONS NOT MADE PUBLIC

**25** CASES — NO INVESTIGATION

**6** CASES — POLICE INTERNAL DISCIPLINARY MECHANISM*

**8** CASES — TRADITIONAL SETTLEMENT/REMEDY*

**6** CASES — THROUGH MILITARY TRIBUNAL

*) There are 3 cases which are settled by traditional method and police internal disciplinary mechanism, and 1 case that is settled by both traditional method of compensation and military tribunal. These cases are therefore fulfill two categories at the same time — however, the overall numbers are still 69 cases.

d in 6 out of 13 districts in West Papua Province. All data taken between January 2010 - February 2018.

- Ensure that where sufficient admissible evidence is found, suspects are prosecuted before civilian courts in proceedings that meet international fair trial standards and do not impose the death penalty.
- Ensure that victims and their families receive comprehensive and effective reparations in accordance with international standards.
- Set up a new police oversight mechanism or revise the mandate of existing ones, such as the National Police Commission or Komnas HAM, to ensure an independent, effective, and impartial complaints mechanism can deal with public complaints about police misconduct, including criminal offences involving human rights violations. In particular, suspected criminal offences involving human rights violations must be dealt with through the criminal justice system, rather than internally and as disciplinary breaches. Although a disciplinary process may take place alongside prosecution, it must never replace bringing those suspected of human rights violations



Burial ground of the four students shot dead during an incident at Karel Gobay Square, Paniai, Papua Province. The tradition in Paniai required that the victims buried where they lost their lives. © Amnesty International

# 2. BACKGROUND

> ***"I want this case resolved as soon as possible so it will not happen again in the future. We truly want Papua to be a land of peace."***
>
> President Joko Widodo, speaking after the alleged killing of protesters in Paniai, Papua, in December 2014.[9]

On the morning of 8 December 2014, security forces opened fire on hundreds of Papuan protesters gathered near the local headquarters of the military and police, in the town of Enarotali, Paniai District, Papua Province.[10] The demonstration was a response to military personnel allegedly beating 11 Papuan children in East Paniai Subdistrict the day before. After protesters started throwing stones and pieces of wood at the building, security forces opened fire into the crowd, killing four people.[11] At least

9. President Joko Widodo, Pidato pada Perayaan Natal Bersama Nasional 2014 [Speech at the National Joint Christmas Celebration 2014], Jayapura, Papua Province, 27 December 2014, available at http://setkab.go.id/pidato-presiden-joko-widodo-pada-perayaan-natal-bersama-nasional-2014-di-stadion-mandala-jayapura-papua-27-desember-2014/

10. In this document the Indonesian administrative level of the kabupaten is translated as district (rather than the alternative regency) and kecamatan as subdistrict. However, under the Law No. 21 of 2001 on Papua Special Autonomy (Article 3) the term of "district" is used in Papua for kecamatan.

11. The four people who were found dead from gunshot wounds include Apius Gobay, aged 16, who was shot in the stomach; Alpius Youw, aged 18, in the buttocks; Simon Degei, aged 17, in his left rib; while Yulianus Yeimo, aged 17, had bullet wounds in his stomach and back. See Amnesty International and KontraS (the Commission for the Disappeared and Victims of Violence), Open Letter, Investigaion of Pania Case One Year On, 7 December 2015 (Index: ASA 21/3010/2015).

11 others were injured by bullets or bayonets. According to the National Human Rights Commission (Komnas HAM), two witnesses saw police officers beat a protestor and then shoot him from close range after he had fallen to the ground.[12]

On 27 December 2014, at a Christmas ceremony in Jayapura, the capital of Papua Province, President Joko "Jokowi" Widodo, in office less than two months, committed to bringing those responsible for the killings to justice as soon as possible.[13] The Paniai shootings became a test for the new administration's commitment to end pervasive impunity for serious human rights violations by security forces in Papua and throughout Indonesia.[14] It is a test that President Jokowi's government has failed. No criminal investigation has taken place, despite an announcement by Komnas HAM in April 2015 that it had found indication of gross human rights violations and would set up a pro-justicia inquiry.[15]

Cases like the Paniai shootings are not uncommon in Papua. Over the last two decades, Amnesty International has continued to receive allegations of unlawful killings by security forces in the region, mainly in the context of unnecessary or excessive use of force during mass protests, during law enforcement operations or due to individual misconduct. Amnesty International has recorded 69 cases of suspected unlawful killings by security forces in Papua between January 2010 and February 2018, with a total of 95 victims. In 34 cases the alleged perpetrators came from the police forces, in 23 cases the alleged perpetrators came from the military, and there are 11 cases where both security forces were allegedly involved. One more case also involved the municipal police (Satuan Polisi Pamong Praja, or Satpol PP), a body under local government and tasked to enforce local regulations. Most of the victims, 85 of them, have Papuan ethnicity.

Both Indonesian and international groups have long raised serious concerns about unlawful killings and other serious human rights violations by security forces in Papua. Domestic and international civil society, including human rights groups, have regularly highlighted the issue in their reporting,[16] and it is a frequent topic of discussion during Indonesia's human rights reviews by both UN treaty and UN Charter based bodies.[17]

Investigations are rare, and it is even rarer that anyone is held accountable for killings. Security personnel are generally subject to disciplinary sanctions at the very most, leaving victims' families without access to justice and reparation. Of the 69 documented cases, in 25 there was no investigation at all, either internally by the security forces or by independent and impartial state institutions. In 26 other cases, the police or military claimed they conducted internal investigation, but the results were not made public. Only in six of the cases did court proceedings take place, all the perpetrators were military personnel that were heard by military tribunals. The police also conducted internal disciplinary mechanism for six of the cases involving killing by police personnel without any court proceedings. At least eight unlawful killings were settled by a traditional method of compensating loss of life with money or pigs (ganti rugi kepala, or "compensation for the head").[18]

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12. Komnas HAM, Laporan Akhir Tim Paniai Revisi [Final report of the Paniai Team; a revision], pp. 60, 63, April 2015, on file with Amnesty International.

13. President Joko Widodo, Pidato pada Perayaan Natal Bersama Nasional 2014, footnote No. 9.

14. During his campaign, President Widodo promised that past gross violations of human rights would be addressed by a judicial process and that he would "end all impunity" in the country, including by revising the Military Court Law used to shield members of the security forces from prosecution. Joko Widodo-Jusuf Kalla, Visi, Misi, dan Program Aksi [Vision, Mission, and Action Program], May 2014, p. 27, available at http://userfiles.hukumonline.com/redaksi/VISI_MISI_Jokowi-JK.pdf

15. This term refers to a preliminary inquiry by Komnas HAM that can lead to a judicial investigation by the Attorney General (See Articles 18 and 21 of Law No. 26 of 2000). Amnesty International, Indonesia: Formation of inquiry team into Paniai shootings offers hope for justice, 10 April 2015 (Index: ASA 21/1423/2015).

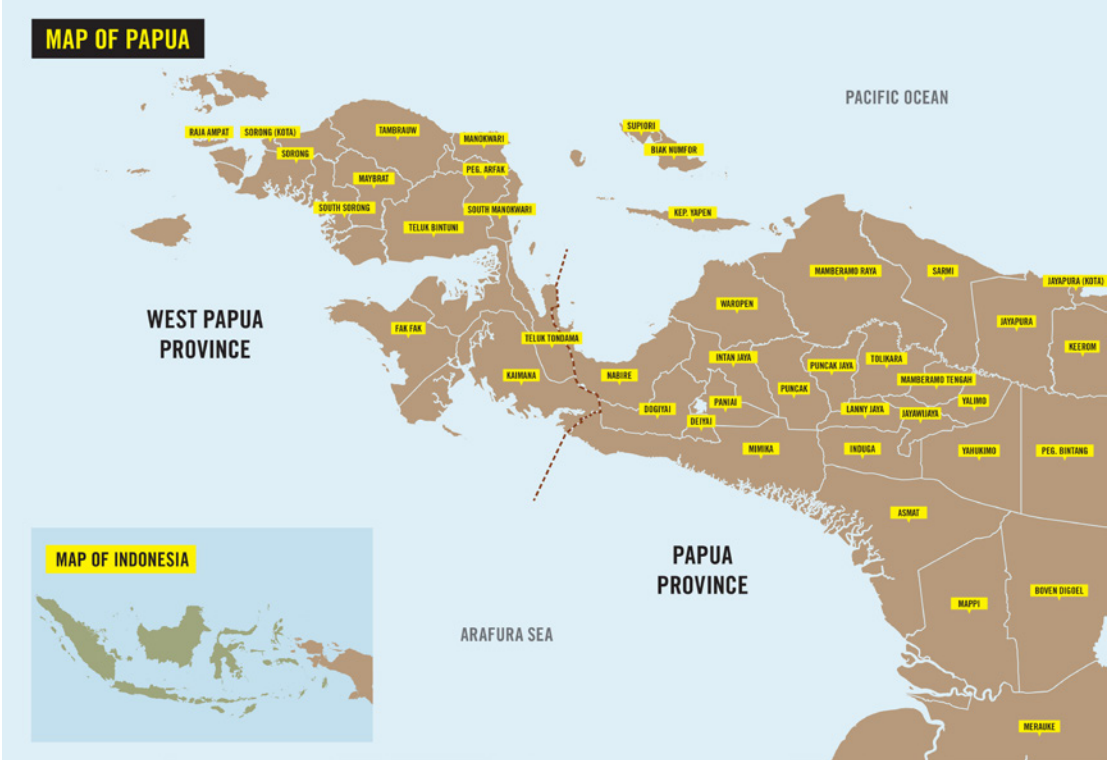
16. See footnote No. 1.

17. See footnote No. 2.

18. See Budi Asyhari-Afwan, Mutiara Terpendam Papua: Potensi Kearifan Lokal untuk Perdamaian di Tanah Papua [The Hidden Pearl of Papua: The Potential of Local Wisdom for Peace Building in Papua], January 2015, pp. 66-67.

The unlawful killings by the security forces happened in 27 of 42 Districts in Papua and West Papua province. The highest number of unlawful killings occurred in the city of Jayapura with nine cases resulted in 15 deaths. Amnesty International also recorded that majority of the victims, 31 of them, were young people aged between 21-30, followed by people aged under 21 and more than 30 years old, each share the same number of 21 victims, and there are 22 victims that their age could not be identified. Most of the victims, 88 of them are male, and 7 of them are female.

# THE REGION OF PAPUA




*Map of Papua (consisted of Papua and West Province) with its corresponding and districts. Source: Mata Papua, INA Geoportal*

The term Papua (or West Papua, though that term carries a pro-independence meaning) is often used to refer to the western half of the island of New Guinea. Complicating things further, in 2003 the region was split into the two provinces of West Papua and Papua, with the latter bordering Papua New Guinea.[19] The indigenous population is Melanesian, and majority Christian, which is a minority religion in a country with the largest Muslim population in the world.[20] While rich in timber, gold, copper, natural gas, and other natural resources,[21] the region also has the highest rate of people living under the poverty line[22]

19. The partition of Papua into two provinces was seen by many Papuans as a violation of the Law No. 21 of 2001 on Papua Special Autonomy, which states that any division of the Papua region requires approval by the Papuan People's Council (Majelis Rakyat Papua) and the Papuan provincial parliament (Dewan Perwakilan Rakyat Daerah). See International Crisis Group (ICG), Dividing Papua: How Not To Do It, 9 April 2003, p. 1, available at https://www.crisisgroup.org/asia/south-east-asia/indonesia/dividing-papua-how-not-do-it.

20. Christians (Catholics and Protestants) in Papua and West Papua make up 85% and 67% of the total population respectively. Although Papua only hosts 1.7% of the total population of Indonesia, it constitutes almost a quarter of its land territory. See Biro Pusat Statistik (BPS) [Central Statistics Bureau], Provinsi Papua Dalam Angka (Papua Province in Figures) 2016, pp. 197-198, available at http://papua.bps.go.id/index.php/publikasi/100 and Provinsi Papua Barat Dalam Angka (West Papua Province in Figures) 2016 pp. 59-76, available at http://irjabar.bps.go.id/index.php/publikasi/146.

21. Richard Chauvel and Ikrar Nusa Bhakti, The Papua Conflict, footnote No. 4, p. 3. Jim Elmslie, The Great Divide: West Papuan Demographics Revisited; Settlers Dominate Coastal Regions, Highlands Still Overwhelmingly Papuan, the Asia Pacific Journal Volume 15, Issue 2, Number 1, 15 January 2017, p. 2, available at http://apjjf.org/-Jim-Elmslie/5005/article.pdf. The per capita Gross Domestic Regional Product for Papua and West Papua Provinces in 2010 was US$3,509, far above the national average GDP of US$2,500. Bobby Anderson, Papua's Insecurity: State Failure in the Indonesian Periphery, East-West Center, 2015, pp. 39, available at http://www.eastwestcenter.org/publications/papuas-insecurity-state-failure-in-the-indonesian-periphery.



↑ *A mother carry by her chld in Yahukimo District, Papua. © Tempo/KontraS*

and the lowest Human Development Index[23] measurements in Indonesia.

Papua is now the only region in Indonesia that has both peaceful and armed independence movements. The Indonesian Institute of Sciences (Lembaga Ilmu Pengetahuan Indonesia, LIPI), a state research institution that carried out extensive research in Papua,[24] identified sources of conflict in Papua that include: different interpretations of the history of Papua's integration into Indonesia; state violence, ongoing human rights violations and impunity for past serious violations; the lack of development in the region; and the marginalisation and discrimination of indigenous Papuans.[25]

A key source of conflict has been Indonesia's transmigration program, whereby migrants from other areas of the country were paid by the government to move to less populated areas such as Papua. Launched in 1963 and stopped in 2000,[26] transmigration is seen by many indigenous Papuans as a demographic invasion, taking away employment opportunities and marginalising them in their own land.[27] The percentage of indigenous Papuans has decreased significantly compared to the non-ethnic Papuan population.[28] The non-ethnic Papuan constituted only 2% of the population in 1959 and 4% in 1971, but increased significantly to become 35% in 2000, when it was still one province. In 2010 the Central Statistics Bureau estimated that the non-ethnic Papuan population made up 23.8% of the 2.83 million residents of Papua Province and 47.7% of the total population of 760 thousand of West Papua Province,[29] but some researchers estimate an even higher percentage.[30]

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22. In Papua and West Papua Provinces 28.4% and 24.9% people respectively live below the poverty line, compared to a national rate of 10.7%. See BPS, Profil Kemiskinan di Indonesia September 2016 [Poverty Profile in Indonesia as of September 2016], No. 05/01/Th. XX, 3 January 2017, p.8, available at https://www.bps.go.id/website/brs_ind/brsInd-20170116093952.pdf.

23. BPS, Indeks Pembangunan Manusia Menurut Province 2010-2016 (Metode Baru) [Human Development Index by Province 2010-2016 (New Method)], available at https://www.bps.go.id/linkTableDinamis/view/id/1211.

24. The initiative carried out research in between 2004 and 2008 to create policy road maps for the central government and dialogues between the central government and stakeholders in Papua. Although LIPI is a state agency, recommendations were not necessarily accepted and implemented by the government. Interview with Adriana Elisabeth, Head of the Center of Political Studies and Papua Study Team of LIPI, 24 August 2016. LIPI updated the research between 2015 and 2016. LIPI, Updating Papua Road Map: Proses Perdamaian, Politik Kaum Muda, dan Diaspora Papua [Peace Process, the Politics of Youth and the Papuan Diaspora], August 2017, Yayasan Obor Indonesia.

25. LIPI, Papua Road Map: Negotiating the Past, Improving the Present and Securing the Future (Bahasa Indonesian version), Jakarta, 2009, Yayasan Obor, footnote No. 24, pp. 6-7. LIPI describes the conflict as a result of a political atmosphere dominated by two antagonistic and immutable positions between Indonesian nationalists who uphold the idea of "the absolutism of the unitary state of Indonesia (NKRI harga mati)" and Papuan nationalists who promote "Free Papua (Papua Merdeka)". LIPI, Papua Road Map, pp. 35-37.See also ICG, Radicalisation and Dialogue in Papua, Jakarta/Brussels, 11 March 2010, pp. 24-25, available at https://www.crisisgroup.org/asia/south-east-asia/indonesia/radicalisation-and-dialogue-papua, and Bobby Anderson, Papua's Insecurity, footnote No. 21, p. 48, 49. These figures accompany the highest rate per capita of people below the poverty line.

26. Initially run by the Dutch colonial government to expand the workforce in certain areas, during the New Order era the purpose was also to decrease population density on Java. Amnesty International found that palm oil plantations in North Sumatra and Central Kalimantan provinces rely heavily on internal migrant workers. See Amnesty International, The Great Palm Oil Scandal: Labour Abuses Behind Big Brand Names, 30 November 2016, pp. 20, 21 (Index: ASA 21/5184/2016).

27. Richard Chauvel, Constructing Papuan Nationalism, footnote No. 33, p. 4, LIPI, Papua Road Map, footnote No. 24, p. 17; and Bobby Anderson, Papua's Insecurity, footnote No. 21, pp. 37–40, Julius Ary Mollet, The Dynamics of Contemporary Local-government Policies and Economic Development in West Papua, Development in Practice, 21:2, April 2011, p. 35, available at http://dx.doi.org/10.1080/09614524.2011.543273.

28. In 2000 President Abdurrahman Wahid stopped the transmigration program, but private and spontaneous migrants continue to come to Papua, particularly in the big coastal cities. ICG, Papua: Answers to Frequently Asked Questions, Jakarta/Brussel, 5 September 2006, p. 9, available at https://www.crisisgroup.org/asia/south-east-asia/indonesia/papua-answers-frequently-asked-questions.



*Aerial view showing condition of the area in Tanjung Barat, Biak Numfor District. © Tempo/KontraS*

# A CONTENTIOUS HISTORY

Papua became a Dutch colony in 1884 and was administered as part of the Netherlands East Indies. While the Dutch government recognised the independence of Indonesia in 1949, Papua remained a colony until 1962, despite Indonesian claims to it.[31] Indonesia declared Papua an integral part of the country in its proclamation of independence on 17 August 1945, arguing that Indonesia covered all parts of the former Netherlands Indies.[32] Faced with pressure from Indonesia[33] and many of its own allies, the Netherlands ceded control of the territory to the United Nations under the terms of the New York Agreement in August 1962.[34] In May 1963, de facto control was transferred to Indonesia, pending a referendum to determine the political status of the territory to be held by 1969.[35]

In 1969 the Indonesian authorities conducted a referendum called the Act of Free Choice (Penentuan Pendapat Rakyat, PEPERA) under UN supervision. Despite the UN and many states expressing

29. BPS (Central Statistics Bureau), Hasil Sensus Penduduk 2010 [2010 Population Census Result]; Kewarganegraan, Suku Bangsa, Agama, dan Bahasa Sehari-hari Penduduk Indonesia [Citizenship, Ethnicity, Religion and Daily Language of the Indonesian Population], October 2011, pp. 29 and 41.

30. Jim Elmslie, West Papuan Demographic Transition and the 2010 Indonesian Census: "Slow Motion Genocide" or not?, CPACS Working Paper No. 11/1, September 2010, available at http://sydney.edu.au/arts/peace_conflict/publications/West%20Papuan%20Demographics%20in%202010%20Census.pdf and Jim Elmslie, The Great Divide, footnote No. 21.

31. UN Security Forces (UNSF) in West New Guinea, Historical Background, available at http://www.un.org/en/peacekeeping/missions/past/unsfbackgr.html. UNSF Was set up in October 1962 to maintain peace and security in West Papua under the UN Temporary Executive Authority (UNTEA) which was established by agreement between Indonesia and the Netherlands.

32. This call was led by Sukarno, the Indonesia's first president, and unanimously supported by major political parties and leaders. See Richard Chauvel and Ikrar Nusa Bhakti, The Papua Conflict, footnote No. 4, p. 3.

33. On 19 December 1961 the President Sukarno delivered the Trikora (Three People's Commands) speech pledging that Indonesia would liberate the Dutch puppet state of Papua. See Richard Chauvel, Constructing Papuan Nationalism: History, Ethnicity, and Adaptation, East-West Center, Washington, 2005, p. 15, available at http://www.eastwestcenter.org/publications/constructing-papuan-nationalism-history-ethnicity-and-adaptation. In January 1962, Sukarno appointed Major General Soeharto to head a joint military operation (Komando Mandala). Soeharto took power in 1965 before officially becoming president in 1967.

34. See UN Peacemaker, Agreement between the Republic of Indonesia and the Kingdom of the Netherlands Concerning West New Guinea (New York Agreement), available at http://peacemaker.un.org/indonesianetherlands-westguinea62. See also Politics of Papua Project at the University of Warwick, Assessment Report on the Conflict in the West Papua Region of Indonesia: An Overview of the Issues and Recommendations for the UK and the International Community, April 2016, p. 12, available at http://www2.warwick.ac.uk/fac/soc/pais/research/researchcentres/ierg/westpapua/papua_assessment_report_final_uk_pdf.pdf.

35. Articles XII, XIII, XV, XVIII and XX of the New York Agreement.

reservations about the nature of the plebiscite, the UN General Assembly accepted Papua's integration into Indonesia on 19 November 1969.[36] Amnesty International takes no position whatsoever on the political status of any province of Indonesia, including calls for independence. Amnesty International's work is limited to human rights issues, and the organization documents human rights violations whatever the political context in which they are committed.

During the New Order era (1965-1998) under President Soeharto, security forces carried out widespread human rights violations in Papua and elsewhere in the country with almost complete impunity, including unlawful killings, torture, enforced disappearances, arbitrary detentions and sexual violence to crush both the armed and peaceful pro-independence movements.[37]

While there are no precise numbers on unlawful killings by security forces in Papua during the New Order era,[38] Komnas HAM has estimated that between 1963 and 1998 around 10,000 people were unlawfully killed in military operations there.[39] These killings took place not only during supposed counter-insurgency operations, but also in response to other perceived threats to national security, such as peaceful political protests.[40]

# PAPUA SINCE 1998: THE REFORMASI PERIOD

Since the fall of the Soeharto government in 1998, Indonesia has undergone many institutional and legislative reforms.[41] Post-Soeharto governments have also officially recognised the long history of human rights violations by security forces in Aceh and Papua and authorised special autonomy arrangements for both.[42]

The 1998 reforms (Reformasi) opened the way for greater respect for human rights, including to freedom of expression and peaceful assembly across Indonesia. The authorities repealed laws used to silence critics and removed restrictions on the media, political parties and labour unions.[43] Indonesia enshrined guarantees of freedom of expression and peaceful assembly in its constitution and legislation,[44] including

36. The UN General Assemby Resolution 2504 (XXIV) on the Agreement between the Republic of Indonesia and Kingdom of the Netherlands concerning West New Guinea (West Irian), 19 November 1969, available at https://documents-dds-ny.un.org/doc/RESOLUTION/GEN/NR0/256/38/IMG/NR025638.pdf?OpenElement, accessed on 26 February 2018. See footnote No. 34, p. 15.

37. Richard Chauvel and Ikrar Nusa Bhakti, The Papua Conflict, footnote No. 4, p. 24, International Centre for Transitional Justice (ICTJ) and ELSHAM Papua, The Past That Has Not Passed, June 2012, p. 18-21. Amnesty International's publications: Continuing Human Rights Violations in Irian Jaya, April 1991, (Index: ASA 21/06/91); Power and Impunity: Human rights under the New Order, September 1994, (Index: ASA 21/17/94); Irian Jaya: National Commission on Human Rights confirms violations, September 1995, (Index: ASA 21/47/95); Full Justice? – Military trials in Irian Jaya, March 1996, (Index: ASA 21/17/96); Amnesty International and Human Rights Watch, Indonesia and East Timor Prisoner Lists, 4 June 1998, (Index: ASA 21/058/98).

38. Some reports incorrectly quote Amnesty International as estimating that some 100,000 Papuans were killed by Indonesian security forces in the 50 years since 1963. Amnesty International has never published a total death toll from security operations in Papua.

39. Komnas HAM's Papua Military Zone Assessment Team, Gross Violation of Human Rights in Papua 1963 - 1998, p. 180 & 181.

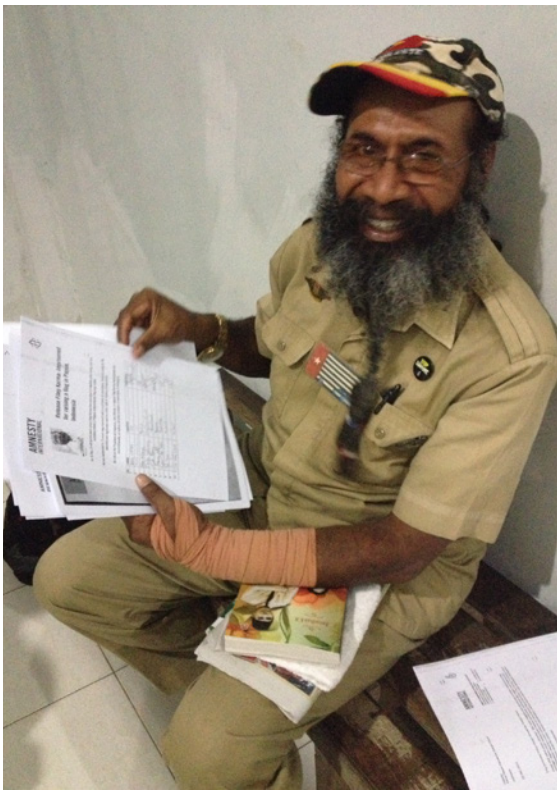
40. Amnesty International, Power and Impunity, footnote No. 37, p. 49.

41. The political reform period (reformasi) which began in 1998 gradually changed almost all important aspects of Indonesia's legal and political system. These changes included amending the constitution to incorporate international human rights law and standards; ratification or accession of many core international human rights treaties; reforming the security sector; decentralising regional governance; and establishing a legal framework that guarantees media freedom.

42. Article IV.G.2 of TAP MPR [Decree of the People Consultative Assembly] No. IV/1999 on the State's Orientation Policies for 1999-2004 [Garis-Garis Besar Haluan Negara or GBHN], 19 October 1999.

43. In 1999 the Indonesian authorities repealed the Anti-Subversion Law, which had been widely used to imprison prisoners of conscience, including the Papuan activists. In December 2006 Indonesia's Constitutional Court declared unconstitutional the use of Articles 134, 136 and 137 of Indonesia's Criminal Code, which criminalized "insulting the President or Vice-President" with up to six years' imprisonment. In July 2007, the Constitutional Court declared unconstitutional the so-called "hate-sowing articles" (Articles 154 and 155) of the Criminal Code, which criminalized "public expression of feelings of hostility, hatred or contempt toward the government" and "the expression of such feelings or views through the public media".

44. Article 28E(2) of Indonesia's 1945 Constitution (Second Amendment in 2000) provides that "[e]very person shall have the right to the freedom … to express his/her views and thoughts, in accordance with his/her conscience" and Article 28E(3) that "Every person shall have the right to the freedom to associate, to assemble and to express opinions." Law No. 39/1999 on Human Rights provides that "[e]very citizen has the right to express his opinion in public" (Article 25) and "[e]veryone has the right to peaceful assembly and association" (Article 24.1).



*Filep Karma with petitions signed by Amnesty International activists calling for his release. © Amnesty International*

Law No. 9 of 1998 on Freedom of Expression in Public, which recognised freedom of peaceful assembly as a right that is not subject to prior approval.[45]

These national changes affected the situation in Papua. Activists and residents could now stage a mass protest against the government or a private company. When pro-independence activists used the momentum to consolidate their political movement and reenergise the call for independence, they were met by repressive measures by the security forces.[46] One of the most well-known protests took place just a few months after the fall the Soeharto regime, when the prominent activist Filep Karma led a ceremony to raise the Morning Star, the banned Papuan flag, on a small water tower near the port of Biak on 2 July 1998. The flag was kept aloft for several days, guarded day and night by local people, until on 6 July a joint Brimob (Mobile Brigade, a paramilitary police unit) and military forces opened fire on around 200 people guarding the flag.[47] According to Komnas HAM, at least 40 people were killed unlawfully.[48]

Facing growing demands from Papuans to review the region's political status, in November 2001 the House of Representatives (Dewan Perwakilan Rakyat or DPR) passed Law No. 21 of 2001 on Special Autonomy for Papua Province.[49] The law handed more powers to local government to manage its own affairs and increased its allocation of tax revenue, although control over foreign affairs, security, defence and the judiciary remained with the central government.[50]

Successive governments have pledged to bring economic growth to Papua and end human rights violations by security forces. However, they have shown an uncompromising stance towards independence movements, whether peaceful or armed, and have limited access to Papua by international human rights observers. Post-Soeharto governments have also shown little tolerance for freedom of expression in Papua, fearing it could lead to greater calls for independence and, eventually, the disintegration of the country.[51]

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45. Articles 5, 11, 12 and 13 of Law No. 9 of 1998.

46. Amnesty International, Impunity persists in Papua as militia groups take root, September 2000, p. 2-15, (Index: ASA 21/34/00). This "Papuan Spring" started in mid-1998 and lasted more than two years. Richard Chauvel, Constructing Papuan Nationalism, footnote No. 33, p. 10.

47. Amnesty International, Impunity persists in Papua as militia groups take root, footnote No. 46, p. 13.

48. Komnas HAM's Papua Military Zone Assessment Team, Gross Violation of Human Rights in Papua 1963 – 1998, footnote No. 39, p. 177 & 178.

49. The drafting of the Special Autonomy Law involved not only the Papuan members of parliament both at the national and provincial level, but also many Papuan academics, church leaders and political activists. See LIPI, Papua Road Map, footnote No. 24, p. 29 & 30. Since the 2003 split into two provinces, the Special Autonomy Law has applied to both Papua and West Papua Provinces.

50. Articles 33-37 of the Law No. 21 of 2001.

51. Richard Chauvel and Ikrar Nusa Bhakti, The Papua Conflict, footnote No. 4, p. 25. The government has also applied tough measures against Malukan independence activists, and those who possess or raise the pro-independence flag of Maluku. Amnesty International continues to document the arrest and detention of peaceful political Malukan activists, although there is no active armed pro-independence movement. See Amnesty International, Indonesia: Jailed for Waiving a Flag; Prisoners of Conscience in Maluku, 26 March 2009 (Index: ASA 21/008/2009).

# PAPUA HISTORICAL TIMELINE 1945 - 2015

## 1945

On 17 August, **Indonesia declared its independence from the Japanese occupation**. However, the Dutch Government, who was in power in Indonesia before the Japanese occupation, did not recognize the independence of Indonesia.



## 1949

**On 27 December, the Dutch Government formally acknowledged the independence of Indonesia.** However, Papua remained a Dutch colony until 1962, although Indonesia Government claimed that Papua should had been also part of Indonesia.

## 1962-1963



**The Dutch Government ceded control of Papua territory** to the United Nations (UN) under the "New York Agreement" in August 1962. On 1 May 1963, the UN transferred de facto authority to the Indonesian Government with the provision that a referendum to determine the future political status of the territory should be held by 1969.

## 1969

**In July and August, the Indonesian authorities conducted a referendum through a so-called "Act of Free Choice" (known in Indonesian as PEPERA) under UN supervision to determine the political status of Papua.** Subsequently, Papua officially became the Indonesian Province of Irian Jaya following the referendum.



## 2000

**On 1 January, the fourth president of Indonesia, Abdurrahman Wahid, changed the official name of the region from Irian Jaya to Papua.** He also allowed the flag raising of the Morning Star (Bintang Kejora) although it has to be placed under the national flag.

## 1998-1999

**On 21 May 1998, the second president of Indonesia, Suharto stepped down after 32 years in power.**

### HUMAN RIGHTS VIOLATION 1998-1999

On 6 July 1998, a peaceful flag raising ceremony near a harbour in Biak Island, Papua Province was dispersed by joint operation of security forces. According to the National Human Rights Commission (Komnas HAM), at least 40 people were killed unlawfully after the security forces opened fire to the crowd.

Many of those detained were subjected to ill-treatment, including being beaten, forced to drink drain water and forced to stand in the sun for several hours. Nineteen people were charged, tried and sentenced under Article 106 (known as makar or rebellion) of the Criminal Code.

## 2001

**On 23 July, Abdurrahman Wahid was replaced by President Soekarno — as the President by the Indones RI) through an impeachment vote.**

National Parliament of Indonesia (DPR RI) passed La for the Papua Province. The Law provides more auto manage its own affairs and increased its allocation foreign affairs, defence issues and the judiciary rema

### HUMAN RIGHTS VIOLATION 2001

Police Mobile Brigade (Brigade Mobil, Brimob) ca Manokwari Regency, Papua Province from April over 140 people were detained, tortured or oth custody because of torture while at least sev extra-judicially executed.

Theys Hiyo Eluay, a leading independence activist the Special Army Forces (Kopassus) in the Papua His body was found the following morning in K Guinea. In April 2003, a military court in Suraba Kopassus' members for murder and sentenced the and a half years. In September 2016, one of the Chief of Military Forces as the Chief of the Military

INDONESIA AMNESTY INTERNATIONAL

## MAN RIGHTS VIOLATION 2004

eptember, Komnas HAM submitted inquiry reports to the Attorney General's office indicating it had found initial evidence that suggested that security forces had committed crimes nst humanity, including acts of torture in two separate incidents in Papua, in Wasior in June 1 and Wamena in 2003.

## 03

**mber, the West Irian Province (later named West Papua Province) was officially initiated cted its first governor based on Law No. 45/1999 on the Formation of West Irian Province.** ulation divided Papua into two provinces: West Papua and Papua.

## MAN RIGHTS VIOLATION 2003

pril, responding to earlier raid to a military post by suspected armed pro-independence p, members of military force carried out a series of raids on villages in Wamena during h, according to Komnas HAM, nine civilians were killed, 38 tortured, 15 arbitrarily sted and thousands displaced from their villages to refugee camps where 42 people from exhaustion and hunger.

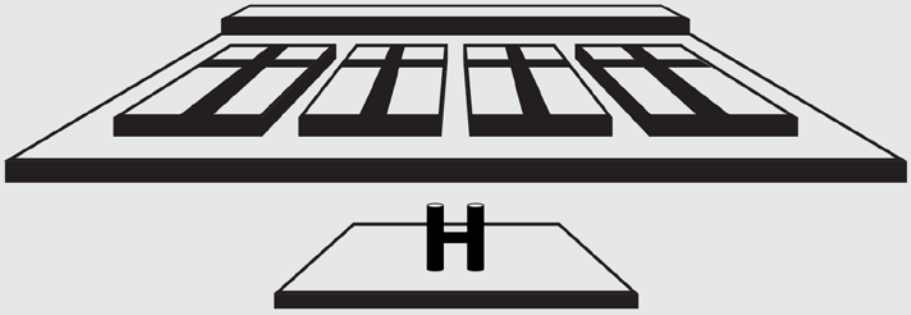
## 2015



**In May, President Widodo lifted restrictions on foreign journalists applying for permission to visit Papua, although this has yet to be fully implemented.** Also in the same month, the President granted clemency to five political activists in Papua province and pledged to grant clemency or an amnesty to other imprisoned political activists. In November, prisoner of conscience Filep Karma was released after spending more than a decade in prison for his peaceful political expression and activities.

## 2014

**On 20 October, Joko Widodo took office after promised during his presidential campaign to improve respect for human rights.**



## HUMAN RIGHTS VIOLATION 2014

On 8 December, Indonesian security forces, both police and military, opened fire on hundreds of Papuan protesters who had gathered near the headquarters of the local military and police in Enarotali, Paniai regency, Papua Province. The demonstration was a response to military personnel allegedly beating 11 Papuan youths the day before.

On 27 December 2014, President Joko Widodo publicly committed to bring those responsible for the killings to justice, while attending a Christmas ceremony in Jayapura, the capital of Papua Province.

**Megawati Sukarnoputri — daughter of ian People's Consultative Assembly (MPR**

w No. 21 of 2001 on Special Autonomy nomy to the local Papuan government to n of tax revenue, although control over ins with the central government.

rried out a security operation in Wasior, to October. According to Komnas HAM, herwise ill-treated. One person died in en people are believed to have been

in Papua was murdered by members of an capital of Jayapura on 10 November. oya, close to the border of Papua New aya, East Java Province convicted seven em to prison between two and three and convicted persons was appointed by the y Strategic Intelligence Body (KaBAIS).

President Joko "Jokowi" Widodo has made some progress on the human rights situation in Papua. His focus on building new roads and markets and increasing access to education in Papua is also seen by some observers as an attempt to lessen the grievances that fuel the independence movement.[52] Indonesian officials told Amnesty International that President Jokowi prioritises a welfare approach over a security approach, and would also address some past human rights violations in Papua such as the 2001 Wasior case and the 2003 Wamena case.[53] In May 2015, the president lifted restrictions on foreign journalists visiting Papua, although in practice they still need to get a special permit and are under constant surveillance.[54]

In May 2015 the President granted clemency to five Papuan political activists and pledged to grant clemency or an amnesty to others. In November 2015, prisoner of conscience Filep Karma was released after more than a decade in prison for his peaceful political expression and activities. Indonesian authorities[55] set up a team of government officials, legal experts, National Human Rights Commissioners, and Papuan activists to address human rights violations in Papua.[56] The team examined 64 cases and identified 12 cases of human rights violations, recommending the government address them.[57]

During the Universal Periodic Review at the UN Human Rights Council in May 2017, the Indonesian Minister for Foreign Affairs promised that the Attorney General would finalize a criminal investigation into alleged gross human rights violations in Wasior and Wamena,[58] and forward the case to the Human Rights Court. However, this has not happened, and there has been little overall progress towards accountability for past human rights violations.

52. IPAC, Policy Miscalculation on Papua, 31 October 2017, p.1 http://understandingconflict.org/en/conflict/read/63/POLICY-MISCALCULATIONS-ON-PAPUA.

53. Presentation of Indonesian delegation led by Major General Yoedhi Swastono, then Deputy for Domestic Politics of the Coordinating Minister of Politics, Law and Security, to Amnesty International's Indonesia Team at its International Secretariat in London, 25 November 2015.

54. Amnesty International, Submission to the UN Universal Periodic Review; Third Cycle, It's not Good Enough, p. 11, September 2016 (Index: ASA 21/5345/2016).

55. The Coordinating Ministry for Politics, Law and Security coordinates a number of Ministries and Government Bodies, including Ministry of Home Affairs, Foreign Affairs, Religious Affairs, Defence, the National Military Forces, the National Police Forces and Attorney General.

56. The Decree of Coordinating Minister of Politics, Law and Security No. 40 of 2016, on file with Amnesty International.

57. It is not clear how the team determined which case constituted human rights violations. See the Coordinating Ministry of Politics, Law and Human Rights, Press Release, Penanganan Dugaan Pelanggaran HAM di Provinsi Papua dan Papua Barat [Handling of Allegations of Human Rights Violations in Papua and West Papua Provinces in 2016], 30 January 2017, on file with Amnesty International.

58. In its report Indonesia: Grave human rights violations in Wasior, Papua (Index: ASA 21/032/2002), Amnesty International provided a summary of human rights violations, including extrajudicial executions, torture and arbitrary detentions, during a Brimob operation in Wasior subdistrict from April to October 2001. Over 140 people were estimated to have been detained, tortured or otherwise ill-treated. One person died in custody as a result of torture and at least seven are believed to have been extra-judicially executed. Twenty-seven were imprisoned after unfair trials, while hundreds of villagers were internally displaced by operations that destroyed dozens of houses.



A policeman stands guard as Papuans walk to block the road to the airport in Timika. © REUTERS/Muhammad Yamin

# 3. INDONESIA'S OBLIGATION UNDER INTERNATIONAL HUMAN RIGHTS LAW AND IN NATIONAL LEGISLATION

> ***"Every member of the Indonesian National Police must understand human rights instruments, whether stipulated by Indonesian law or international instruments, and whether they have already been ratified or not yet ratified by Indonesia."***
>
> Article 8(1) of Regulation No. 8 of 2009 by the Chief of the Indonesian National Police on the Implementation of Human Rights Principles and Standards in the Discharge of Duties of the Indonesian National Police

# UNLAWFUL KILLINGS AND THE RIGHT TO LIFE

Unlawful killings carried out by order of a government or with its complicity or acquiescence violate the right to life, a key human right protected both by international human rights law and Indonesia's Constitution.

Indonesia has ratified several international human rights treaties that protect the right to life, chief among them being the International Covenant on Civil and Political Rights (ICCPR, which Indonesia acceded to in February 2006. Article 6(1) states: "Every human being has the inherent right to life. No one shall be arbitrarily deprived of his life."

This right is a peremptory norm of international law and can never be suspended or otherwise derogated from, even "in time of public emergency which threatens the life of the nation" (Article 4).[59] In addition, the right to life is recognized as a rule of customary international law binding on all nations.[60]

Under Article 2(3) of the ICCPR, states must "ensure that any person whose rights or freedoms as herein recognized are violated shall have an effective remedy, notwithstanding that the violation has been committed by persons acting in an official capacity" and that "any person claiming such a remedy shall have his right thereto determined by competent judicial, administrative or legislative authorities". The UN Human Rights Committee, the expert UN body mandated under the ICCPR to oversee its implementation, has explained, in its authoritative General Comment on this Article, that obligations include "the general obligation to investigate allegations of violations promptly, thoroughly and effectively through independent and impartial bodies." The Committee adds that where investigations reveal violations of certain rights in the Covenant, States Parties must ensure that those responsible are brought to justice and make reparation to the victims.[61]

Unlawful deliberate killings carried out by order of government officials or with their complicity or acquiescence are prohibited at all times and constitute crimes under international law that states must prevent, investigate, prosecute and ensure reparations to victims.[62]

In addition to the broad provisions of general human rights treaties like the ICCPR, the UN and other intergovernmental organizations have developed comprehensive standards on extrajudicial executions, including the UN Principles on the Effective Prevention and Investigation of Extra-legal, Summary and Arbitrary Executions[63] and its 2016 revision, the Minnesota Protocol on the Investigation of Potentially Unlawful Death.[64] These standards require the prevention and investigation of extrajudicial executions and the prosecution of perpetrators.

The failure to investigate such allegations, to identify, bring to justice and punish the perpetrators, and to grant compensation to victims or their families is a separate violation of human rights.[65]

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59. See for instance Human Rights Committee, General Comment 24: Issues relating to reservations made upon ratification or accession to the Covenant or the Optional Protocols thereto, or in relation to declarations under article 41 of the Covenant, UN doc. CCPR/C/21/Rev.1/Add.6 (1994), para. 10; General Comment 29: States of emergency (article 4), UN Doc. CCPR/C/21/Rev.1/Add.11 (2001), para. 11; Theodor Meron, "On a Hierarchy of International Human Rights," 80(1) American Journal of International Law 1 (1986), p. 11; Jaime Oraá, States of Emergency under International Law (Oxford: Clarendon Press, 1992), p. 96.

60. Footnote No. 59.

61. Human Rights Committee, General Comment No. 31 on Article 2 of the Covenant: The Nature of the General Legal Obligation Imposed on States Parties to the Covenant, UN Doc. CCPR/C/74/CRP.4/Rev.6, 21 April 2004, paras. 15, 18 and 16, respectively.

62. See UN Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions, Principle 1.

63. This instrument was adopted by the UN Economic and Social Council in resolution 1989/65 of 24 May 1989 and endorsed by the UN General Assembly in its resolution 44/62 of 15 December 1989. See http://www.ohchr.org/Documents/ProfessionalInterest/executions.pdf.

64. Available at http://www.ohchr.org/Documents/Issues/Executions/MinnesotaProtocolInvestigationPotentiallyUnlawfulDeath2016.pdf.

65. Human Rights Committee, General Comment No. 31 on the Nature of the General Legal Obligation Imposed on States Parties to the Covenant, 26 May 2004, UN Doc. CCPR/C/21/Rev.1/Add. 13, para 18.

The right to life is recognised in the Constitution of Indonesia and in Law No. 39 of 1999 on Human Rights. Article 28A of the Constitution provides that "every person shall have the right to live and to defend his/her life and living" and Article 28I(1) states: "the rights to life, freedom from torture, freedom of thought and conscience, freedom of religion, freedom from enslavement, recognition as a person before the law, and the right not to be tried under a law with retrospective effect are all human rights that cannot be limited under any circumstances." Article 9 of Law No. 39 of 1999 on Human Rights also states: "Everyone has the right to life, to sustain life, and to improve his or her standard of living."

# OBLIGATIONS OF LAW ENFORCEMENT OFFICIALS UNDER HUMAN RIGHTS LAW

Amnesty International acknowledges the right of law enforcement officers to defend themselves and their duty to protect the safety of the public. This role should, however, be carried out in a way that ensures full respect for the right to life, liberty and security of all persons, including those suspected of crimes. The use of force is subject to strict human rights safeguards as set out in instruments such as the UN Code of Conduct for Law Enforcement Officials (1979)[66] and the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials (1990).[67] These two instruments apply to any law enforcement personnel, including military personnel, who exercise police powers, especially the power of arrest and detention.[68] They have become key references and guides for the human rights compliant use of force and firearms by law enforcement officials,[69] including off-duty police officers in many instances.

Under the Basic Principles and the Code of Conduct, security forces may use force only when strictly necessary and to the extent required for the performance of their duty. Basic Principle 9, which reflects the international law obligation to respect and protect the right to life, expressly stipulates that they must not use lethal force unless it is strictly necessary to defend themselves or others against the imminent threat of death or serious injury or to prevent a grave threat to life. Intentional lethal force must not be used except when strictly unavoidable to protect life. Firearms must never be used to disperse an assembly and indiscriminate firing into a crowd is always unlawful. The primary aim of any use of firearms must be to save life.[70]

Law enforcement officials face a variety of situations, requiring different responses based on the circumstances, threat assessment, skills, equipment available, etc. There is an inherent necessity for personal discretion to decide on an appropriate response.[71] However, such discretion must be exercised within a clear legal framework, particularly when it comes to the use of force.[72] Force must

66. This instrument was prepared by experts from the area of law enforcement, including police officials, and was finally adopted by the Eighth UN Congress on the Prevention of Crime and the Treatment of Offenders in Havana, Cuba (27 August to 7 September 1990). The UN General Assembly welcomed the Basic Principles in its resolution 45/121 of 14 December 1990.

67. Adopted by UN General Assembly resolution 34/169 (1979), available at http://ohchr.org/EN/ProfessionalInterest/Pages/LawEnforcementOfficials.aspx.

68. See the commentary to article 1 of the UN Code of Conduct for Law Enforcements Officials.

69. Report of the UN Special Rapporteur on extrajudicial executions, UN Doc. A/HRC/26/36 (2014), para. 44, available at http://ap.ohchr.org/documents/mainec.aspx.

70. Report of the Special Rapporteur on extrajudicial executions, footnote No. XX, para. 72. Amnesty International, Use of Force: Guidelines for Implementation of the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, footnote No. 72, p. 53.

71. The personal discretion of individual officers when carrying out law enforcement duties does not exempt the command leadership from ensuring and exercising proper command and control.

72. Amnesty International has developed guidelines on principles of the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials. These guidelines – Use of Force: Guidelines for Implementation of the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials – provide a comprehensive overview of the considerations national authorities should take into account when developing a framework on the use of force and firearms. The guidelines are available at https://www.amnesty.org.uk/files/use_of_force.pdf.

only be resorted to with the utmost respect for the law and with due consideration for the serious impact it can have on a range of human rights.

The use of force must generally be governed by a set of four principles:[73]

- ***Legality:*** The use of force must serve a legitimate objective as established by domestic legislation that is in line with international human rights law and standards.[74]
- ***Necessity***: Force may only be used when no other means are likely to achieve the legitimate objective, at the outset or after having exhausted all other available non-violent means.[75]
- ***Proportionality***: Force is prohibited where the harm inflicted outweighs the benefits of the use of force, that is, the achievement of a legitimate objective.[76] Law enforcement officials may only put life at risk for the purpose of saving or protecting another life.[77] The principles of legality, necessity and proportionality must apply cumulatively.
- ***Accountability***: An effective system should include a mechanism to hold accountable those who violate the law, including violations of human rights, and to provide for redress and compensation for victims.[78]

# NATIONAL REGULATIONS

These principles are substantially adopted into internal regulations by the Indonesian National Police, the institution primarily responsible for public order and law enforcement:

- Article 47 of Regulation No. 8 of 2009 of the Chief of the Indonesian National Police on the Implementation of Human Rights Principles and Standards in the Discharge of Duties of the Indonesian National Police states: "the use of firearms shall be allowed only if strictly necessary to preserve human life."
- Article 3 of Regulation No. 1 of 2009 of the Chief of the Indonesian National Police on the Use of Force in Police Action provides that the use of force in general must be governed by the principles of legality, necessity, proportionality, reasonableness and prioritising preventive action.
- Article 13(1) of Regulation No. 1 of 2009 states: "Every member of the police force shall be responsible individually for the use of force in his/her police action during their policing duty."
- Article 13(4) of Regulation No. 1 of 2009 states: "The commander who gives a police officer an order to use force in a police action during a police operation shall be held accountable for the risks/results of the force used, when the ordered police officer does not deviate from the given instructions."
- Article 14(3) of Regulation No. 1 of 2009 requires "any members of the police force must report … to their superior shortly after use force in their duty". An attached form covers the time of the incident, a description of actions of the suspect or anyone committing a criminal offense that had be responded to by the use of force, the reason the police officer decided to use force, and the impact of the use of force.

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73. Amnesty International, Use of Force: Guidelines for Implementation of the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, footnote No. 72, pp. 17-20 and 45–49. Report of the Special Rapporteur on extrajudicial executions, footnote No. 69, para 55–78.
74. Basic Principle 1 of the UN Basic Principles. An important aspect of this principle is a state's duty not to discriminate on the ground of race, ethnicity, religion, gender identity or political affiliation. Amnesty International, Use of Force: Guidelines for Implementation of the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, footnote No. 72, p. 17.
75. Basic Principle 4 of the UN Basic Principles. Amnesty International, Use of Force, footnote No. 72, p. 47.
76. Basic Principle 5 of the UN Basic Principles. See also Amnesty International, Use of Force, footnote No. 72, p. 18.
77. Report of the Special Rapporteur on extrajudicial arbitrary executions, UN Doc. A/61/311, 5 September 2006, paras. 42 and 44.
78. Amnesty International, Use of Force; Guidelines for Implementation of the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, footnote No. 72, pp. 19-20.
79. Basic Principle 4 of the UN Basic Principles stipulates that "Governments shall ensure that arbitrary or abusive use of force and firearms by law enforcement officials is punished as a criminal offence under their law."

These regulations are only internal operational regulations and not taken into consideration by the judiciary for alleged human rights violations committed by police personnel. Further, abusive or arbitrary use of force by law enforcement officials is not a specific criminal offence under the Criminal Code, but is covered by more general criminal law provisions concerning homicide, bodily harm and coercion that apply to everyone.[79] There are no corresponding regulations for military personnel.

***LAMPIRAN 1 :*** *Formulir Penggunaan Kekuatan (a) : Perlawanan - Kendali*

**KEPOLISIAN NEGARA REPUBLIK INDONESIA**
**FORMULIR PENGGUNAAN KEKUATAN (A) : PERLAWANAN - KENDALI**

| | | | | | | |
|---|---|---|---|---|---|---|
| KIRIM LAPORAN YANG TELAH DIISI KE PROPAM MELALUI KOMANDAN ANDA | 1. NOMOR LAPORAN: | 2. PUKUL: | 3. TANGGAL KEJADIAN: | | | |
| 4. LOKASI: | 5. WILAYAH TUGAS: | 6. JENIS KEJADIAN: | | | | |
| 7. NAMA PETUGAS: | 8.JENIS KELAMIN | 9.PANGKAT/NRP | 10.JABATAN: | 11. KESATUAN: | 12. TINGGI: | 13. BERAT: |
| 14. TUGAS YANG SEDANG DILAKSANAKAN: (PATROLI, GATUR LANTAS, MENANGKAP, DLL.) | 15. JENIS DINAS: ☐ SEDANG DINAS ☐ DINAS TAMBAHAN ☐ SEDANG TIDAK DINAS | 16. KEMUNCULAN PETUGAS: ☐BERSERAGAM ☐TIDAK BERSERAGAM | 17. MENGENAKAN BAJU ANTI PELURU ☐ YA ☐ TIDAK | | | |
| 18. NAMA TERSANGKA (LENGKAP): | 19. ALAMAT: | | | | | |
| 20. JENIS KELAMIN: | 21. RAS/SUKU: | 22. UMUR: | 23. TANGGAL LAHIR: | 24. TINGGI BADAN: | 25. BERAT BADAN: | |
| 26. KONDISI MENTAL TERSANGKA SAAT KEJADIAN: ☐ NORMAL ☐DALAM PENGARUH NARKOBA ☐ MABUK ☐TERGANGGU SECARA MENTAL ☐ SANGAT MARAH | 27. JUMLAH ORANG DI LOKASI KEJADIAN: POLISI: _____ KORBAN: _____ TERSANGKA: _____ SAKSI: _____ MASYARAKAT SIPIL: _____ | 28. KONDISI LINGKUNGAN: ☐ DALAM RUANGAN ☐ LUAR RUANGAN ☐ SIANG HARI ☐ MALAM HARI ☐ DINI / PETANG HARI ☐ CAHAYA LAMPU | | | | |
| 29. PERLAWANAN MULAI SAAT: ☐ SEBELUM PERMBORGOLAN ☐ SELAMA PEMBORGOLAN ☐ SETELAH PEMBORGOLAN | 30. ALASAN KENDALI FISIK / SENJATA DIGUNAKAN (TANDAI SEMUA YANG SESUAI): ☐ UNTUK MENAHAN TERSANGKA ☐ MEMBELA DIRI ☐MENJAGA/PEROLEH KEMBALI KENDALI ATAS TSK. ☐ CEGAH KEJAHATAN BERAT ☐ CEGAH KABUR ☐AGAR TSK. DITAHAN DENGAN TERLINDUNGI ☐ MELINDUNGI ORANG LAIN ☐ MEMBUNUH BINATANG UNTUK MELINDUNGI MANUSIA | | | | | |
| 31. SENJATA YANG DIGUNAKAN TERSANGKA (TANDAI SEMUA YANG SESUAI): ☐ TANPA SENJATA ☐ PISTOL ☐ SENJATA PETUGAS ( _____ ) ☐ TANGAN ☐ BINATANG ☐ BAHAN PELEDAK ☐ PISAU ☐ KAKI ☐ SENJATA TAK SENGAJA MELETUS ☐ TONGKAT ☐ GIGITAN ☐ LAINNYA: _____ ☐ KENDARAAN ☐ LARAS PANJANG | | | | 32. SENJATA TSK DIARAHKAN KE ORANG: ☐YA ☐NO | | |
| 33. TINGKAT-TINGKAT PERLAWANAN YANG DIGUNAKAN TSK. (TANDAI SEMUA YANG SESUAI) : ☐INTIMIDASI PSIKOLOGIS ☐KETIDAKPATUHAN LISAN ☐PERLAWANAN PASIF ☐PERLAWANAN AKTIF ☐PERLAWANAN AGRESIF ☐SERANGAN MEMATIKAN | | | | 34. SENJATA YANG TERSEDIA BAGI / DIGUNAKAN OLEH PETUGAS (TANDAI SEMUA YG. SESUAI): S = TERSEDIA G = DIGUNAKAN | | EFEKTIF |
| 35. EFEK KENDALI FISIK / SENJATA YANG DIGUNAKAN TERHADAP TERSANGKA / PETUGAS: (TANDAI SATU DI TIAP KOLOM): T = TERSANGKA P = PETUGAS | | | | S G | | YA TIDAK |
| T P ☐ ☐ TIDAK ADA LUKA TERLIHAT, TIDAK ADA KELUHAN RASA SAKIT | | | | ☐ ☐ TIDAK ADA | | ☐ ☐ |
| ☐ ☐ TIDAK ADA LUKA TERLIHAT, ADA KELUHAN SEDIKIT RASA SAKIT, PERAWATAN MEDIS TIDAK DIPERLUKAN | | | | ☐ ☐ TEKNIK TANGAN KOSONG | | ☐ ☐ |
| ☐ ☐ LUKA KECIL TERLIHAT (MEMAR, BENGKAK, LECET), RAWAT MEDIS TIDAK DIPERLUKAN | | | | ☐ ☐ SEMPROTAN CABE | | ☐ ☐ |
| LUKA YANG MEMERLUKAN RAWAT JALAN (PEMERIKSAAN DOKTER, JAHITAN, X-RAY) | | | | ☐ ☐ GAS CS | | ☐ ☐ |
| ☐ ☐ LUKA YANG MEMERLUKAN RAWAT INAP DI RUMAH SAKIT | | | | ☐ ☐ TONGKAT | | ☐ ☐ |
| ☐ ☐ KEMATIAN | | | | ☐ ☐ SENTER | | ☐ ☐ |
| 36. LETAK LUKA PADA TERSANGKA (T) DANPETUGAS (P) -- TANDAI SEMUA YANG SESUAI: T P T P T P T P | | | | ☐ ☐ TASER | | ☐ ☐ |
| ☐ ☐KEPALA ☐ ☐ TORSO/BADAN ☐ ☐TANGAN ☐ ☐ TUNGKAI KAKI | | | | ☐ ☐ ANJING | | ☐ ☐ |
| T P T P T P (PAHA / BETIS) | | | | ☐ ☐ SENJATA OTOMATIS | | ☐ ☐ |
| ☐ ☐LEHER ☐ ☐LENGAN ☐ ☐ KAKI BAGIAN BAWAH (PERGELANGAN KE BAWAH) | | | | ☐ ☐ SENJATA CADANGAN | | ☐ ☐ |
| | | | | ☐ ☐ PISTOL DINAS | | ☐ ☐ |
| | | | | ☐ ☐ PISTOL NON-DINAS | | ☐ ☐ |
| | | | | ☐ ☐ SENAPAN | | ☐ ☐ |
| | | | | ☐ ☐ SHOTGUN | | ☐ ☐ |
| | | | | ☐ ☐ KENDARAAN | | ☐ ☐ |
| | | | | ☐ ☐ LAINNYA | | ☐ ☐ |
| | | | | _____ | | |
| **37. NARASI KEJADIAN PENGGUNAAN KEKUATAN** : IKUTKAN SEMUA HAL YANG TELAH DIKETAHUI SEBELUM DAN SELAMA PENGGUNAAN KEKUATAN (MISAL : APAKAH ANDA TAHU BAHWA TSK. MELAKUKANKEJAHATAN BERAT / RINGAN DAN SEMUA ANCAMAN YG. DITUNJUKKAN TSK.) | | | | | | |
| 38. TANDATANGAN PETUGAS / NRP / TANGGAL: | | | | **LAMPIRKAN LAPORAN KEJADIAN** | | |

**CATATAN:** KOTAK 7 HINGGA 17 ADALAH DATA TENTANG PETUGAS BERSANGKUTAN. KOTAK 18 HINGGA 26 ADALAH DATA TENTANG TERSANGKA

*Attached form of Regulation No. 1 of 2009 of the Chief of the Indonesian National Police which covers various information that any members of the police force must duly fill after use of force in their duty.*



Bullet shells found after soldiers attack in Honelama, Wamena © Private

# 4. UNLAWFUL KILLINGS UNRELATED TO POLITICAL ACTIVITIES

> ***"We are just demanding the welfare of the workers. We're not criminals, why we are being shot? We are not causing trouble… We're just workers who as citizens contribute the utmost to the nation and its people. Why are we shot down like animals?"***
>
> Protestor, shortly after the shootings of Freeport workers in Timika, 10 October 2011.[80]

Of 69 cases of suspected unlawful killings by security forces in Papua between January 2010 and February 2018 that Amnesty International has documented, the majority of incidents, 41 of them

80. WatchDoc Documentary, Alkinemokiye (From Struggles Dawn New Hope), February 2012, available at: https://www.youtube.com/watch?v=x3OWOu88BhY.

taking 56 lives, occurred in the context of non-political events that were unrelated to the issue of independence or a referendum. This type of unlawful killing happens when the security forces deal with peaceful social protests and incidents of public disorder, when they attempt to arrest criminal suspects, or as form of individual misconduct by security personnel.

# 1. POLICING NON-POLITICAL ASSEMBLY AND PUBLIC DISORDER

Some of the most recent cases of unlawful killing in Papua occurred as police officers attempted to maintain public order in protests that turned violent. The police used excessive force generally, and firearms to disperse protesters. Unrest in Papua may originate from communal conflict, deep dissatisfaction with the government or in response to the failures of private companies to respect Papuan indigenous people rights. The persistent failure to bring those responsible for human rights violations to account further fuels feelings of resentment and injustice. The police often argue that they are cornered or outnumbered and therefore feel threatened, in order to justify the use of firearms and other excessive force. Amnesty International documented 15 cases of suspected unlawful killings, taking 22 lives, as security forces policed non-political assembly and public disorder. Several examples follow.




↑ *Local police stationed with their vehicle in front of Freeport Indonesia's gate. © Private*

## A. THE SHOOTINGS OF FREEPORT WORKERS IN TIMIKA

In October 2011 in the city of Timika, Mimika District, Papua Province, around 8,000 workers were in the middle of a long strike against PT Freeport Indonesia, demanding higher wages.[81] Freeport is one of the largest gold and copper mining companies in the world and the biggest taxpayer in

81. Amnesty International interview with Freeport SPSI workers, August 2016. The strikers were a large minority of the 20,000 members of the local branch of the state-sanctioned All Indonesian Workers Union (Serikat Pekerja Seluruh Indonesia, SPSI).

82. Richard Chauvel and Ikrar Nusa Bhakti, The Papua Conflict, footnote No. 4, p. 3.



↑ *Workers raised the flag of Indonesia during a strike against Freeport Indonesia demanding higher wages. © Private*

Indonesia.[82] The company's operations have long been a source of discontent for indigenous communities over land and environmental issues, as well as, insecurity and alleged human rights abuses.[83]

Around 7am on 10 October 2011, about a hundred strikers from seven indigenous groups gathered in Gorong-Gorong Market, a pick-up point for the mining site farther up the mountain in Tembagapura.[84] The Papuan workers wanted to meet with the management team to negotiate their demands, and also to visit their homes and fields near the mining area. Many waived the Indonesian flag to signal that their gathering was not related to pro-independence calls. At the pick-up point gate, they were stopped by police who had set up a blockade. The workers asked the police to facilitate a meeting with the management team and to allow them to pass through the gate, but the police refused.[85]

The workers tried to pass the gate, moving towards the police barricade. Suddenly, witnesses told Amnesty International, the Timika Chief of Police (Kapolres), who commanded all police personnel on the ground, fired a warning shot into the air and then shouted "shoot, shoot". Uniformed and plainclothes police officers opened fire towards the protesters. It is common in Papua for plainclothes police and military personnel who cannot be identified as such nor individually to police peaceful assemblies[86] despite international human rights standards recommend that police officers should be identifiable by names or numbers worn visibly on their uniform.[87]

The protesters ran, but five of them were hit by gunfire.[88] Some of the protesters threw rocks at the police, with the shooting and clashes lasting for about one hour.[89] Petrus Ayamiseba was shot in his

83. PT Freeport Indonesia's majority owner is the American company Freeport McMoRan Copper and Gold Corporation, which began operations in Tembagapura in 1967. Amnesty International, Irian Jaya: National Commission on Human Rights confirms violations, September 1995 (Index: ASA 21/47/95); Full Justice? Military trials in Irian Jaya, March 1996 (Index: ASA 21/17/96). See also ICG, Indonesia: Resources and Conflict in Papua, 13 September 2002, Jakarta/Brussels, p. 17-22, available at https://www.crisisgroup.org/asia/south-east-asia/indonesia/indonesia-resources-and-conflict-papua.

84. The pick-up point gate is on Freeport property, and all people who want to go to the mining area have to pass a security check at the gate.

85. Amnesty International interview with Freeport SPSI workers, August 2016. See also Komnas HAM, Komnas HAM, Laporan Pemantauan dan Penyelidikan Peristiwa Kekerasan di Papua [Monitoring and Investigation Report on Violence Incidents in Papua], 31 December 2011, on file with Amnesty International, p. 33-34.

86. Komnas HAM, Laporan Pemantauan dan Penyelidikan Peristiwa Kekerasan di Papua, footnote No. 85, p. 87.

87. In addition to improving accountability, ensuring that officers are identifiable sends an important message of transparency, displaying the willingness of the police to be scrutinized for their actions. This may enhance trust of the participants and contribute to an environment where dialogue is possible. Amnesty International Dutch Section, Policing Assembly; Police and Human Rights Program – Short paper series No.1, December 2013 pp. 18-19, available at: https://www.amnesty.nl/content/uploads/2017/01/policing_assemblies_26022015_light.pdf?x79902.

88. Amnesty International interview with Freeport SPSI workers, August 2016. See also Komnas HAM, Laporan Pemantauan dan Penyelidikan Peristiwa Kekerasan di Papua, footnote No. 85, pp. 35, 36.

89. Amnesty International interview with Freeport SPSI members, August 2016.

chest and died a few hours later on the way to a hospital. Leo Wandagau was shot by rubber bullet on the right side of his back according to witnesses, dying five days later at home.[90] Both were members of the union and took part in the protest. According to a Komnas HAM report, despite police claims to have only used rubber bullets, live ammunition killed Petrus Ayamiseba.[91] There has been no official explanation or ballistic test results made public relating to the ammunition that killed Petrus Ayamiseba.

Under the Indonesian Constitution, maintaining law and order and protecting public safety are police responsibilities.[92] In Papua the police and military forces are both involved in using unnecessary or excessive, including lethal force in policing public assemblies. Deploying the military to police assemblies increases the risk of use of excessive force, simply because the military is equipped and trained to fight an enemy with the use of lethal force being the first, and not the very last and exceptional resort.

In the exceptional cases where it is necessary to deploy military personnel, they must be fully trained and equipped for the task and must operate under the command of the civilian authorities. It is a complex and challenging transition for the military to maintain public order, requiring a revision of operational mind-set and procedures, from "shoot to kill" to "non-violent means first".[93] This shift requires clear instructions, appropriate equipment, and training in public order management. If authorities cannot ascertain the capability of the military to comply with international human rights rules and standards, then they should not deploy the armed forces in public order situations.

After the Timika incident, a national police headquarters team from Jakarta conducted an internal disciplinary investigation, with five police officers receiving 21 days of imprisonment each for violating procedure in handling mass protests (Chief of National Police Regulation No. 1 of 2009).[94] However, there has been no criminal investigation of the killings. The Freeport workers union and company each paid around 150 million rupiah (US$16,538) to Leo Wandagau's family as compensation, reflecting the Papuan tradition that a loss of life must be compensated for by money or pigs (ganti rugi kepala or "compensation for the head").

### B. THE SHOOTINGS IN ONEIBO VILLAGE

On 1 August 2017 at around 1.30pm, unrest broke out in the compound of a construction company in Oneibo village, Deiyai District, Papua Province. Workers at the company had reportedly refused to lend a car to take a drowning victim to the nearby hospital, and the young Papuan man had died. In protest, dozens of villagers entered the company compound and destroyed a tent. When police arrived, including members of Brimob, protesters threw stones at them.[95]

In response, police officers arbitrarily opened fire into the crowd without any warning, hitting Yulianus Pigai, aged 27, in his thighs and stomach. At least ten other people also suffered gunshot wounds. They were immediately taken to a nearby hospital in Waghete but Yulianus Pigai died on the way.

The Spokespersons of the Papua Regional Police issued a statement the same day stating that police

90. Amnesty International interview with Freeport SPSI members, August 2016.

91. Komnas HAM, Laporan Pemantauan dan Penyelidikan Peristiwa Kekerasan di Papua, footnote No. 85, pp. 42, 68, 92.

92. Article 30(4) of Indonesia's 1945 Constitution.

93. Amnesty International, Use of Force; Guidelines for Implementation of the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, footnote No. 85, p. 160.

94. Komnas HAM, Laporan Pemantauan dan Penyelidikan Peristiwa Kekerasan di Papua [Report on Monitoring and Investigation of Violent Event in Papua], footnote No. 85, p. 41.

95. Amnesty International, Public Statement, Indonesia: Investigate police's use of lethal force against Papuans in Deiyai (Index: ASA 21/6893/2017).

96. Detiknews, Serang Pekerja PT PDP, 4 Warga Deiyai Papua Ditembak Peluru Karet [Assaulting the PT PDP workers, 4 Papuans in Deiyai were shot by rubber bullets], 1 August 2017, available at: https://news.detik.com/berita/d-3582545/serang-pekerja-pt-pdp-4-warga-deiyai-papua-ditembak-peluru-karet.

had complied with existing regulations, using rubber bullets and firing warning shots.[96] No autopsy has been performed to establish the cause of the death. However, after an internal police investigation, the Papua Regional Chief of Police (Kapolda) stated on 11 August that the police officers violated standard procedures for dealing with mass unrest (see Chapter 6).[97]

Based on witness testimony, a pattern of excessive use of force, in particular using firearms, by police in maintaining public order, and the report from Komnas HAM on Timika, Amnesty International is deeply concerned that Petrus Ayamiseba, Leo Wandagau, and Yulianus Pigai are likely to be victims of unlawful killing, in violation of their right to life and Indonesia's obligations under international law. One or more of these unlawful deaths may have also been deliberate, carried out by order of authorities (namely the Timika Chief of Police's reported order to shoot) or with their acquiescence (as apparent violations of procedure are punished very lightly or not at all).

While Amnesty International acknowledges the complex environment law enforcement officials often find themselves in when carrying out their duty in Papua, they must ensure full respect for the right to life, liberty and security of person, including those suspected of a crime.

Amnesty International acknowledges the complex environment law enforcement officials often find themselves in when carrying out their duty in Papua, and when being attacked they certainly have the right to self-defence. However, even in such situations they must ensure full respect for the right to life, liberty and security of person, including those suspected of a crime. Firing without warning and firing indiscriminately at a crowd without distinction who presents an imminent threat to themselves or another person and who does not clearly is a violation of international human rights law as well as domestic legislation. And it contributes to an ever-escalating cycle of hostility and violence with an increasing risk of more lives being lost or in danger — including their own.

# 2. MISCONDUCT DRIVEN BY REPRISALS

Some unlawful killings have occurred as reprisals for security forces personnel being wounded or killed. Amnesty International documented five such cases resulting in seven deaths between January 2010 and February 2018, including the examples that follow.

### A. KILLING IN YOUTEFA MARKET

On 2 July 2014, a riot broke out after police officers attempted to stop dice gambling in Youtefa Market, Abepura Subdistrict, Jayapura District, Papua Province. An officer was killed and his gun stolen by an unidentified person, and another police officer was wounded. After the incident, at around 3pm, the police conducted a security operation known as "sweeping" around the Youtefa Market area, including public transport and the dormitories of a Central Highland ethnic group suspected in the killing of the police officer. During the raid, the police allowed members from another ethnic group of South Sulawesi to check public transportation in the market. An NGO reported that these non-Papuans beat, kicked and stabbed Papuans who failed to run away from the operation.[98]

Dozens of people were injured, but the worst of the violence came to light only after the operation, when three Papuan men were found dead in locations around the market. Sabusek Kabak, a university student, was found dead in the front of the Papua Bank with serious injuries to his left forehead and a stab wound in the left side of his chest. According to friends, he had left his dormitory house without knowing about the riot in the market. “It is clear that Sabusek is a victim, he was caught in the riot,”

97. Footnote No. 222.

98. KPKC Sinode GKI (Justice, Peace and Integrity of Creation Unit of the Evangelical Christian Church in Papua), Peristiwa Kekerasan di Pasar Youtefa [Violent Incident in Youtefa Market], 25 July 2014, pp. 1-2, on files with Amnesty International. KPKC Sinode GKI developed the report based on interview with victims of the violence in Youtefa Market.

99. Amnesty International interview with Sabusek’s friend, August 2016.

said one friend.[99] The second victim, Yenias Wanimbo was found in front of Yamas Campus with wounds by blunt and sharp objects. The body of the third victim, Demy Kepno was found with bruises to his face caused by repeated blows with a blunt object and several gunshot wounds.[100]

The next day, around 5am, around a dozen police officers in uniforms raided a house in Kilo 9, an area of Abepura where many people from Wamena in the Central Highlands live.[101] One resident, M, told Amnesty International that he was awakened by a loud sound and realized that almost all his friends were running away from a police raid (there were 20 people sleeping in the house at the time). Three police officers pointed their guns at M and ordered him not to move. He was arrested with one friend, but the police did not show him an arrest warrant or give a reason for the arrest, as required by law. The police covered M's head with a cloth, tied his hands with plastic straps, and brought M and his friend to a forest after around an hour's trip by car.[102]

The police took the two men out of the car and started to hit M's head and body, while questioning him about the killing of the police officer and the missing gun. M's head was still covered and he could not see his assailants. One interrogator shouted to another: "Just kill him and toss the body."[103] The police hit M with what he suspected were wood batons and knife butts. After the beatings, the police put M and his friend in a pond and left them tied up in the water for many hours before taking them back to a car. Subsequently the police brought them to the Abepura Subdistrict Police Station, around 1.5 km from Youtefa Market. They were then brought to Bhayangkara Hospital, a police facility, around 9pm to be treated, and were put in the same room with around a dozen people injured at Youtefa Market. After five days, a police officer took M and his friend from the hospital to Youtefa Market, gave them each each 25,000 rupiah (US$1.80) and ordered them to go home to Kilo 9.

The police investigated the death of the police officer, but there has been no criminal investigation into the other deaths, ill-treatment and injuries resulting from the police operation on Youtefa Market and no one has been held accountable.

### B. SOLDIERS ATTACKS ON VILLAGERS IN HONELAMA, WAMENA

On the afternoon of 6 June 2012, one of two soldiers traveling on motorcycles reportedly ran over and injured a 3-year-old child crossing the road in the village of Honelama in Wamena Subdistrict, Jayawijaya District, Papua Province. Villagers who witnessed the incident chased the soldiers and stopped them. A Papuan man joined the crowd and suddenly stabbed both soldiers, killing one and injuring the other, before fleeing. Villagers did not recognise him.[104]

Not much later two trucks of soldiers from Infantry Battalion 756/Wamena arrived and reportedly opened fire arbitrarily on the village. According to witnesses, soldiers also stabbed around a dozen people with bayonets and burned down dozens of homes, buildings and vehicles.[105] "On that same day [of the accident], the belongings of innocent people were burnt by the soldiers, houses were burnt, all of our possessions, motorbikes, cars, everything," said a witness.[106] One man, Elinus Yoman, was found dead with multiple wounds to his face and body.[107] Many villagers fled the area for several days.

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100. The police claimed that Demy Kepno was resisted during the sweeping operation. tribunnews.com, Polisi Tetapkan 9 Tersangka Pengeroyokan Polisi di Pasar Yotefa [The Police announced 9 suspects for beating police officers], 3 July 2014, available at http://www.tribunnews.com/regional/2014/07/03/polisi-tetapkan-9-tersangka-pengeroyokan-polisi-di-pasar-yotefa. The GKI report on the events of that day includes a report from a witness who saw Demy Kepno kidnapped in front of a supermarket near Youtefa by several men in plainclothes, who took the victim in a grey minivan, available at http://www.tapol.org/reports/bloody-yotefa-arbitrary-arrests-torture-and-death.

101. This area is named for distance from Youtefa Market.

102. Amnesty International interview with M, August 2016.

103. Amnesty International interview with M, August 2016.

104. Amnesty International interview with a witness, August 2016.

105. Amnesty International, Public Statement, Indonesia: Investigate military attacks on villagers in Wamena, Papua, (Index: ASA 21/020/2012)

106. Amnesty International interview with a witness, August 2016.



↑ *Villagers houses' burned after the soldiers attack in Honelama, Wamena © Private*

On 18 June 2012 the commander of the battalion claimed his unit had reached a settlement with parties involved in the killings of the military personnel, and also with the family of Elinus Nyoman and victims who lost property.[108] However, a victim told Amnesty International, "Since 2013 we have reported the shooting and burning of all our assets, but we have never gotten a response. There's no compensation. No compensation."[109]

On 3 March 2013, there was a meeting in the offices of the Ministry of Law and Human Rights in Abepura to resolve the case. The Honelama villagers, representatives from the local military, police and the civilian administrative authority attended. At that meeting the police arrested three villagers for killing the soldier. They were later convicted in Wamena District court and sentenced to one year in prison. A relative of the three men claimed they were innocent but that the police need to blame someone, and so they were arrested but only received a one-year sentence.[110]

During the meeting, the authorities had no clear response when the villagers asked for accountability for the soldiers who had arbitrarily shot and stabbed villagers and burned their houses and vehicles. To date there has not been an investigation into the death of Elinus Nyoman, and no one has been held accountable for his death.

In view of the facts and consistent testimony of several witnesses as described above, in the absence of an independent, impartial and effective investigation, Amnesty International is deeply concerned that Sabusek Kabak, Yenias Wanimbo, and Demy Kepno in Youtefa Market, Abepura and Elinus Yoman in Honelema, Wamena are likely to be victims of unlawful killing.

# 3. MISCONDUCTS DRIVEN BY PERSONAL MISBEHAVIOUR

Amnesty International documented 12 incidents of unlawful killing related to personal misbehaviour by security forces in Papua which is not part of the policy of the institution, totalling 18 victims. The following incidents are illustrative.

### A. THE KILLING OF IRWAN IRWAN WENDA IN WAMENA

On 8 August 2013, around 10am, Irwan Irwan Wenda, a mentally disabled Papuan man aged 21, left his house and walked to nearby Wouma market, in the highland city of Wamena, Jayawijaya District, Papua Province. Two family members followed Irwan Irwan Wenda, asking him to go back, but he

107. Amnesty International interview with a human rights defender in Wamena and a witness, August 2016.

108. Public Statement of the Papua Military Regional Commander (Kodam Cendrawasih), Terjadi Kesepakatan Damai TNI dan Warga Masyarakat di Wamena [Peace Agreement Reached between the Military and People in Wamena], 18 June 2012, available at http://www.tni.mil.id/view-37286-terjadi-kesepakatan-damai-tni-dan-warga-masyarakat-di-wamena.html.

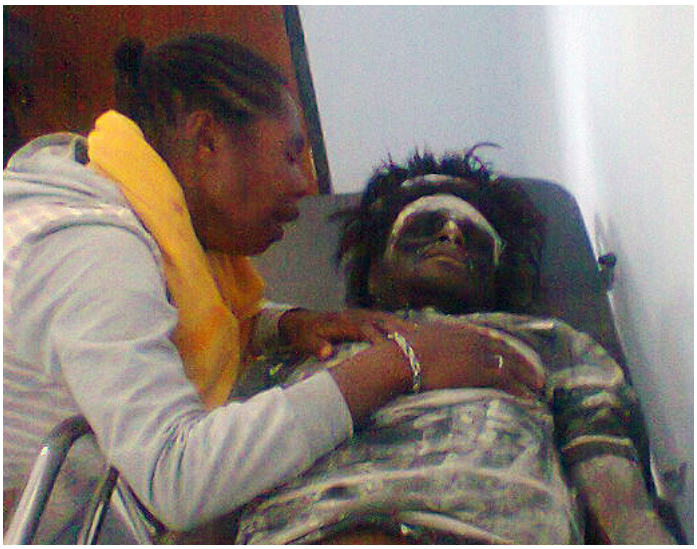
109. Amnesty International interview with a witness, August 2016.

110. Footnote No. 104.

refused. He picked up a piece of sugarcane, using it bang at the windows of stores and houses along the main road and tried to block passing cars. After around 500 meters, Irwan Irwan Wenda reached a police residence where he was confronted by an off-duty police officer returning from leading prayers in the mosque. Irwan Irwan Wenda's two family members were still following him from behind at a distance of around 10 metres.

After exchanging some words, Irwan Wenda hit the policeman with the sugarcane. The police officer immediately went inside the residence and returned a few minutes later with a rifle and confronted Irwan Wenda again. Without warning, the police officer shot Irwan Wenda three times hitting his left leg, stomach and his head from a distance of around 2 meters.[111] Soon after, police officers came with a car and brought Irwan Wenda's body to the nearby hospital, while more police officers brought the two family members, who witnessed the shooting, to the Jayawijaya District Police Station.[112]

Irwan Wenda's family members were interrogated and subjected to torture or other ill-treatment in the Jayawijaya Police Station. The police told them to take off their shirts and beat them during the interrogation.[113] After around one hour, the police put them into a detention cell. The police released them only after dozens of Irwan Wenda's relatives staged a protest in front of the police station later in the evening.[114]



↑ *A relative of Irwan Wenda mourned beside his body. © Private*

Two days after the shooting, representatives from the police, military and the district head (or bupati) of Jayawijaya, invited Irwan Wenda's family to the Jayawijaya District Military Command for mediation. They agreed to settle the killing by payment of money to the victim's family according to Papuan customary law. The District Chief of Police of also promised that the perpetrators would be held accountable under the Criminal Code. Irwan Wenda's family received around 600 million rupiah (US$52,000) from the Jayawijaya government.

However, no criminal investigation was conducted to establish the truth and hold anyone accountable. "We're not satisfied with a settlement like that from the government. The legal process has to proceed, but that's what's not clear," said a family member.[115] The family heard only unofficially that the police officer who shot Irwan Wenda was soon thereafter transferred from Papua.[116]

## B. SHOOTINGS BY MILITARY OFFICERS IN KOPERAPOKA

According to a military court, at 1.33am two drunk military officers, Makher Rehatta and Imanuel Imbiri, arrived at a traditional celebration for a Papuan who had just earned a doctoral degree, held in

111. Amnesty International interview with Irwan Wenda's two family members who witnessed the shooting, August 2016.

112. Footnote No. 111.

113. Amnesty International interview with a witness, August 2016

114. Amnesty International interview with one of Irwan's family members who staged a protest of A and B's arrest, August 2016.

115. Amnesty International interview with family member, August 2016.

116. Amnesty International interview with family member, August 2016.

a church courtyard in Koperapoka, Mimika Baru Subdistrict, Mimika District, Papua Province. When soldiers attempted to disperse the crowd using insulting words, an outraged crowd gathered beating the soldiers and cornered them. As the response, one of the soldiers threated the crowd using his bayonet. During the scuffle, another soldier from nearby Gorong-Gorong military post, Ashar, intended to help the two soldiers after he got the information from a local resident. However, he was also got beaten by the crowd and opened fire. In the midst of the confrontation, Makher Rehatta managed to go back to the Gorong-Gorong military post to pick up a rifle.[117] In the midst of the confrontation, Makher Rehatta went back to the Gorong-Gorong military post to pick up a rifle. He returned and arbitrarily shot into the crowd, accompanied by another soldier, Gergonus Bernadus who helped carry the bullets.[118] In a press statement, the military later claimed that the shootings were in self-defense when the crowd attempted to grab weapons from the soldiers.[119]

The shootings left two Papuan men dead and another four wounded. Yulianus Okoare (23 years old) died with a gunshot to the back of his head, and Imanuel Mailmur (23 years old) died after being hospitalized with a gunshot in his stomach. The four other injured victims suffered gunshots in the legs and abdomen.[120]

The army investigated the incident and brought the perpetrators to a military court. Ashar and Makher Rehatta were sentenced to seven years' imprisonment and dismissal from military service, after an appeal reduced their sentences from nine years and dismissal.[121] Gergonus Bernadus and Imanuel Imbiri were sentenced to one-year but were not dismissed from the army.[122]

Not only were the two soldiers in no position, let alone justification or obligation, to disperse a crowd engaged in a peaceful celebration, but they also unnecessarily used firearms in dealing with the angry crowd. While it is positive to note that – exceptionally – in this case the soldiers were held accountable for the killing, this should have been done by an independent, civilian court in a fair and public trial.

In view of the consistent testimony of several witnesses, as well as the military court decision in the Koperapoka case, and bearing in mind that self-defence against non-life-threatening attacks cannot be seen as justifying the use of lethal force, Amnesty International is deeply concerned that Irwan Irwan Wenda in Wamena, and Yulianus Okoare and Imanuel Mailmur Koperapoka were victims of unlawful killing by the military soldiers due to individual misconduct in violation of their right to life and Indonesia's obligations under international law.

# 4. UNLAWFUL KILLINGS DURING ATTEMPTS TO ARREST A CRIMINAL SUSPECT

Amnesty International documented at least nine unlawful killings in Papua by the police during an attempt to arrest criminal suspect, including deaths in custody. The police allegedly have used unnecessary or excessive or force, including fatal shootings, torture and other ill-treatment during and following arrest. The following examples demonstrate this pattern.

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117. Ashar's military court of cassation decision No.9/K/MIL/2016.

118. Makher military court of cassation decision No.82/pan.7/BKS/90 K/MIL/2016.

119. The Indonesian Military Force (Kodam XVII/Cendrawasih) statement, Sidang Perdana Kasus Penembakan di Timika [First Session in the Shooting Case in Timika], 10 November 2015, available at http://www.tni.mil.id/view-86924-sidang-perdana-kasus-penembakan-di-timika.html. "TNI Apologize for Papua Shooting, says two or three shots fired," Jakartaglobe.id, 28 August 2015, available at http://jakartaglobe.id/news/tni-apologizes-papua-shooting-says-two-three-shots-fired/.

120. "Ini Kronologis penembakan tujuh warga versi Keuskupan Timika [This is the chronology of the shootings of seven people according to the Timika Diocese]," Tabloidjubi.com, 4 September 2015, available at http://tabloidjubi.com/16/2015/09/04/kronologi-penembakan-7-warga-sippil-di-koperapoka-timika-menurut-keuskupan-timika/.

121. Makher and Geta's military court cassation decision – 82/pan.7/BKS/90 K/MIL/2016.

## A. THE KILLING OF EMERIKUS KONAKAIMU KONAKEM IN MERAUKE

On 30 October 2015, Merauke District police officers shot and killed a 19-year-old Papuan criminal suspect, Emerikus Konakaimu Konakem, while attempting to arrest him. Emerikus and his friend, allegedly under the influence of alcohol, had stopped a motorcycle in the road in Yobar residential area and taken the motorcycle by force. The owner of the motorcycle reported the crime to the Merauke District Police.

At 14.00, the police sought the two men in Yobar residential area, unaware they had already returned the motorcycle. The suspects ran away, and during the chase, the police shot Emerikus in both thighs. The officers took him to the hospital, but he died of blood loss.[123]

No criminal investigation has been made public, although the Merauke District Chief of Police (Kapolres) promised an internal investigation.[124]

In view of the facts as described above, in the absence of an independent, impartial and effective investigation, and bearing in mind that the pursuit of fleeing and unarmed suspected motorcycle thieves cannot reasonably be seen as justifying the use of lethal force, Amnesty International is deeply concerned that Emerikus Konakaimu Konakem was the victim of unlawful killing.

122. The sentence for Imanuel Imbiri was reduced on appeal, from a three-year sentence and dismissal from military service. Imbiri's military court cassation decision – 268/Pan.7/BKS/95 K/MIL/2016.

123. International Coalition for Papua, Human Rights in West Papua 2017, September 2017, p. 39 available at: http://www.humanrightspapua.org/images/docs/HumanRightsPapua2017-ICP.pdf. Tabloid Jubi, Serang Polisi Dengan Sajam, Seorang Warta Tewas Ditembak [Attacking a police officer with Knife, a villager shot dead], available at http://tabloidjubi.com/16/2015/10/30/serang-polisi-dengan-sajam-seorang-warga-tewas-ditembak/.

124. "Puluhan Keluarga Korban Penembakan Datangi Polres Merauke [Tens of Families of the shooting victims came to Merauke Resort Police Station]," Tabloid Jubi, 2 November 2015, available at http://tabloidjubi.com/16/2015/11/02/puluhan-keluarga-korban-penembakan-datangi-polres-merauke/



*The Third Papuan People's Congress right before the security forces opened fire in Zakeus Square, Padang Bulan, Abepura, Jayapura, Papua, October 2011. © TEMPO/STR/Jerry Omona*

# 5. UNLAWFUL KILLINGS RELATED TO POLITICAL ACTIVITIES

> ***"Don't bother, just let him die."***
>
> Policeman, as a political activist was dying from his wounds after being arrested.[125]

After 1998 political activists in Papua increased their demands for independence through peaceful means.[126] However, successive governments have been reluctant to respect their right to freedom of expression, arguing that this would encourage other secessionist movements, leading to the break-up of the country.[127]

Of the 69 incident Amnesty International documented for this report, 28 of them, which took 39 lives, were related to the issue of independence or a referendum for Papua. The examples below

125. Amnesty International interview with two witnesses to the shooting of Papuan political activist Hubertus Mabel, August 2016.

126. Richard Chauvel and Ikrar Nusa Bhakti, The Papua Conflict, footnote No. 4, p. 25-31.

127. Richard Chauvel and Ikrar Nusa Bhakti, The Papua Conflict, footnote No. 4, p. 25.

demonstrate that this type of unlawful killing often occurs when security forces deal with peaceful political protests, particularly flag-raising ceremonies and religious gatherings on commemoration dates that can attract hundreds of local people and pro-independence activists.

# 1. TARGETED KILLINGS OF PRO-INDEPENDENCE ACTIVISTS

The last decade has seen an increase in pro-independence political activities in Papua, particularly those led by students and youth. Security forces have often used repressive measures against these activists, such as blanket prohibitions on peaceful protest,[128] mass arrests[129] and prosecution under the rebellion (makar) articles in the Criminal Code.[130] Pro-independence political activists in Papua have also become the victims of unlawful killings by security forces.

## A. THE SHOOTING OF MAKO TABUNI IN ABEPURA AND HUBERTUS MABEL IN WAMENA



↑ *The quiet intersection where Hubertus Mabel was allegedly shot by security forces. © Amnesty International*

On 14 June 2012, plainclothes police officers in Wamena, near Jayapura, Papua Province shot and killed Mako Tabuni, Deputy Chair of the West Papua National Committee (Komite Nasional Papua Barat, KNPB).[131] The organization has organised mass demonstrations in several cities in Papua to call for self-determination through a referendum. The KNPB claims their political strategy is non-violent,[132] but reports indicate that some members have engaged in violence.[133]

Police accused Mako Tabuni of a string of shootings of non-

128. Maklumat Kapolda Papua tentang Penyampaian Pendapat di Muka Umum [Papuan Chief of Police Force's Decree on Delivering Opinion in Public] 1 July 2016 banning many pro-Papuan independence organizations, including KNPB from organising peaceful assembly for advocating separatism.

129. Amnesty International, Public Statement: Indonesia: End Mass Arbitrary Arrests of Peaceful Protesters in Papua, 11 June 2015 (Index: ASA 21/1851/2015).

130. Amnesty International, Annual Report 2015/2016, The State of the World's Human Rights, pp. 187-188 (Index: POL 10/2552/2016).

131. KNPB was established in 2008 by Papuan students, mostly from the highland region. It is one of the most active political organizations and has a strong network with Papua pro-independence movements abroad. KNPB has actively supported the campaign of the United Liberation Movement for West Papua (ULMWP), an umbrella organization formed in December 2014 by factions of the independence movement in Indonesia and abroad. ULMWP's short term objective is to be accepted as a full member of the Melanesian Spearhead Group, a sub-Pacific intergovernmental organization founded in 1983 and composed of the four states of Fiji, Papua New Guinea, Solomon Islands and Vanuatu, as well as the Kanak and Socialist National Liberation Front of New Caledonia. Indonesia is an associate member, while ULMWP has observer status.

132. Wilson, Transformasi Gerakan Kaum Muda Papua [Transformation of the Papuan Youth Movement], in LIPI, Updating Papua Road Map: Proses Perdamaian, Politik Kaum Muda, dan Diaspora Papua [Peace Process, the Politics of Papuan Youth and Diaspora], August 2017, Yayasan Obor Indonesia, pp. 151-152.

133. ICG, Dynamics of Violence in Papua, 9 August 2012, p. 1-2, available at: https://www.crisisgroup.org/asia/south-east-asia/indonesia/indonesia-dynamics-violence-papua, accessed on 30 January 2012; IPAC, 24 August 2015, the Current Status of the Papuan Pro-Independence Movement, the Current Status of the Papuan Pro-Independence Movement, p. 21-22, available at: http://www.understandingconflict.org/en/conflict/read/43/The-Current-Status-of-the-Papuan-Pro-Independence-Movement; Human Rights Watch, Something to Hide? Indonesia's Restriction on Media Freedom and Rights Monitoring in Papua, p. 38, available at: https://www.hrw.org/sites/default/files/report_pdf/indonesia1115final_0.pdf

Papuans, including a German tourist, and alleged he resisted arrest and tried to grab a police weapon. The police claimed the shooting was in self-defence, but an alternative account maintains that Mako was shot in the back while running from the police.[134] There was no known autopsy conducted to Mako body.



↑ *A relative of Hubertus Mabel shown the place where the activist was shot. © Amnesty International*

The police also issued arrest warrants against several KNPB leaders, including Hubertus Mabel, for the shooting incidents.[135] To avoid arrest, Mabel hid in a Habusa, a village in Kurulu Subdistrict, Jayawijaya District, Papua Province.

On 16 December 2012, Hubertus Mabel asked a KNPB member from the Baliem branch, W, to pick him up, and to bring X with him. W was driving a pick-up truck to meet X in Aikama village when he received a text message from an unidentified number that told him to go back to Wamena because the police had arrested X a day earlier. On his return to Wamena, three plainclothes police in a car blocked his pick-up and ordered him at gunpoint to drive with them to pick up Hubertus Mabel in Kurulu. W saw X inside the police car.

When they arrived in Habusa village, W called Mabel to meet him at the car. Almost an hour later, Hubertus with two other KNPB members (S and T) approached the car unarmed. The three police personnel exited the car with guns drawn and ordered Mabel and his friends to lie face down on the ground. W heard a gunshot and Hubertus said, "I do not know anything about this," which was followed by repeated additional gunshots. W then saw T run towards the main road as a policeman shot at him three times. T still managed to disappear.[136] According to S and T, police officers shot Hubertus in his knee from between one and two meters after they searched the activists.[137]

Police officers put Mabel in the back of the pick-up, taking S with them, and ordered W to drive to Wamena.[138] When they reached Kurulu's bus station, around 15 minutes' drive, the policeman in

134. ICG, Dynamics of Violence in Papua, footnote No. 133, p. 7.

135. And on 7 June 2012, the police arrested Chair of KNPB Buchtar Tabuni, accusing him of being involved in the shootings. See ICG, Dynamics of Violence in Papua, footnote No. 133, p. 6. IPAC, the Current Status of the Papuan Pro-Independence Movement, footnote No. 113, p. 23.

136. After the shooting, T hid in one of his relatives' village for a few weeks. Amnesty International interview with T, August 2016.

137. Amnesty International interview with S and T, August 2016.

138. Sitting next to W in front was a policeman, X and S were sitting in the middle row with a policeman while Hubertus was with another policeman.

the pick-up told his colleague that Mabel had stopped breathing. Another policeman replied, "Don't bother, just let him die."[139] They eventually stopped at a hospital in Wamena and the officers ordered W and S to bring Mabel to the Intensive Care Unit. The two did not know whether Mabel was alive, but saw blood all over his feet. Later they found out that he was declared dead the same day. Police then brought W and S to the Jayawijaya District Police Station in Wamena. They don't know where the police took X, but they believe that X was a police informant ordered to set up the arrest of the activists.[140]

W and S spent around a week in the detention cell of the Jayawijaya District Police Station without charge. They were released after their parents came every day to protest their detention and eventually paid off the police.[141] W and S told Amnesty International that the first two days they were beaten, kicked and electrocuted by the police investigator in an effort to force them to confess they were complicit in committing murder with Mabel. The police also used humiliating and insulting words to W and S, such as calling them dogs and pigs.[142] After being released without charge, W and S were ordered to report once a week, but they stop reporting after three weeks.

The day after Mabel died, police brought his body to his family's house with no explanation of how he died. Police also tried to give the family a carton of instant noodles and two sacks of rice, but they refused it.[143]

There was no impartial or independent investigation into the killing and no one has been held accountable for the death of Mako Tabuni and Hubertus Mabel. At least seven KNPB activists were killed by security forces in 2012.[144]

## B. THE KILLING OF MARTINUS YOHAME IN SORONG

On 26 August 2014, the body of another KNPB activist was found in a sack floating in the sea near the Nana islands in Sorong District, West Papua Province. Martinus Yohame's injuries reportedly included a gunshot wound to his chest. Yohame, head of the Sorong branch of KNPB, had gone missing on 20 August 2014. At the same time, another KNPB activist was arbitrarily detained ahead of President Susilo Bambang Yudhoyono's planned visit to West Papua Province for a sailing event on 23 August 2014. The KNPB had planned protests in Sorong around the President's visit and intended to raise the Morning Star flag.[145] Before his disappearance, Yohame received Facebook messages claiming to be from Komnas HAM's Papua branch and from a journalist who wanted to interview him.[146] The Chair of Komnas HAM Papua branch denied that his office had contacted Yohame and there was no further information about the journalist, whose identity remains unknown.[147]

There was no impartial investigation into the death of Yohame and no one has been held accountable for his death. The police claimed they could not investigate because the victim's family refused to allow an autopsy.[148]

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139. Amnesty International interview with W and S, August 2016.

140. Amnesty International interview with W and S, August 2016.

141. Amnesty International interview with W and S, August 2016.

142. Amnesty International interview with W and S, August 2016.

143. Amnesty International interview with a member of Hubertus' family, August 2016.

144. Amnesty International, Annual Report 2013, The State of the World's Human Rights, p. 123 (Index: POL 10/001/2013).

145. Amnesty International, Public Statement, Indonesia: End attacks on freedom of expression in Papua, 29 August 2014 (Index: ASA 21/022/2014).

146. Amnesty International interview with the Chair of KNPB, August 2016.

147. Usman Hamid, Social Media and the Quality of Freedom of Expression in Indonesia, MPhil dissertation in The Australian National University, May 2016, pp. 155-156.

148. "Penyelidikan Tewasnya Martinus Yohame Mandek," [Investigation of Martinus Yohame's Death Stopped], KBR, 31 August 2014, available at: http://kbr.id/eli_kamila/08-2014/penyelidikan_tewasnya_martinus_yohame_mandek/66660.html.

In view of the consistent witness testimony in the Mabel case, and in the absence of an independent, impartial and effective investigation in both deaths, Amnesty International is deeply concerned that Mako Tabuni, Hubertus Mabel and Martinus Yohame are very likely victims of an unlawful killings.

Of the 69 cases of suspected unlawful killings that Amnesty International documented for this report, there are eight cases accounting for 10 lives in which the victims were members of the KNPB.These unlawful killings highlight the unsafe environment faced by political activists in Papua and the ongoing impunity for human rights violations by security forces.

# 2. POLICING PEACEFUL POLITICAL PROTESTS

Unlawful killings often occurred as security forces attempted to break up demonstrations calling for independence, especially flag-raising ceremonies or religious gatherings on commemoration dates.

## A. THE THIRD PAPUAN PEOPLE'S CONGRESS

A coalition of Papuan activists organized a peaceful political gathering in a field in front of a theology seminary in Abepura, Papua Province on 17-19 October 2011.[149] The Third Papuan People's Congress aimed to consolidate Papuan pro-independence groups and form a "transitional government" to obtain full sovereignty.[150] The organizing committee invited central government officials to speak, and the Papua Regional Chief of Police (Kapolda Papua) was informed.[151]

According to witnesses who later testified to Komnas HAM, on the morning of 19 October armed police and military personnel blocked the main road with tanks and armoured vehicles, and surrounded the field where the Congress was being held.[152] That afternoon, two hours after the conference ended, military and police units approached the venue, many of them in plainclothes.[153] They fired shots into the air to break up the roughly 1000 delegates and others who remained peacefully gathered, without asking people to disperse. The shooting caused widespread panic among the participants who began to flee. As they fled, units from the Jayapura City Police and the Papua Regional Police fired tear gas. An estimated 387 participants, including 58 women, were arbitrarily arrested. The security forces also kicked, beat and hit those arrested with rifle butts, a violation of their absolute right to freedom from torture and other cruel, inhuman or degrading treatment or punishment.[154] Some participants were also shot in the legs.[155]

Most were released the following day but five people were charged with, and later convicted of,

149. Known in Indonesian as Kongres Rakyat Papua Tiga or KRP III, the event commemorated the 50th anniversary of the First Papuan People's Congress where 40 Papuan leaders for the first time called for Papuan self-determination amid tension between the Indonesian and Dutch governments over sovereignty of the region. This first congress adopted the Papuan national flag Bintang Kejora (Morning Star), a national anthem Hai Tanahku Papua, and West Papua as their country's name. The Second Papuan People's Congress took place in May 2000, attracting around 25,000 participants, receiving some support from President Abdurrahman Wahid, and renewing the call for right to self-determination. See ICG, Indonesia: Dynamics of Violence in Papua, Jakarta/Brussels, 9 August 2012, p. 8, available at https://www.crisisgroup.org/asia/south-east-asia/indonesia/indonesia-dynamics-violence-papua; Richard Chauvel and Ikrar Nusa Bhakti, The Papua Conflict, footnote No. 4, p. 15, 27 and 28.

150. ICG, Indonesia: Dynamics of Violence in Papua, footnote No. 133, p. 8.

151. Komnas HAM, Laporan Pemantauan dan Penyelidikan Peristiwa Kekerasan di Papua [Monitoring and Investigation Report on Violence Incidents in Papua], 31 December 2011, p. 45, on file with Amnesty International.

152. According to Komnas HAM, there were 2,100 uniform and plainclothes police and 100 military personnel in the area surrounding the Congress on 19 October 2011, with military personnel behind the police units. Komnas HAM, Laporan Pemantauan dan Penyelidikan Peristiwa Kekerasan di Papua, footnote No. 85, pp. 47, 48.

153. During the first two days of KRP III people conducted religious ceremony, unfurling Bintang Kejora flags, traditional dance and political speeches by various Papuan political activists. PGGP (Persekutuan Gereja-Gereja Papua or the Alliance of Papuan Churches) and ELSHAM (Lembaga Studi dan Advokasi Hak Asasi Manusia or the Institute of Human Rights Studies and Advocacy) Papua, Tragedi Lapangan Zakeus [the Zakeus Field Tragedy], p. 4-6.

154. Provided, among other places, in Article 7 of the ICCPR and in the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, which Indonesia ratified in 1998.

155. Komnas HAM, Laporan Pemantauan dan Penyelidikan Peristiwa Kekerasan di Papua, footnote No. 85, p. 86.

rebellion and incitement under Articles 106, 110 and 160 of the Criminal Code, while one was charged with possession of weapons under Law No. 12 of 1951 on Emergencies.[156] Komnas HAM found that at least 96 people were shot, kicked or beaten by police officers, with no evidence the congress participants provoked the violence.[157] Neither the police nor the military have stated that participants endangered the lives of the security forces.




*Around thousands of Papuan gathered in front of theology seminary in Abepura. During the Third Papuan People's Congress, the welcoming banner mentioned the people's aspiration to uphold civil rights of Papuan. © Tempo*

On 20 October local residents found the bodies of Demianus Daniel Kadepa, Yakobus Samonsabara and Max Asa Yeuw. Yakobus and Max Asa were members of PETAPA (Penjaga Tanah Papua, or Guardians of the Land of Papua), which was part of the congress' organising committee. Kadepa was a university student, but it was not clear whether he was involved in the Congress or just a bystander. According to Komnas HAM, the bodies had gunshot wounds and evidence of beatings.[158] The Commission was not able to confirm whether they were killed by the police or by the military.[159]

The police and military denied shooting the three men, admitting only that their members fired warning shots.[160] However, in November 2011 the police conducted internal disciplinary measures against several police personnel for "excessive behaviour" while dispersing congress participants. National Police Headquarters issued a "written warning" to nine members of the police force, sentenced another seven to between 7 and 14 days of disciplinary detention, and removed the Jayapura District Police Chief from his post for "failing to protect and give the best service to the public and conducting acts that degrade the dignity of the state, government or the police forces".[161]

There has been no criminal investigation to establish the truth and hold those responsible criminally accountable for the unlawful killings of the three men.

## B. THE SHOOTINGS IN AIMAS

On 30 April 2013 a group of Papuan activists led by Isak Kalaibin, a member of a pro-independence group,[162] gathered for evening prayers and to organise a peaceful commemoration for the following

156. Komnas HAM, Laporan Pemantauan dan Penyelidikan Peristiwa Kekerasan di Papua, footnote No. 85, pp. 53, 54. Amnesty International, Indonesia: Government must act on Komnas HAM's findings of human rights violations at Papuan Congress, 8 November 2011 (Index: ASA/21/034/2011). Papuans Behind Bars, Third Papuan Peoples' Congress, http://www.papuansbehindbars.org/?case=third-papuan-peoples-congress.

157. Komnas HAM, Laporan Pemantauan dan Penyelidikan Peristiwa Kekerasan di Papua, footnote No. 85, pp. 75-88.

158. Komnas HAM, Laporan Pemantauan dan Penyelidikan Peristiwa Kekerasan di Papua, footnote No. 85, p. 76.

159. Komnas HAM, Laporan Pemantauan dan Penyelidikan Peristiwa Kekerasan di Papua, footnote No. 85, p. 87.

160. Kompas.com, Ini Penjelasan Polisi tentang Insiden Kongres Papua III [This Is the Explanation of the Police about the Third Papuan People's Congress Incident], 9 November 2011, available at http://nasional.kompas.com/read/2011/11/09/21542062/Ini.Penjelasan.Polisi.tentang.Insiden.Kongres.Papua.III; Vivanews, Usut Penembakan Papua, Polisi Uji Balistik [To Investigate the Shootings in Papua, Police Conducts Ballistic Test], 9 November 2011, available at http://www.viva.co.id/kemenpar/read/262851-usut-penembakan-papua-polisi-uji-balistik.

161. Komnas HAM, Laporan Pemantauan dan Penyelidikan Peristiwa Kekerasan di Papua, footnote No. 85, p. 88; Antaranews.com, Polri Akui Anggotanya Berlebihan Saat Kongres Papua [Police Admit Its Members Were Excessive during the Papuan Congress], 28 November 2011, available at http://www.antaranews.com/berita/286799/polri-akui-anggotanya-berlebihan-saat-kongres-papua

day, the 50th anniversary of the handover of Papua from the United Nations to Indonesia based on the 1962 New York Agreement.[163]




↑ *Graveyard of Salomine Kalaibin, sister of member of a pro-independence group Isak Kalaibin, who died on due to gunshot wounds. © Amnesty International*

Police in Sorong District reportedly knew about this plan from their intelligence unit and all of their personnel had gathered at the police station.[164] The police and local military launched a joint operation to break up the event, in which they suspected the banned Morning Star flag[165] would be raised.[166] The joint police-military operation was led by the Deputy Chief of the Sorong District Police and consisting of 11 police and three military personnel.[167]

After the prayer meeting was finished, around 100 people remained gathered near the home of Isak Kalaibin.[168] According to a witness, at around 9pm, the police and military personnel approached the house in four cars. The lead car with the Deputy Chief of the District Police was blocked 100 meters away by participants of the prayer meeting.[169] Some in the crowd started to bang on the car with fists and sticks. Suddenly, security forces from other cars opened fire without warning into the crowd and at houses in the area.[170] At least five people were shot.[171] Abner Malagawak and Thomas Blesia were killed on the spot while Salomina Kalaibin, the sister of Isak Kalaibin, died on 6 May 2013 due to gunshot wounds to her stomach and shoulder.[172] Police claimed the shootings were in self-defence, but there has been no independent investigation to establish whether there was indeed an imminent threat of death or serious injury for those in the car and whether anyone of the five persons killed was involved in such a threat (or maybe was simply victim of indiscriminate firing at persons who did not present a threat).[173]

The right to freedom of peaceful assembly is an individual right. Violence by others does not take that right away from those who want to assemble peacefully, and violence by a few does not make an assembly as a whole violent.

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162. Isak Kalaibin said he was a member of OPM who wanted to protect the rights of indigenous Papuans through peaceful means, Nota Pembelaan Penasehat Hukum atas Nama Isak Kalibin [Legal Defence for Isak Kalaibin], Number:/Pid.B/2013/PN.SRG, 18 November 2013, p. 11. On file with Amnesty International.

163. Nota Pembelaan Penasehat Hukum atas Nama Isak Kalibin [Legal Defence of Isak Kalaibin], footnote No. 162, p. 7.

164. Nota Pembelaan Penasehat Hukum atas Nama Isak Kalibin [Legal Defence of Isak Kalaibin], footnote No. 162, p. 4.

165. See footnote No. 160.

166. A testimony of a member of the joint operation in the legal defence dossier of Isak Kalaibin, footnote No. 162, pp. 4, 5. The Sorong Police Force had raised the security level in Sorong and organized a briefing to all personnel the morning on 30 April 2013 to respond to the planned commemoration.

167. Komnas HAM Perwakilan Papua (National Human Rights Commission's Papua Office), Laporan Tahunan [Annual Report] 2013, p. 61.

168. Amnesty International interview with a witness (name withheld in consideration of their security), August 2016.

169. Amnesty International interview with a witness (name withheld in consideration of their security), August 2016.

170. Komnas HAM Perwakilan Papua, Annual Report 2013, footnote No. 167, pp. 63, 64.

171. Amnesty International interview with a witness, August 2016, footnote No. 162; Komnas HAM Perwakilan Papua, Annual Report 2013, footnote No. 167, p. 65.

172. Salomina's family took her to hide in the hills after she was shot, before bringing her to the hospital at 5am the next day. Amnesty International interview with a witness, August 2016, footnote No.162.

173. Komnas HAM Perwakilan Papua, Annual Report 2013, footnote No. 167, p. 62.

The police arrested seven people, including Isak Kalaibin, and charged them with rebellion (makar) under Articles 106 and 110 of the Criminal Code for possession of Morning Star flags and firearms[174] All denied they possessed firearms.[175] On 4 December 2013, the Sorong District Court convicted all seven, sentencing them to between one year and six months and three years and six months in prison for supporting the independence of Papua and planning to raise the banned flag. The firearms charges were not upheld by the court,[176] refuting police claims that they used lethal force only in self-defence.

## C. THE SHOOTINGS IN WANAMPOMPI VILLAGE

Unlawful killing in the context of a peaceful commemoration of political events also occurred in Wanampompi village in the Yapen Islands on 1 December 2015. Independence supporters organised a flag-raising ceremony, planning to sing an old Papuan anthem and pray to commemorate the 54th anniversary of the Morning Star flag being first raised, which pro-independence Papuans consider their first declaration of independence.[177] Around 7am, just after they had raised the flag and started to sing, police and military personnel approached the activists. A short time later they opened fire into the crowd.[178]

The police claimed that they were on patrol when they saw the flag-raising. When they tried to negotiate with participants to take down the flag, they were shot at by one of them. Consequently, the security forces said, they were forced to shoot at the crowd after first firing warning shots into the air.[179] However, a very different account came from participants in the ceremony. They denied that shots were fired at the police and said that the security forces shot at the crowd without negotiation or warning. It should be noted, that no police officer was reported wounded or killed as a result of the alleged shot against them.[180]

Four men died, including the leader of the ceremony, Erik Manitori, and at least eight others were injured. According to a local church organization, Yonas Manitori and Dairus Andiribi died on the spot after being shot when they approached the police convoy to ask the purpose of the patrol.[181] Seeing this, Yonas Manitori's' brother Erik and Yulianus Robaha attempted to come to his aid, but were shot in the legs and dragged onto a police truck. Both died on the way to a hospital. The following day, family members received the bodies of the two brothers. The villagers found a small hole in Erik's right chest as well as wounds to his stomach and face. His intestines protruded from his stomach, indicating that he was hit by at least one bullet. They found two small holes in Yonas' chest and presumed that he too died of gunshots.[182]

There have been no investigations into the deaths of these four men.

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174. Two days after the shootings, police came to Isak Kalaibin's house and took many things from the house, including his bow and knife, common equipment for indigenous Papuans for hunting wild animals. Amnesty International interview with a witness, August 2016, footnote No. 162.

175. Legal defence dossier of Isak Kaliabin (p. 20) and other six defendants, all on file with Amnesty International.

176. Sorong District Court Decision No. 118/Pid.B/2013/PN.Srg, 20 November 2013. Amnesty International, Public Statement, Indonesia: Release seven activists imprisoned in Sorong, Papua, (Index: ASA 21/040/2013).

177. Richard Chauvel, Constructing Papuan Nationalism, footnote No. 33, pp. 8, 9.

178. JPIC-GKITP Report, Shootings in Wanampompi village on December 1, 2015 in Yapen, 16 January 2016, pp. 1-2, on file with Amnesty International. ELSHAM's Investigation Report, Rayakan 1 December, Empat Orang Tewas, Delapan Orang Luka-Luka [Celebrating 1 December, Four Men Died, Eight Injured], pp. 1-2, on file with Amnesty International. The Yapen Islands are considered by the police and military as a stronghold of the armed pro-independence movement and there have been several security operations launched there. See IPAC, the Current Status of the Papuan Pro-Independence Movement, footnote No. 133, pp. 16, 17 and Komnas HAM Papua, Laporan Tahunan (Annual Report) 2015, p. 71.

179. This version came from the Chief of Yapen Islands District Police (Kapolres). See Komnas HAM Papua, Annual Report 2015, footnote No. 178, p. 73 and ELSHAM's Investigation Report, Rayakan 1 December, Empat Orang Tewas, Delapan Orang Luka-Luka [Celebrating 1 December, Four Men Died, Eight Injured], p. 4 (on file with Amnesty International).

180. ELSHAM's Investigation Report, footnote No. 179, p. 4.

181. JPIC-GKITP Report, Shootings in Wanampompi village on December 1, 2015 in Yapen, p. 1 and ELSHAM's Investigation Report, footnote No.179, p 3.

182. ELSHAM's Investigation Report, footnote No. 179, pp. 5-5.

Based on the findings by Komnas HAM, the internal disciplinary measures by the police, and the fact that peaceful gatherings do not justify the use of lethal force, Amnesty International is deeply concerned that Demianus Daniel Kadepa, Yakobus Samonsabara and Max Asa Yeuw were the victims of unlawful killing. Police have claimed that the deaths of Abner Malagawak, Thomas Blesia, and Salomina Kalaibin were in self-defence, but there has been no independent investigation, nor was there one in the case of Yonas Manitori, Dairus Andiribi, Erik Manitori, and Yulianus Robaha, leaving serious concerns they all may be victims of unlawful killings.

The three cases above illustrate the failure of the Indonesian security forces to distinguish between people who are violent and endanger lives and peaceful activists, and between peaceful expression of opinion and assembly and acts of physical violence. The 2015 Defence White Paper by Indonesia's Ministry of Defence still considers "separatism both advocated through armed or political movement" is one of the main internal threats to national security and state sovereignty, and the military often respond to peaceful expression of opinion in the same way as they do to armed opposition to the State.[183] Indeed, the behaviour of security forces toward peaceful protests indicates the perception, from the highest echelons of the military and Ministry of defence down to the lowest officer, that they are dealing with enemies of the state not dissimilar to armed factions.

## THE RIGHTS TO FREEDOM OF EXPRESSION, ASSOCIATION AND PEACEFUL ASSEMBLY IN POLICING POLITICAL COMMEMORATIONS

People in Papua and throughout Indonesia should be able to peacefully express their views free from harassment, threats, violence and the fear of criminalization. Under international human rights law binding on Indonesia, the right to freedom of expression includes the right to peacefully advocate for referendums, independence or any other political processes that do not involve “any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence”.[184] According to the UN Special Rapporteurs on the rights to freedom of peaceful assembly and of association and on extrajudicial, summary or arbitrary executions, legitimate restrictions may be imposed on the content of assemblies that include the kind of advocacy or incitement prohibited by the ICCPR, but the authorities nevertheless may only “take the least intrusive and restrictive measures” to tackle such problems.[185]

Article 6(4) of Government Regulation No. 77 of 2007 on Regional Symbols[186] prohibits the display of regional logos or flags with features used by “organization[s], groups, institution[s] or separatist movements”. This provision has led to a ban on the Morning Star and Fourteen Star flags in Papua, the Benang Raja flag in Maluku, and the Crescent Moon flag in Aceh, as they are associated with separatist movements. Amnesty International believes this ban cannot be considered a legitimate restriction on the rights to freedom of expression, association or peaceful assembly as set out in the ICCPR. The Morning Star flag does not feature any violent logo or message, nor does it symbolize or imply violence. The mere act of raising such a flag is not violent or disruptive, as Indonesian authorities claim, but remains a peaceful act.[187]

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183. Ministry of Defence, Buku Putih Pertahanan (Defence White Paper) Indonesia 2015 p. 21, available at https://www.kemhan.go.id/wp-content/uploads/2016/04/BPPI-INDO-2015.pdf; Headquarters of the Indonesian Police Force, Rencana Strategis Kepolisian Negara Republik Indonesia Tahun 2015-2019 [Strategic Plan of the Indonesian National Police for 2015-2109], p. 9 (on file with Amnesty International). The INP also added a potential internal threat to the national security in the form of “liberal democracy” ideology that influences politicians, scholars, NGOs and members of society by manipulating the reform momentum, democratization and human rights protections to demand unlimited “freedom”. p. 11.

184. ICCPR, Article 20(2)

185. Joint report of the UN Special Rapporteur on the rights to freedom of peaceful assembly and of association and the UN Special Rapporteur on extrajudicial, summary or arbitrary executions on the proper management of assemblies, 4 February 2016, UN Doc. A/HRC/31/66 para. 33.

186. Amnesty International, Impunity persists in Papua as militia groups take root, September 2000, (Index: ASA 21/34/00), p. 1.

187. Amnesty International, Indonesia: Jailed for Waving a Flag, 2009, (Index: ASA 21/008/2009) pp. 19-20.

### A FAILURE TO NEGOTIATE WITH PROTESTERS

Chief of National Police Regulation No. 16 of 2006 on Guidelines for Mass Control requires the police to prioritise negotiations with protest leaders when policing a public assembly.[188]

Security forces in Papua should better plan and prepare for political events that may lead to friction, and take action to prevent unlawful killings or other human rights violations. This effort should include a strategy to engage in dialogue with organizers of public assemblies.[189]

Police in Papua have begun to develop new tactics to "prevent" unlawful killings during peaceful political protests, including mass arrests of Papuan activists before and during peaceful assemblies.[190] However, these measures are arbitrary and violate the human rights to liberty and to freedom of expression, association and peaceful assembly.

Further, the Chief of Police for Papua Province issued a decree in July 2016 banning many pro-independence organizations from organising peaceful assemblies. The decree also officially removed many pro-independence groups' status as legitimate social organizations under the Law No. 17 of 2013 on Mass Organizations.[191] Under international law, the right to organise and participate in public assemblies must be guaranteed to any individuals and groups, including unregistered associations.[192]

## 3. UNLAWFUL KILLINGS DURING SECURITY OPERATIONS

The police force in Papua considers armed pro-independence groups to be criminal organisations under article 106 of the Criminal Code, and security operations are often an attempt to arrest these suspected criminals. In many cases these operations also involved the military in the search for members of armed pro-independence groups. Amnesty International acknowledges that there have been incidents of violence committed by non-state actors in Papua, including in the course of arrests, and recognizes that the Indonesian government can use domestic criminal law to deal with violent attacks.

During these joint security operations against pro-independence armed groups, villagers who are not involved with such groups at times became the victims. Amnesty International has documented eight such cases, in which ten villagers died. The following cases are examples of this pattern.

### A. THE SHOOTING OF ISMAIL LOKOBAL, A MEMBER OF PETAPA

On 4 October 2010, between 10am and 11am, officers from the Jayawijaya District Police Station and airport security staff stopped Amos Wetipo at Wamena airport. The leader of the Wamena branch of the

188. The regulation, Pedoman Pengendalian Massa, is available at https://kalsel.polri.go.id/perkap/2006/PERKAP%20NO%2016%20TH%202006%20TTG%20PENGENDALIAN%20MASSA.pdf.

189. Amnesty International Dutch Section, Policing Assemblies: Police and Human Rights Program, Short paper series No. 1, December 2013, p. 12, available at https://www.amnesty.nl/actueel/short-paper-series-no-1-policing-assemblies.

190. Papuans Behind Bars, Rising Voices, Rising Arrests: A Look at West Papua in 2015, pp. 10-13, available at http://www.papuansbehindbars.org/wp-content/uploads/2016/08/2015-Rising-Voices-Rising-Arrests.screen.pdf, and ICP, The Human Rights Situation in West Papua, Submission to the Universal Periodic Review of the Republic of Indonesia at the UN Human Rights Council, 3rd Cycle (May-June 2017), September 2016, para. 4, available at https://www.upr-info.org/sites/default/files/document/indonesia/session_27_-_may_2017/icp_upr27_idn_e_main.pdf.

191. Maklumat Kapolda Papua tentang Penyampaian Pendapat di Muka Umum [Papua Regional Chief of Police Decree on Delivering Opinion in Public] 1 July 2016. Amnesty International has previously raised concerns on the passage of the Mass Organizations Law for restricting political activists to peacefully advocate referendums, independence or any other political solutions (Article 59) that do not involve incitement to discrimination, hostility or violence, such as in Papua and Maluku. Amnesty International, Public Statement, Indonesia: Freedom of association under threat, 11 July 2013, (Index: ASA 21/024/2013). This provision was also criticised by UN independent experts on freedom of association, expression, and religion and on the situation of human rights defenders, Indonesia: "Restrictive bill threatens freedoms of association, expression and religion, warn UN rights experts," Geneva, 14 February 2013, available at http://newsarchive.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=12989&LangID=E. On 10 July 2017, President Widodo signed Government Regulation in Lieu of Law (Perppu) No. 2 of 2017, amending the 2013 Law on Mass Organizations to remove judicial safeguards over the process of banning NGOs and other organizations. The new legislation, enacted by Parliament in October 2017, would impose restrictions on the rights to freedom of association, expression, religion and belief, which were even more extensive than those currently set out in the Law on Mass Organizations.

Guardians of the Land of Papua (Penjaga Tanah Papua, PETAPA)[193] had just landed from Jayapura, and was taken to a room in the airport. Airport police searched Wetipo's luggage, confiscated one bag, and tried to arrest him without a warrant after finding dozens of berets that he bought in Jayapura.[194] The airport police handed Amos over to Jayawijaya District Police waiting at the airport exit gate with a car. However, about a dozen PETAPA members who had come to pick Wetipo up confronted the police, leading to a physical clash with around 30 police personnel. The protestors removed Amos from police control, with some PETAPA members throwing rocks and at least three police officers responding with warning shots into the air. After several shots the police withdrew.[195]

Wetipo and five other PETAPA members drove to their headquarters, which is also the office of the Wamena branch of the Papuan Customary Council (Dewan Adat Papua, DAP), a few kilometres from the airport. There were around 10 other PETAPA members at the headquarters. Less than an hour later, around a hundred police officers led by the Jayawijaya District Chief of Police appeared just outside the fence, less than 50 meters from the building. Wetipo saw military personnel standing behind the police.[196]



↑ *Graveyard of Ismail Lokobal. © Amnesty International*

As soon as the police passed the fence, some PETAPA members inside the building hurled rocks at them with slingshots. A rock hit the police chief in the mouth and broke some of his teeth, and other police officers were also hit. The police opened fire into the building without any warning. Ismail Lokobal, who had not been at the airport earlier, was shot and killed.[197]

Around an hour later, after the shooting stopped, the head of Jayawijaya District (known in Indonesian as the bupati) came to the DAP headquarters and brought Wetipo and the Chief of Police to his office for mediation. The Chief of Police insisted that the police be allowed to arrest Amos. After Amos argued that the police lacked an arrest warrant when they came to his headquarters, and demanded accountability for the killing of Ismail Lokobal, both parties agreed that Wetipo would not be arrested.

According to Wetipo, the Chief of Police was transferred soon after, but there has been no independent investigation into the shooting. Actually,

192. Joint report of the UN Special Rapporteur on the rights to freedom of peaceful assembly and of association and the UN Special Rapporteur on extrajudicial, summary or arbitrary executions on the proper management of assemblies, p.4 footnote No. 69, para. 15.

193. PETAPA is a unit under the Papuan Customary Council (Dewan Adat Papua, DAP) which consists of the leaders of Papuan sub-ethnic groups (or clans) and aims to preserve cultural and other rights as indigenous peoples' rights. DAP is often a critical voice against the destruction of forests or other natural resources, the negative impacts of development, and central government policies on Papua. PETAPA serves as the "enforcer" or "customary police" of Papuan customary tradition. Amnesty International interview with Amos Wetipo, August 2016. DAP was established in 2002 by Papuan political activists with networks among grassroots indigenous peoples, as a follow up of the Second Papuan People Congress (KRP II) in 2000, which called for "the restoration of Papuan sovereignty and independence". See also LIPI, Papuan Road Map, footnote No. 24, pp. 26, 91.

194. The berets were blue without any symbol. Berets are a common part of the uniform for security forces or paramilitary groups in Indonesia. Amnesty International interview with Amos Wetipo, August 2016.

195. A few months earlier the police told Wetipo that the Papuan Customary Council, PETAPA's umbrella organisation, was denied permission to build their headquarters because local authorities considered it an illegal organization that supported separatism. However, PETAPA received no official letter or announcement that their organization is illegal or supporting separatism. Amnesty International interview with Amos Wetipo, August 2016.

196. Amnesty International interview with Amos Wetipo, August 2016.

197. Amnesty International interview with Amos Wetipo, August 2016. Amnesty International interview with a human rights defender in Wamena who witnessed the shootings.

despite the violent behaviour of some of the PETAPA members at the airport and at the headquarter, the use of lethal force - and even more if it is done indiscriminately - does not seem to be justified in the situation: Around hundred police officers plus some military personnel should be able to protect themselves and to handle a situation merely involving some 16 persons in the building without resorting to their firearms. The use of firearms was thus not strictly necessary to protect against a threat of death or serious injury. And randomly firing at a building in a way that anybody can be hit, whether involved in violence or not, presents an unlawful and excessive use of lethal force.

## B. SECURITY OPERATIONS IN KULIRIK VILLAGE

On the morning of 26 January 2014, a joint police and military operation moved into Kulirik village in Puncak Jaya District, Papua Province. Two days earlier, members of an armed independence group had stolen eight firearms from a police post in the village.

The joint security forces targeted a church as villagers attended Sunday morning service. Four men standing outside the church building, Tigabur Tabuni, Caban Tabuni, Yukiler Enumbi, and K[198] were beaten with a wooden stick by a member of security forces. When the four tried to escape, the security forces shot Yukiler Enumbi, leading to his death. The other three ran, but were caught and arrested. Meanwhile, those inside the church were forced to lie down on the floor with guns pointed at them. According to a report by the Christian Evangelical Church, two villagers inside the church were beaten and stabbed by a bayonet.[199]

Tigabur Tabuni, Caban Tabuni, and K were brought before the Puncak Jaya District Chief of Police, who identified them as the ones who stole the firearms. Police officers forced them into a car and took them to an unknown location. They were told to lie down and the police officers then repeatedly shot at them. Tigabur Tabuni died on the spot, Caban Tabuni was hit in several places including his knees, and K was shot in his left knee and stomach.[200]

The police brought the K and Caban Tabuni to the Police Hospital in Jayapura for intensive medical treatment under police custody, without informing their families. Caban Tabuni died five months later as a result of his injuries. In August 2014, after relatives bribed police officers with 120 million rupiah (around US$9,700), K was released and taken to a public hospital in Papua New Guinea. His relatives fear that if K returns to Indonesia he will be killed.[201]

There has been no criminal investigation into the security operation in Kulirik village and no one has been held accountable for the deaths and injuries.

In view of the consistent testimony of witnesses and findings by a local NGO, in the absence of an independent, impartial and effective investigation, Amnesty International is deeply concerned that Ismail Lokobal in Wamena and Yukiler Enumbi, Tigabur Tabuni and Caban Tabuni in Kulirik were the victims of unlawful killings. The last three were killed deliberately while under the control of the security forces, in what appears to be an act of extrajudicial execution.

198. The victim's name is omitted to protect his identity due to safety concerns for his family.

199. KPKC Sinode GKI (Justice, Peace and Integrity of Creation Unit of the Evangelical Christian Church in Papua), Police Try to Cover-Up Extra-judicial Killings and Torture during Joint Military-Police Sweeping Operations in Puncak Jaya Regency, 14 May 2015. p. 2.

200. Footnote No. 199. p. 3

201. International Coalition for Papua, Human Rights in West Papua 2015, September 2015, p. 41, available at: http://humanrightspapua.org/images/docs/HumanRightsPapua2015-ICP.pdf.




Civil society coalition held press conference on June 9, 2017 responding to the planned military involvement. © KontraS

# 6. ACCOUNTABILITY FOR UNLAWFUL KILLINGS IN PAPUA

*"We are disappointed that the Paniai 2014 [shootings case is unaddressed and stuck]. If the situation doesn't change and there is no state accountability, the Papuans will not enjoy the freedom to live. The Paniai shootings and other human rights violations in Papua should be addressed by a judicial process if they want Papuans to claim to be Indonesian citizens."*

Family member of a victim of the Paniai 2014 shootings, Amnesty International interview.

# LACK OF PROMPT, EFFECTIVE, TRANSPARENT, IMPARTIAL AND INDEPENDENT INVESTIGATION

States have an obligation to investigate human rights violations, especially serious ones such as those involving the right to life. After a suspicious death, whether allegedly committed by a state actor or not, the state has a duty to carry out a prompt, independent, impartial and effective investigation. If sufficient admissible evidence exists, those suspected of criminal responsibility should be prosecuted in proceedings that meet international fair trial standards. The competent authority conducting the investigation should be independent of the authority accused of committing the unlawful killing. Family members of victims should have access to truth, justice and effective reparation.[202]

A failure by the state to investigate allegations of unlawful killing constitutes a separate human rights violation.[203] Investigations along these lines are indispensable to ensure justice and prevent the unlawful resort to lethal force in the future, and thus constitute an essential element of the State's positive obligation to prevent the arbitrary deprivation of life.[204]

An effective accountability system should cover: criminal investigations through an independent external oversight mechanism; disciplinary investigations; civil or administrative proceedings for full reparations that include rehabilitation, restitution, compensation, satisfaction and guarantees of non-repetition; and a review of institutional functioning.[205] The investigation results should be transparent and open to the victims' families and the general public.[206]

The accountability system must also give due attention to the rights and needs of victims of the use of force.[207] These include the right to file a complaint, to be informed of the progress of the investigation, to name and interrogate witnesses, to receive legal and psychological support, to be informed of the outcome of the investigation, to protection of privacy, to protection against threats and intimidation, and to full reparation.[208]

Of the 69 cases of suspected unlawful killings by security forces in Papua that Amnesty International has documented, virtually no criminal investigations have been carried out by an institution independent of the one whose members were suspected of committing the killing. Amnesty International also found that in 25 cases there has been no investigation at all. In 26 cases the police or military claimed to have conducted internal investigations, but the results were not made public. Most families told Amnesty International they did not receive regular updates about the outcome of any official investigation into the death of their family member.

As for prosecutions, members of the security forces who commit unlawful killings in Papua have never been brought before an independent civilian court of law. In a few cases of suspected unlawful killings, police personnel received punishment when found by internal disciplinary mechanism to have been involved in the killings. A few cases of unlawful killings by military personnel in Papua were brought to military tribunals.

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202. Minnesota Protocol para. 10, footnote No. 64.

203. Human Rights Committee, General Comments No. 31 on the Nature of the General Legal Obligation Imposed on States Parties to the Covenant, UN Doc. CCPR/C/21/Rev.1/Add.13, 26 May 2004, para. 15,

204. Amnesty International, The UN Human Rights Committee's Proposed General Comment on the Right to Life, June 2015 (Index: IOR 40/1644/2015), p. 29,

205. Amnesty International, Use of Force: Guidelines for Implementation of the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, footnote No. 72, pp. 65-66.

206. Minnesota Protocol para. 32, footnote No. 64.

207. See United Nation General Assembly, The Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, UN Doc. A/RES/40/34, 29 November 1985.

208. Amnesty International, Use of Force: Guidelines for Implementation of the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, footnote No. 72, p. 33.

Most families of the victims told Amnesty International that they still wanted to see the perpetrators brought to justice through trials in court. Criminal justice is a vital part of victims' right to an effective remedy. The wish to bring the perpetrators to justice echoed by the family of the victims of Paniai shooting case. One of them said that "for us, the government takes too much time to solve the case. Maybe they think it is really hard to solve it; it is like moving mountains." The prevailing impunity could also mean that families who have lost loved ones continue to be victimised.

There are a number of redress mechanisms to deal with unlawful killings by the security forces in Papua. However, flaws and barriers in the legal framework and a lack of political will to develop effective mechanisms and strategies to investigate and prosecute crimes in Papua, and elsewhere in Indonesia, have entrenched impunity.

# EXTERNAL ACCOUNTABILITY MECHANISM

In 2000 Indonesia created an external accountability mechanism under Law No. 26 of 2000 on Human Rights Courts to address human rights violations outside the internal mechanisms of the police and military. Under the Human Rights Court mechanism, Komnas HAM is the sole body authorized to initiate and carry out preliminary, pro-justicia inquiries into alleged "gross human rights violations and abuses" (Article 18).[209]

However, this mechanism has a limited jurisdiction. The Law defines "gross human rights violations and abuses" as genocide and crimes against humanity (Article 7). This definition excludes other crimes under international law, including war crimes, torture, extrajudicial execution and enforced disappearance. Although in some circumstances, torture, extrajudicial execution and enforced disappearance can amount to acts of genocide or crimes against humanity, they are also crimes under international law in their own right. National courts, including a human rights court with jurisdiction to hear "gross violations and abuses" should therefore have jurisdiction over them.

In fact, one case from Papua has been brought to a Human Rights Court. On the morning of 7 December 2000, police raided student hostels and other locations in Abepura, on the outskirts of Jayapura, the capital of Papua Province.[210] The raids were carried out in apparent retaliation for an attack on the Abepura Subdistrict Police Station earlier that night, in which two police officers and a security guard were killed. The police fired shots during the raids on the hostels and beat and kicked students, many of whom were asleep when the raids began. One student was shot dead, two died as a result of torture, and around 100 were arbitrarily detained. Many of those detained were tortured or otherwise ill-treated.[211]

In January 2001 Komnas HAM announced that it would establish a Commission of Inquiry for Papua (Irian Jaya) with a view to bringing the case to one of the permanent Human Rights Courts provided for under Law No.26 of 2000 on Human Rights Courts.[212] In September 2005 the court ruled that the Abepura case did not constitute crimes against humanity, and therefore there was no need to prove the charges of command responsibility, as any crimes committed were outside of the Court's

209. If Komnas HAM finds sufficient evidence that a gross human rights violation has occurred, a summary of the findings shall be submitted to the Attorney General's Office for further investigation. Articles 21 and 23 of the law states that investigation and prosecution of a gross human rights violation is to be taken up by the Attorney General.

210. Amnesty International, Briefing to the UN Committee Against Torture, footnote No. 237, p. 39-41.

211. Amnesty International, Indonesia: Killing and torture acquittals demonstrate failure of justice system, Press Release, 8 September 2005, (Index: ASA 21/018/2005).

212. The Komisi Penyelidik Pelanggaran Hak Asasi Manusia Papua/Irian Jaya, or KPP HAM Papua/Irian Jaya investigation was completed in May 2001. The final report concluded that there was strong evidence of gross human rights violations, including torture, extrajudicial executions, persecution based on gender, race and religion and arbitrary detentions and restrictions on freedom of movement. The report named 25 members of regular police and Brimob as possible suspects. Further, the report recognized that the Abepura case was not an isolated incident, but part of a more general policy of repression in Papua. See Amnesty International, Submission to the UN Human Rights Committee for the 108th Session of the Human Rights Committee, footnote No. 230, p. 40.

jurisdiction. On this basis the two defendants, senior police officers, were acquitted of both the murder and command responsibility charges. The victims were also denied rehabilitation and compensation. In January 2007, the Supreme Court confirmed the verdict.[213]

Because war crimes, torture, extrajudicial executions and enforced disappearance are also not adequately defined in the Criminal Code, the very limited jurisdiction of the Human Rights Courts creates a major gap in Indonesia's national laws, limiting the ability of victims in Papua and elsewhere to obtain justice, truth and reparation.

Another major obstacle to justice is that in practice many cases investigated by Komnas HAM have not then been investigated by the Attorney General's Office or brought to court, leaving no-one accountable for unlawful killings, the perpetrators at large, and victims without full and effective reparation.[214]

# POLICE ACCOUNTABILITY MECHANISMS

Victims, their families or their lawyers have to lodge their complaints to the police through the Propam unit (the Division of Profession and Safety) or to the superior of the accused, to assess whether the complaint should be investigated further.[215] Both the Propam unit and the superior can conduct a disciplinary hearing and hand down punishment.[216] Punishments may include physical exercises, attending school for a year, a salary or promotion freeze, dismissal, or detention.[217]

The internal police investigation system can forward cases of police abuses to the public prosecutor to initiate criminal court proceeding. Law No. 2 of 2002 on the Indonesian National Police provides that police officers suspected of violating the law must be brought before a civilian court. Further, article 4 of the Government Regulation No.3 of 2003 on the technical application bringing police before civilian courts, clarifies that investigations into suspected criminal acts involving the police should be conducted through the same procedures as for civilian courts. They should be regulated by the Criminal Procedure Code, whereby the police have the primary responsibility for arrest, detention and investigation of suspected criminal offences.

The power thus granted to an internal disciplinary body of the police that is no subject to any external control to investigate reports of alleged crimes by their own officers is in clear breach of the international legal requirement for investigations to be independent. A police force should have an effective, human rights compliant internal disciplinary mechanism to deal with minor offences, but this process should not replace independent criminal investigations and prosecution. Misconduct involving recognisably criminal offences should be dealt with under criminal law, although it may also lead to disciplinary measures such as dismissal. When disciplinary investigations reveal the possible commission of a criminal offences, a separate criminal investigation must be initiated by the prosecutor or court.

Police officers were allegedly involved in 45 of the 69 cases of suspected unlawful killings documented by Amnesty International.[218] Of these 45, only six were handled by the police internal accountability

213. Supreme Court Decision No. 01 K/PID.HAM AD HOC/2006 on Johny Wainal Usman, 25 January 2007, p. 23-32 and Supreme Court Decision No. 02 K/PID.HAM AD HOC/2006 on Daud Sihombing, 25 January 2007, p. 19- 22, both are on file with Amnesty International.

214. These cases include the purge against the alleged communist members and supporters of 1965-1966, the mysterious killings of alleged criminals in the 1980s, the 1989 Talangsari Lampung mass killings, the enforced disappearance of anti-Soeharto activists in 1997-1998, the Trisakti University shootings, the Semanggi I and II shootings in 1998 and 1999, human rights violations in Wasior in 2001 and Wamena in 2003, both in Papua and two human rights violation cases in Aceh (the 1999 Simpang KKA case in North Aceh and 2003 Jambo Keupok case in South Aceh in 2003.

215. Amnesty International, Unfinished Business; Police Accountability in Indonesia, June 2009, (Index: ASA 21/013/2009), p. 44-52.

216. Article 15 of the Government Regulation No2/2003 on the Disciplinary Regulations for the Members of the Indonesian National Police Forces.

217. Articles 9, 10 and 33 of Government Regulation No. 2 of 2003.

mechanism and then made public. While Amnesty International has made requests to the police and conducted other research, it is possible other cases were handled internally but have never been made public. Examples of those made public include:

- After the Third Papuan People's Congress incident in Abepura in October 2011 (see Chapter 5) that resulted in the death of three Papuan men, the Papua Regional Police held four internal disciplinary hearings. In November 2011, a hearing found the former Jayapura District Police Chief guilty of violating the Disciplinary Code for "his inability to co-ordinate police officers under his command". In separate hearings, 17 police officers, including two Brimob officers, were also found guilty of violating the Disciplinary Code. Fifteen officers received written warnings and two others were imprisoned for 14 days.[219] No criminal proceedings are known to have been opened.
- According to the Papua Regional Police Chief at the time, two low-ranking police personnel from the Paniai District Police received 21 days' imprisonment at an internal disciplinary hearing for firing warning shots into the air to deal with protesters on 8 December 2014 (see Chapter 2).[220] No criminal proceedings are known to have been opened.
- Responding to public pressure following the Deiyai shooting incident in August 2017 (see Chapter 4) where police officers arbitrarily opened fire into a crowd of protesters without warning, wounding at least 10 people, including children, nine police officers were subjected to disciplinary action and only four received administrative punishment such as to formally apologizing in front of the Disciplinary Body and transfer to another region. Two officers said to use live ammunition during the riot while there are three police officers that could not track how many rubber bullets they shot at the crowd. The inability of the police officers to identify the number of bullets show that they did not fill the form required by Article 14(3) of Regulation No. 1 of 2009. No criminal proceedings are known to have been opened.[221]

The police may announce internal investigation reports or findings to the media, but do not share written reports, or provide details about the nature of the abuses or name the regulations violated.

Of the 45 documented cases of suspected unlawful killings by police officers, none of the cases were brought to a civilian court. This accountability mechanism is different when involved rather ordinary criminal acts, but not in the exercise of duty. Amnesty International recorded that there are two separate cases involving the police that were brought to a civilian court. In the first, an act of domestic violence, a police officer killed his wife in Timika, Papua Province in November 2013.[222] The second case was a shooting incident between police and military personnel in a market in Biak, Papua Province in April 2014, which left a member of the air force dead. The Jayapura District Court convicted two members of Brimob of murder and sentenced them to 15 and 12 years in prison in January 2015.[223]

Victims of police abuses or their families can complain to other bodies, including the National Police Commission (Kompolnas),[224] Komnas HAM[225] and the National Ombudsman (Ombudsman Republik

218. The number also included any suspected unlawful cases that involved joint acts between the police and military personnel in the same incident.

219. Amnesty International, Excessive Use of Force; Impunity for Police Violence in Indonesia, April 2012, (Index: ASA 21/010/2012), p. 4.

220. Amnesty International interview with Yotje Mende, a commissioner of the National Police Commission (Kompolnas) and former Chief of Papua Regional Police Force during the Paniai shooting incident, August 2016.

221. See Chapter 3

222. Amnesty International received the document of the disciplinary mechanism on Deiyai case after sent a request letter to the Papua Provincial Police. Police Ethic Court's Decisions No PUT/12-19/VIII/2017/KKEP.

223. "Kasus Polisi Bunuh Istri Dilimpahkan ke Kejaksaan [Case of a Police Officer Killing His Wife Handed to Prosecutor]," Republika, 23 January 2014, available at http://www.republika.co.id/berita/dunia-islam/islam-mancanegara/10/07/02/internasional/global/12/06/05/nasional/hukum/14/01/23/mzuo45-kasus-polisi-bunuh-istri-dilimpahkan-ke-kejaksaan. Amnesty International could not confirm whether the police officer was convicted.

Indonesia, ORI).[227] While these bodies can receive complaints and carry out investigations, their findings cannot be submitted to the public prosecutor. They also cannot carry out official autopsies or examine autopsy reports, death certificates and other medical certificates in suspected unlawful killings involving the police. They can only send reports and findings to the police, which forwards them to Propam for investigation. The limited mandates of Komnas HAM, Kompolnas and the National Ombudsman are among the reasons that an independent police complaints mechanism is clearly needed to ensure investigations are followed, where necessary, by prosecutions to combat widespread impunity.

# MILITARY ACCOUNTABILITY MECHANISMS

Since the end of the Soeharto era, laws and regulations have been put in place to promote respect and protection of human rights by the military. Article 2(d) of Law 34 of 2004 on the Indonesian National Armed Forces defines a professional soldier, among other things, as someone who "adheres to the principles of democracy, civilian supremacy, human rights, national laws, and international treaties which have been ratified".

However, Amnesty International continues to receive reports of human rights violations by the military. Of the 69 cases of suspected unlawful killings, 34 reportedly involved members of the military.[228] Only six cases reached a military court, meaning that in 82% of these cases no one has been held accountable. Below are two cases that reached military courts:

- In March 2010, Rev. Kinderman Gire of the Evangelical Church in Indonesia Church (Gereja Injili di Indonesia, GIDI) was found dead near the Tinggin River, in the village of Kalome, Tingginambut Subdistrict, Puncak Jaya District, Papua Province. Rev. Gire and a friend had been waiting for a delivery of food and fuel when Infantry Battalion 756 troops approached and asked about an armed group, the Free Papua Movement (Organisasi Papua Merdeka, OPM) in the area. The troops then beat Rev. Gire for over 11 hours before killing him with two gunshots to his chest.[229] They dumped the body into the river after trying to cut off his head. The case attracted international attention when a video of the torture appeared on the internet in October 2010. Three soldiers were tried in a military court in Jayapura.

  Throughout the hearings, the three claimed Rev. Gire led them to believe he was a member of the OPM and tried to grab a rifle from one soldier, who shot him in the chest. In August 2011, the three were convicted of disobeying orders. Private Herry Purwanto, First Sergeant Saut Sihombing,

224. "2 Oknum Brimob Divonis 15 dan 12 Tahun Penjara [Two Brimob Members Sentenced to 15 and 12 Years in Prison]," Bintang Papua, 29 January 2015.

225. Law No. 2 of 2002 on the Indonesian National Police established Kompolnas primarily to provide policy advice to the president and upper echelons of the police, rather than to act as an oversight body. A third of its nine members are Ministers and are ex officio: the Ministers for the Interior, for Law and Human Rights, and for Political, Legal and Security Affairs. It is not an independent complaints mechanism that can investigate and submit cases for prosecution.

226. Komnas HAM, established by Law 39 of 1999 on Human Rights, can receive complaints about human rights violations from individuals or groups. This body is authorized to investigate and examine incidents that in nature or scope are likely to constitute violations of human rights, and can report publicly on its findings. Commissioners are selected by members of parliament, and work from Jakarta, though they have offices or representatives in some areas, including Jayapura.

227. This body was established by Law No. 37 of 2008 on the Ombudsman of the Republic of Indonesia, with members selected by parliament. They can receive complaints from the public on maladministration by any state agencies and can conduct investigations based on them. The Ombudsman must "follow up the complaints or information given by the public concerning mishaps, maladministration and/or abuses of power of government officials in the execution of their duty and in providing their services to the public".

228. This number also included any suspected unlawful cases that involved joint acts between the police and military personnel in the same incident.

229. ICG, Hope and Hard Reality in Papua, 22 August 2011, p. 9, available at https://www.crisisgroup.org/asia/south-east-asia/indonesia/indonesia-hope-and-hard-reality-papua. KontraS, Kajian HAM terhadap Definisi Penyiksaan di Papua; Studi Kasus Video Penyiksaan Youtube [Human Rights Study on the Definition of Torture in Papua; Cases of Torture Videos on Youtube], 25 June 2011, p 3, available at https://www.kontras.org/data/Kajian%20papua.pdf.

and Private Hasirun were sentenced to fifteen, seven, and six years in prison respectively. Human rights groups noted that the defendants were not charged with the more serious crimes of murder and assault — torture is not specifically criminalised as a crime in Indonesian law — and so the sentences did not reflect the gravity of the crimes.

Following the incident, the TNI released a regulation prohibiting torture by all members of the military.[230]

- In response to pressure from Papuans, in particular the Catholic Bishop of Timika,[231] following the 2015 killing of two men in Koperapoka (see Chapter 4), the Papua Regional Military Command (Kodam XVII/Cenderawasih) charged four soldiers in a military court. In November 2015 the Papua Military Court, set up in Timika, convicted two soldiers of killing and maltreatment causing death. Their respective sentences of nine and twelve years in prison were reduced to seven on appeal.[232] In separate trials, the court convicted two soldiers of assisting the killings and sentenced them both to three years, reduced to one on appeal.[233] The court also dismissed all four from the army. Although the court did not order any reparation, the commander of the Mimika District Military Command gave the victims' families 600 million rupiah (around $44,450) in total.[234] According to a lawyer for the families, they did not receive any information from the military about the appeals, and had to send letters to confirm the appeal results.[235]

Under Indonesia's Military Criminal Code, military personnel can only be tried in military courts, even for criminal offences, including human rights violations. Amnesty International has expressed concerns about the lack of independence and impartiality of these courts.[236] Law 34 of 2004 on the Indonesian National Armed Forces contains provisions requiring amendment to Law 31 of 1997 on Military Tribunals so that members of the military who violate the Criminal Code can be brought under the jurisdiction of civilian courts. The 2004-2009 House of Representatives discussed a draft law that would provide civilian court jurisdiction to try military members for violating the Criminal Code. The House of People's Representative almost passed the law in 2009, but the Minister of Defence called for a delay.[237]

During his presidential campaign, Joko Widodo promised that past "gross violations of human rights" in Indonesia would be addressed by the judicial system. He pledged to "end all impunity" in the country, including by revising the Law on Military Tribunals used to shield the security forces from prosecutions for human rights violations.[238] However, the draft amendment has not been included in the 2015-2019 legislative priority programme by the government and national parliament.[239]

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230. Chief of Military Regulation No. 73/IX/2010. Amnesty International, Submission to the UN Human Rights Committee for the 108th Session of the Human Rights Committee (8-26 July 2013), June 2013, p. 8, (Index: ASA 21/018/2013).

231. Tempo.co, Uskup Timika Kecam Penembakan Aparat TNI di Gereja [Timika Bishop Condemns Military Shooting at Church], 29 August 2015, available at https://nasional.tempo.co/read/696023/uskup-timika-kecam-penembakan-aparat-tni-di-gereja.

232. Supreme Court's Decisions on Ashar, No. 94 K/Mil/2016, 8 June 2016 and Makher Mathis Rehatta & Gergorius Bernadus Geta, No. 90 K/MIL/2016, 8 June 2016.

233. Supreme Court's Decisions on Imanuel Imbiri, No 94 K/Mil/2016, 12 October 2016 and Makher Mathis Rehatta & Gergorius Bernadus Geta, No. 90 K/MIL/2016, 8 June 2016.

234. Supreme Court's Decisions on Makher Mathis Rehatta & Gergorius Bernadus Geta, No. 90 K/MIL/2016, 8 June 2016, p. 134.

235. Amnesty International interview with Gustaf Kawer, lawyer of the victims' families in August 2016.

236. Amnesty International, Indonesia: Press Release, Military tribunals being used to shield human rights violators, 19 June 2013, available at: http://www.amnesty.org/en/news/indonesia-kopassus-trial-2013-06-19; Amnesty International, Press Release, Indonesian soldiers' sentence for Papua abuse video too light, 24 January 2011, available at: http://www.amnesty.org/en/news-and-updates/indonesian-soldiers%E2%80%99-sentence-papuaabuse-video-too-light-2011-01-24; and Amnesty International, Press Release, Indonesian authorities urged to investigate Papua "torture video", 19 October 2010, available at: https://www.amnesty.org/en/news-andupdates/indonesian-authorities-urged-investigate-papua-torture-video-2010-10-19.

237. Amnesty International, Briefing to the UN Committee Against Torture, April 2008, p. 39, (Index: ASA 21/003/2008).

238. Visi Misi Jokowi –Jusuf Kalla, May 2014, p. 30, on file with Amnesty International.

While the ICCPR and regional human rights treaties do not expressly prohibit special or specialized courts, they require all courts to be competent, independent, impartial and accommodate public hearing mechanism. International human rights bodies have stated that the remit of military courts should be limited to breaches of military discipline, not human rights violations or any crimes under international law.[240]

239. Hukumonline.com, Revisi UU Peradilan Militer Hilang dari Prolegnas [Revised Law on the Military Court Missing from the Legislative Priority Programme], available at http://www.hukumonline.com/berita/baca/lt55026782e5658/revisi-uu-peradilan-militer-hilang-dari-prolegnas.

240. See Amnesty International, Fair Trial Manual, Second Edition, 9 April 2014 (Index: POL 30/002/2014), p. 223.



A child joining in prayers to commemorate Evangelical Christian Church (GKI) 60th anniversary © Tempo/KontraS

# 7. RECOMMENDATIONS

Despite significant reforms to both the Indonesian police and military to make them become professional and respectful of human rights, security forces are still responsible for many human rights violations in Papua and elsewhere. Some of the most serious of these violations involve the unnecessary or excessive use of force, in particular through the use of firearms, leading to fatal shootings during peaceful pro-independence protests and non-political gatherings, and while conducting security operations and arresting criminal suspects. Accountability is rare, with security personnel facing only internal disciplinary mechanisms or no consequences at all.

Amnesty International's recommendations, set out below, address a number of actors and levers but with two overarching goals: preventing killings by improving the training and tactics of security forces, while ensuring accountability through credible and independent investigations and prosecutions at all levels of responsibility. The security forces have made progress in reducing such killings across Indonesia, indicating a potential to do the same in Papua with sufficient political will.

Amnesty International's recommendations are addressed in particular to the President, Co-ordinating Minister for Political, Legal and Security Affairs, the Head of the Indonesian National Police, the Chief of Indonesian Military Forces, the Minister for Law and Human Rights and the National House of People's Representatives. Some recommendations may help foreign donors formulate support for security sector reform or prove useful to NGOs and agencies in their work for security forces accountability.

Amnesty International recommends that the President, the Co-ordinating Minister for Political, Legal and Security Affairs, and other central authorities undertake the following steps as a matter of priority:

- Acknowledge that the unlawful killings taking place in Papua and West Papua Provinces are serious human rights violations, including crimes under international law.
- Ensure that all unlawful killings alleged to have been committed by Indonesian security forces are investigated promptly, independently, impartially and effectively. The investigation, and any prosecutions, should not be limited to direct perpetrators, but also look into any involvement of commanders, irrespective of rank.
- Ensure that where sufficient admissible evidence is found, suspects are prosecuted before civilian courts in proceedings that meet international fair trial standards and do not impose the death penalty.
- Ensure that victims and their families receive comprehensive and effective reparations in accordance with international standards.
- Ensure that internal accountability mechanisms are restricted to disciplinary matters and any crimes involving human rights violations by officials, Including the police and military, are referred to the Public Prosecutor.
- Conduct a thorough review of police, military and other security forces' tactics in the use of force and firearms, including during public assemblies and arrests, to ensure they meet international standards, in particular the UN Code of Conduct for Law Enforcement Officials and the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials.

Amnesty International recommends that the House of Representatives (DPR RI) and the Minister of Law and Human Rights take the following steps as a matter of priority:

- Acknowledge publicly the serious problem of unlawful killings in Papua and send a clear message to all police officials in Indonesia that such killings are unacceptable and strictly prohibited at all times.
- Reaffirm the prohibition of extrajudicial, summary and arbitrary executions, and set out guidelines for security forces to prevent them, including by recognizing them as criminal offences and providing effective remedies.
- Amend the Criminal Code and other laws to criminalize unnecessary or and excessive use of force in line with the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials.
- Amend Law 26 of 2000 on Human Rights Courts to:
    - expand its jurisdiction over other crimes under international law, including individual acts of torture, extrajudicial executions and enforced disappearance.
    - ensure that Komnas HAM can conduct pro-justicia inquiries effectively and submit all cases involving crimes under international law to an independent prosecutor for investigation and decisions on prosecution, without political or any other undue interference.
    - ensure that Komnas HAM and victims are kept informed of the status of investigations and can seek legal review of any decision not to investigate or prosecute.
- Revise Law 31 of 1997 on Military Tribunals so that military personnel suspected of crimes under international law are prosecuted only before independent civilian courts.
- Set up a new police oversight mechanism or revise the mandate of existing ones, such as the National Police Commission or Komnas HAM, to ensure an independent, effective, and impartial complaints mechanism can deal with public complaints about police misconduct, including

criminal offences involving human rights violations. In particular, suspected criminal offences involving human rights violations must be dealt with through the criminal justice system, rather than internally and as disciplinary breaches. Although a disciplinary process may take place alongside prosecution, it must never replace bringing those suspected of human rights violations before civilian courts. The body should be operationally independent of the government, political influence and the police and have independent investigation teams to deal with complaints.

- Repeal or else amend laws and regulations which impose restrictions on the right to freedom of expression and peaceful assembly beyond those allowed under international human rights law. In particular:
    - repeal or else amend Articles 106 and 110 of Indonesia's Criminal Code to make it consistent with international human rights law, ensuring that these articles can no longer be used to criminalize freedom of expression.
    - revoke immediately Article 6 of Government Regulation No. 77 of 2007 which prohibits the display of "separatist" logos, symbols and flags.

Amnesty International recommends that the Chief of the Indonesian National Police urgently takes the following steps:

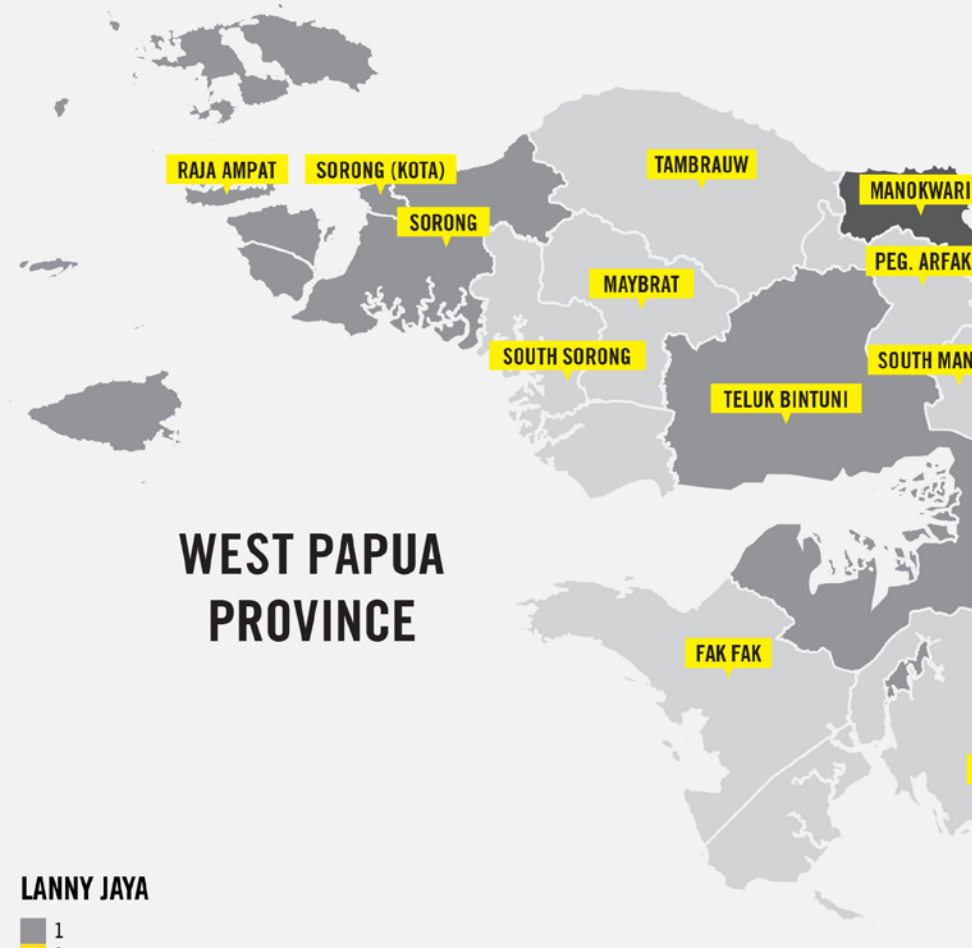
- Incorporate the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials and the UN Code of Conduct for Law Enforcement Officials into internal regulations in their entirety through operational instructions and training.
- Make public all police internal regulations about the use of force and policing public assemblies.
- Ensure that the Police Regulations on Policing Public Assembly (No. 16/2006) and the Use of Force (No. 01/2009) are disseminated, with appropriate training.
- Prevent unlawful killings in the future through the development of policies and instructions for policing of commemoration and other public events (including appropriate planning and preparation), training in human rights compliant policing of demonstrations, and supporting external, independent accountability mechanisms.
- Ensure that police officers at public assemblies are clearly identifiable, including by individual identification numbers, name tags and uniforms.
- Ensure that adequate systems and mechanisms are in place, alongside training and regulations on the use of force and firearms, to make sure that police officers apply UN standards on the use of force and firearms in their daily work. Police officers must have access to a differentiated range of police equipment, training in open hand techniques that do not require equipment, and other tactical methods.
- Ensure that all police internal disciplinary procedures and mechanisms are clearly set out in publicly available documents and that information on internal investigation procedures, including how to make a complaint about police misconduct, is readily available to the public (including at police stations, and on the internet);
- Publish the reports and findings of police internal investigations into allegation of police abuses in detail.
- Ensure that any remedy under traditional settlement methods does not prevent the investigation and prosecution of crimes under international law;

Amnesty International recommends that the Commander of the Armed Forces urgently take the following steps:

- Acknowledge the commission of serious human rights violations, including crimes under international law, in the form of unlawful killings in Papua and West Papua.
- As a general rule, do not deploy military forces to police assemblies. Where troops do play such a role, ensure that they:
    - comply with the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials and other International standards.
    - carry out their tasks with full respect for the rights to freedom of peaceful assembly and expression, the rights to life, liberty and security of person, and other human rights.
    - are trained and equipped to carry them out in accordance with international human rights law and standards and that they follow instructions by police.
- Ensure that all unlawful killings alleged to have been committed by military forces are investigated promptly, independently, impartially and effectively. The investigation, and any prosecutions, should not be limited to the direct perpetrators but also look into those with command responsibility, irrespective of rank.
- Ensure, where there is sufficient admissible evidence, such crimes are prosecuted before civilian courts in proceedings that meet international fair trial standards and do not impose the death penalty.
- Publish all reports and findings of internal investigations into allegations of military abuses in detail.

# UNLAWFUL KILLINGS PER DISTRICT

## 2010-2018*




## PAPUA PROVINCE

**JAYAPURA (CITY OF)**
9
15

**JAYAWIJAYA (WAMENA)**
7
7

**KEP. YAPEN**
5
8

**MERAUKE**
5
5

**MIMIKA (TIMIKA)**
5
7

**PANIAI**
4
7

**PUNCAK JAYA**
3
5

**JAYAPURA**
2
2

**LANNY JAYA**
1
1

**DOGIYAI**
3
4

**NABIRE**
2
2

**MAPPI**
1
1

**YAHUKIMO**
2
2

**BIAK NUMFOR**
1
1

**INDUGA**
1
1

**BOVEN DIGUL**
2
2

**INTAN JAYA**
1
1

**PUNCAK**
1
1

**DEIYAI**
2
2

**KEEROM**
1
1

**TOLIKARA**
1
1

### CITY/DISTRICT WITH NO CASES

MAMBERAMO RAYA
MAMBERAMO TENGAH
PEG. BINTANG
SARMI
YALIMO
ASMAT
SUPIORI
WAROPEN

## WEST PAPUA PROVINCE

**MANOKWARI**
5
6

**TELUK BINTUNI**
1
3

**RAJA AMPAT**
1
5

**FAK-FAK**
1
1

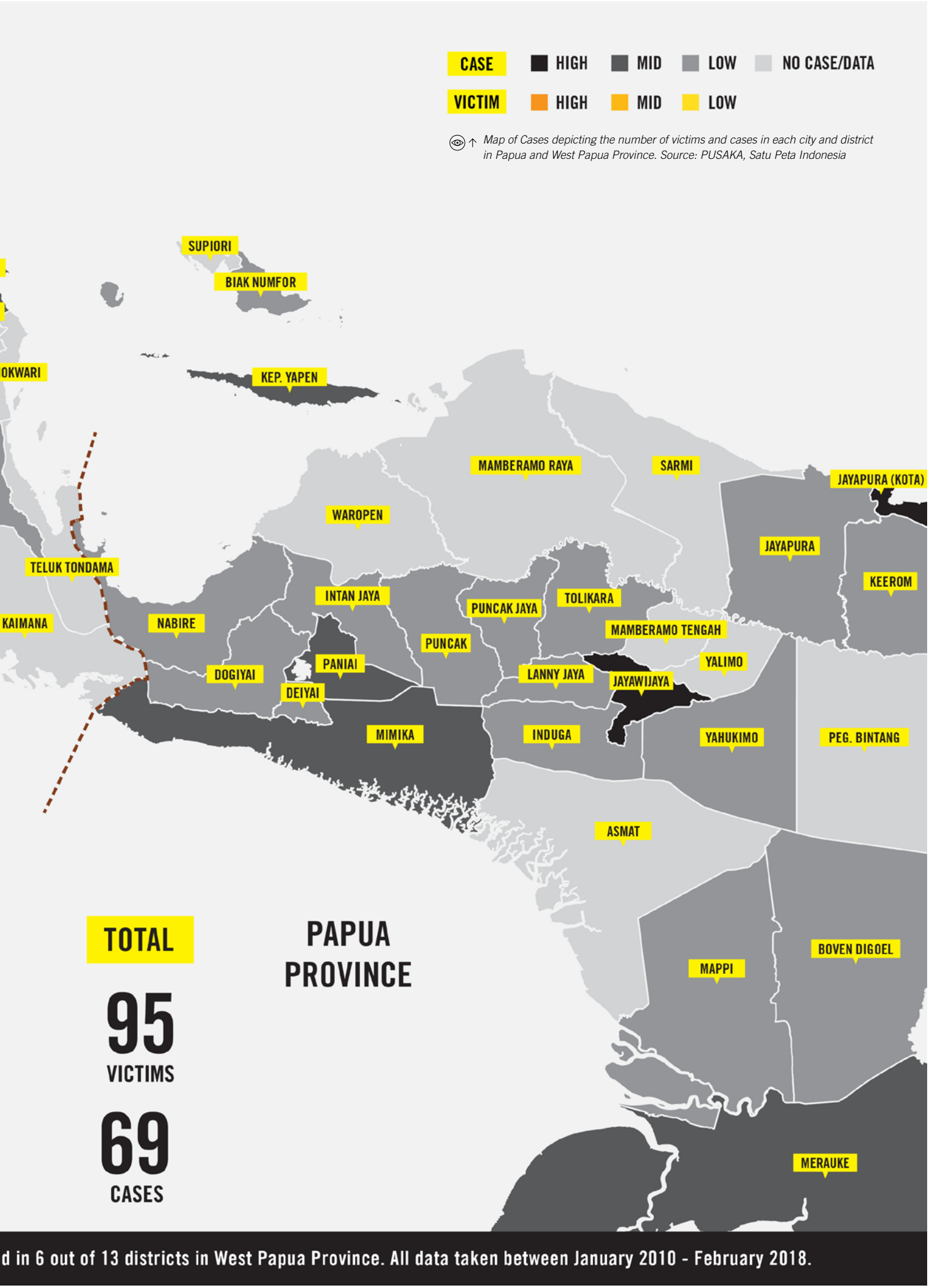
**SORONG**
1
3

**SORONG (CITY OF)**
1
1

### CITY/DISTRICT WITH NO CASES

TAMBRAUW
PEG. ARFAK
MAYBRAT
SOUTH MANOKWARI
SOUTH SORONG
TELUK TONDAMA
KAIMANA

*) This infographic recapitulated cases and victims that happened in 21 out of 29 districts in Papua Province an




*Map of Cases depicting the number of victims and cases in each city and district in Papua and West Papua Province. Source: PUSAKA, Satu Peta Indonesia*

d in 6 out of 13 districts in West Papua Province. All data taken between January 2010 - February 2018.




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# "DON'T BOTHER, JUST LET HIM DIE"

## KILLING WITH IMPUNITY IN PAPUA

Over the two decades since Indonesia's 1998 reforms (Reformasi) began, successive governments of Indonesia have pledged to end human rights violations by security forces. However, Amnesty International has continued to receive allegations of unlawful killings by security forces in the provinces of Papua and West Papua. These killings occur mainly in the context of unnecessary or excessive use of force during mass protests, during law enforcement operations or due to misconduct by individual officials.

Based on a review of 69 cases of suspected unlawful killings by security forces in Papua between January 2010 and February 2018, Amnesty International has documented several patterns. First, majority of cases occurred in the context of non-political events, unrelated to calls for independence or a referendum for Papua. Second, unlawful killings by security forces related to political activities, including the issue of independence or a referendum for Papua.

In this report, Amnesty International highlights how investigations for the unlawful killings cases are rare, and it is even rarer that anyone is held accountable. Security personnel are generally subject to disciplinary sanctions at the very most, leaving victims' families without access to justice and reparation.

Amnesty International urges to the Indonesian authorities to ensure prompt, thorough, and effective investigations by independent and impartial bodies into all allegations of unlawful killings by security forces, with findings made public in a timely manner. The Indonesian authorities also need to establish an independent police complaints mechanism or revise the mandate of existing ones, to deal with complaints from the

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