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THE PRICE OF PROTEST IN WEST PAPUA

GEMIMA HARVEY*

West Papua is a region fraught with tension, where the Indigenous population is intimidated and repressed to prevent the voicing of political views. This paper examines the price of protest in West Papua, where the struggle for self-determination has been violently stifled by Indonesian security forces for five decades. It aims to expose endemic injustice and abuse, and also to act as a microphone for those who, through non-violent means, risk life and liberty to express their hopes and dreams for a free West Papua.

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I INTRODUCTION

> Freedom and democracy cannot be killed or jailed. Its spirit is absolute. No person or State can defeat it. To all advocates of human rights and democracy: we cannot remain silent. We must join hands and spirits together to achieve democratic freedoms.[1]

West Papua sits beside Papua New Guinea ('PNG'), forming the western half of the resource-rich island of New Guinea, about 300 km from the northern tip of Australia. The West Papua region, which is governed by Indonesia, is split into two provinces — West Papua and Papua. Its Indigenous people have Melanesian roots, making them culturally, ethnically, and spiritually similar to their counterparts in PNG, but the formers' turbulent colonial history and ongoing struggle for self-determination sets them starkly apart from their neighbours.

The people of West Papua have been calling for self-determination for half a century — a struggle for liberation from an Indonesian military occupation that has seen as many as 500 000 Papuans killed.[2] It is a history built on injustice and maintained with the violent hands of oppression. A place where expressing your collective identity through cultural

[1] Dominikus Surabat is a Papuan political prisoner who was awarded the Human Rights Watch Hellman/Hammett award in 2012 for his commitment to free expression and courage shown in the face of political persecution; Dominikus Surabut, 'The Papuan nation is murdered and jailed due to Indonesia's colonialism', *Tapol* (online), 2 April 2014 <http://www.tapol.org/sites/default/files/sites/default/files/pdfs/Domi%20Surabut%20message%20EN_0.pdf#overlay-context=press-statements/papuan-prisoner-protest-highlights-indonesia%25E2%2580%2599s-secret-shame>.

[2] Jennifer Robinson, 'The UN's chequered record in West Papua', *Aljazeera* (online), 21 March 2012 <http://www.aljazeera.com/indepth/opinion/2012/03/201232172539145809.html>.

symbols, such as a banned flag, could see you locked up, a prisoner of conscience, for committing treason.[3]

The liberation movement in West Papua has seen civilians with suspected links to separatists tortured,[4] political activists murdered, and perpetrators act with impunity.[5] It is a tense environment, with reportedly one of the highest concentrations of security forces in the world.[6] An estimated 45 000 troops are presently deployed in West Papua.[7]

The region is trapped in a cycle of repression to quell calls for self-determination. Treason and conspiracy are labels tacked to peaceful protestors and political prisoners report being tortured in jail. Even human rights advocates and lawyers defending Papuan political prisoners are intimidated, their lives threatened, simply for seeking justice.[8]

This article explores how the security approach is used to silence voices of dissent and suppress efforts toward West Papuan independence. The security approach refers to the militarisation of West Papua. This has multiple facets including sweeping operations that result in rampant human rights abuses, the use of torture to extract information and force confessions, and the imprisonment of peaceful protestors based on trumped up charges of treason and conspiracy. The bureaucratic barriers preventing foreign press from accessing the region and international aid groups from carrying out important, life-saving work are also signs of the security approach. Another aspect is the way development projects are imposed, without the free, prior, and informed consent of traditional landowners whose livelihoods depend on the forests, with large corporations employing security forces to defend their interests.

'The Price of Protest in West Papua' reflects on Indonesia's occupation of West Papua,

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[3] See, eg, Papuans Behind Bars, 'Filep Karma', *Papuans Behind Bars* (online), <http://www.papuansbehindbars.org/?prisoner_profile=filep-karma&lang=en>.
[4] See, eg, Jenny Denton, 'West Papuans tortured, terrorised', *Sydney Morning Herald* (online), 7 October 2013 <http://www.smh.com.au/world/west-papuans-tortured-terrorised-20131006-2v2ae.html>.
[5] See, eg, Richard Di Natale, 'Step up on West Papua: Greens', *Greens MPs* (online), 18 December 2012 <http://richard-di-natale.greensmps.org.au/content/media-releases/step-west-papua-greens>.
[6] Tapol, 'Papuan prisoner protest highlights Indonesia's hidden shame' (Press Statement, 2 April 2014) <http://www.tapol.org/press-statements/papuan-prisoner-protest-highlights-indonesia%E2%80%99s-secret-shame>.
[7] West Papua Media, 'Thousands of students rally to reject Otsus Plus and provincial division', *West Papua Media* (online), 6 November 2013 <http://westpapuamedia.info/2013/11/06/thousands-of-students-rally-to-reject-otsus-plus-and-provincial-division/>.
[8] See, eg, Tapol, *Police intimidation of Papuan lawyer continues* (16 October 2014) Tapol <http://www.tapol.org/news/police-intimidation-papuan-lawyer-continues>.

looking at the way Indigenous Papuans are intimidated and imprisoned for expressing political views, examining the history of abuse, and highlighting the way torture has been employed with impunity. The article goes on to ask questions about the future, given the election of a new president. It also delves into the exploitation that has often proven to be inextricably linked to development projects in West Papua. The reason for this is to show the pattern of marginalisation that must be addressed — disenfranchising Papuans can only perpetuate discontent and disharmony.

II INJUSTICE AND IMPUNITY

After World War Two, the Dutch, who colonized West Papua, began making preparations for its liberation, while Indonesia continued to lay claim to the territory. In 1961, Papuans raised their flag — The Morning Star — sang their national anthem, and declared their independence. Soon after, Indonesia attempted to invade West Papua, supported and armed by the Soviet Union. Fearing the spread of communism and with mining interests in West Papua, the US intervened and, along with the UN, brokered the New York Agreement, giving interim control of West Papua (under UN supervision) to Indonesia in 1963, until a referendum could take place granting West Papuans a vote for either integration into Indonesia or self-determination.[9]

Over the next several years, before the vote, it is estimated that 30 000 West Papuans were killed by Indonesian military, in a brutal silencing of dissent and suppression of liberationist ideals.[10] In 1969, the vote — called "The Act Of Free Choice" but ironically referred to as "The Act of No Choice" — was fraudulent, the outcome controlled. Just 1022 Papuans, 0.001 percent of the population, were selected to vote, and those chosen were intimidated by security forces, resulting in a unanimous vote for West Papua to be ruled by Indonesia.[11] A man claiming to be part of the percentage who voted describes the scenario in a documentary,[12] his face obscured, saying that a gun was held to his head as he was given the ultimatum — vote for Indonesia or be killed. Since then, mass atrocities have been carried

[9] Robinson, above n 2.
[10] Ibid.
[11] John Saltford, *The United Nations and the Indonesian Takeover of West Papua, 1962–1969: The anatomy of betrayal* (RoutledgeCurzon, 2003) 3.
[12] Papua Merdeka, *West Papua-The secret war in Asia,* YouTube (4 February 2011) <http://www.youtube.com/watch?v=kslNnhVCksw>.

out by Indonesian security forces, and human rights abuses continue to this day.

Authors of a 2013 report published in the *Griffith Journal of Law & Human Dignity* describe the situation in West Papua as 'slow motion genocide'.[13] Dr Jim Elmslie and Dr Camellia Webb-Gannon argue that the goal, implicit or explicit, of government acts and policies has been to destroy that part of the West Papuan group who are pro-independence — a very substantial part of the West Papuan population.[14] With complete conviction, they state that 'genocidal policies have been pursued in West Papua for over 50 years, with intent.'[15]

The liberation movement comprises both violent and non-violent factions. Militant group OPM (Free Papua Movement) leads a low-level insurgency and has attacked military, police, and occasionally civilian targets over the years. A 2002 Amnesty International report found that counterinsurgency operations by Indonesian security forces have resulted in, 'gross human rights violations, including extrajudicial executions, enforced disappearances, torture and arbitrary detentions.'[16]

Paul Barber, former coordinator of Tapol, which works to promote human rights, peace and democracy in Indonesia, wrote in email correspondence that members of the military have committed horrific human rights violations in West Papua over the last 50 years, and have enjoyed complete impunity.[17] One example occurred in June 2012, when security forces stationed in Wamena (in the Central Highlands), ran amok, bayoneting civilians and burning houses and vehicles.[18]

Barber stated:

> [v]iolations often occur in remote areas, including the border area, and many go unreported. Troops tend to be unwelcome and underpaid, and their arrival usually precedes military business rackets, illegal logging, and human rights violations, including

[13] Dr Jim Elmslie and Dr Camellia Webb-Gannon, 'A Slow Motion Genocide: Indonesian Rule in West Papua' (2013) 1(2) *Griffith Journal of Law & Human Dignity* 142 <http://media.wix.com/ugd/6daf1c_8d680debc3db466d93348f0e1f8b63b2.pdf>.
[14] Ibid, 144.
[15] Ibid.
[16] Amnesty International, 'Indonesia: Grave Human Rights Violations in Wasior, Papua' (Report No 21/032/2002, Amnesty International, September 2002) 6.
[17] Email from Tapol campaigns coordinator Esther Cann to Gemima Harvey, 8 January 2014.
[18] Amnesty International, *Indonesia: Investigate military attacks on villagers in Wamena, Papua* (9 June 2012) Amnesty International <http://www.amnesty.org.au/news/comments/28886/>.

sexual violence against women and girls.[19]

III THE SECURITY APPROACH: SILENCING VOICES OF DISSENT

Given the omnipresent suspicion that all West Papuans are separatists, or support separatist movements, the response of Indonesian troops has often been the same whether groups use peaceful tools, like demonstrations, or guerrilla tactics. In other words, West Papuans need not be armed fighters to be persecuted, arrested,[20] tortured, or executed.[21]

Barber said that political activists and human rights defenders are frequently branded as separatists and traitors and that the Indonesian government continues to 'isolate, silence and stigmatize its critics' as a means of denying the political nature of the problem.[22] Barber explained that activists and peaceful protestors are routinely subjected to surveillance, threats, harassment and beatings, and are sometimes killed or disappear.[23]

Democratic space for free expression in West Papua is dismal. 'Speaking out against injustice in Papua is extremely risky. At best you may lose your dignity, at worst you will lose your liberty, your mind or even your life.'[24] This fact is highlighted, most recently, by the killing of five Papuan protestors on 8 December 2014 in Paniai Regency. Human Rights Watch ('HRW') reported that security personnel fired indiscriminately into a crowd of about 800 demonstrators. The group, including women and children, were demanding an explanation for the beating of a 12-year-old boy by security forces on the previous night. Those killed in the shootings were teenagers — 17 others, including five children, were hospitalised.[25]

Government officials maintain that security forces were defending themselves, but witnesses told HRW, '[t]he protesters, some carrying ceremonial Papuan hunting bows

[19] Cann, above n 17.
[20] See, eg, Human Rights Law Centre, *Joint Statement HRLC and ILWP: Conviction of West Papuan independence activists breaches human rights* (16 March 2012) Human Rights Law Centre <http://hrlc.org.au/conviction-of-west-papuan-independence-activists-breaches-human-rights-16-march-2012/>.
[21] See, eg, Jono van Hest, 'Pride of Warriors', *Aljazeera* (online), 16 February 2010 <http://www.aljazeera.com/programmes/witness/2010/02/201021018285584435O.html>.
[22] Cann, above n 17.
[23] Ibid.
[24] Ibid.
[25] Human Rights Watch, *Indonesia: Security Forces Kill Five in Papua* (10 December 2014) Human Rights Watch <http://www.hrw.org/news/2014/12/10/indonesia-security-forces-kill-five-papua>.

that have a purely ritual function, expressed their grievance through a traditional Papuan *waita* dance, which involves shouting, running in circles, and mimicking birdsong.'[26]

Indonesia's National Human Rights Commission is investigating the incident and initial findings showed 'live ammunition was used to disperse the crowd, despite there being no evidence of a threat to security personnel.'[27] This is just one tragic example, drawn from countless, which reveals the price of protest in West Papua.

HRW has expressed concerns about the pattern of excessive force used against peaceful protestors:

> Security forces repeatedly fail to distinguish between violent acts and peaceful expression of political views. The government has denounced flag-raisings and other peaceful expressions of pro-independence sentiment in Papua as treasonous. Heavy-handed responses to peaceful activities have caused numerous human rights violations. In the past three years, Human Rights Watch has documented dozens of cases in which police, military, intelligence officers, and prison guards have used unnecessary or excessive force when dealing with Papuans exercising their rights to peaceful assembly and association.[28]

Indigenous Papuans are frequently imprisoned for expressing political aspirations — they are branded as rebellious and thrown behind bars on charges of conspiracy or treason.[29] In 2012, 20 people were charged under the treason law outlined in Article 106 of the Indonesian Criminal Code. Their alleged activities included carrying documents associated with the National Committee for West Papua ('KNPB') (a non-violent organization, campaigning for a referendum) or guerrilla group OPM, organizing a celebration of the UN Day of the World's Indigenous Peoples, raising the Morning Star

[26] Ibid.
[27] Amnesty International, *Indonesia: Paniai shootings – make investigation findings public and bring perpetrators to justice* (12 January 2015) Amnesty International <http://www.amnesty.org.au/news/comments/36323/>.
[28] Human Rights Watch, *Indonesia: New President Should Highlight Human Rights Abuses in Papua* (20 October 2014), Human Rights Watch <http://www.hrw.org/news/2014/10/20/indonesia-new-president-should-highlight-rights-papua>.
[29] See, eg, Asian Human Rights Commission et al, 'Asian Human Rights in Papua 2010/2011' (Report, Asian Human Rights Commission et al, November 2011) 21–23.

flag, and suspected involvement in the National Liberation Army ('TPN').[30] Similarly in 2014, 21 people were charged with treason.

As of December 2014, there were 55 political prisoners in Papuan jails.[31] Filep Karma is one of these prisoners of conscience, serving a 15 year sentence for raising the Morning Star flag.[32] In 2012, the United Nations Working Group on Arbitrary Detention found that Karma was not given a fair trial and called for his immediate release.[33] The Indonesian government has, so far, ignored the group's appeal. For raising the banned flag, charges against Karma included — treason, conspiracy, and expressing 'feelings of hostility, hatred or contempt against the Government of Indonesia.'[34] In November 2014, the 10th anniversary of his incarceration, Filep Karma released a book titled, *As If We Are Half Animals.* Dr Jim Elmslie writes in the book's preface, '[t]hrough him [Filep Karma] we learn that however much a person is made to suffer there are some ideals that are worth more than life itself…It's a story as old as humanity: good people standing up to injustice with truth their main weapon.'[35]

The fact Indonesia has ratified the *International Covenant on Civil and Political Rights* does nothing to prevent the application of politically motivated charges.[36] Treason under Article 106 of the *Penal Code of Indonesia*,[37] conspiracy under Article 110,[38] and the Emergency Law 12/1951,[39] are still used to stifle voices of opposition and oppress those who campaign for a free West Papua.

Tapol campaigns coordinator, Esther Cann, explained that the use of Emergency Law 12/1951 to charge peaceful protestors has become popular for prosecutors in West

[30] Tapol, 'No Political Prisoners? Suppression of Political Protest in West Papua' (Report, Tapol, April 2013).
[31] Papuans Behind Bars, '"Bloody Yotefa": police turn a blind eye to violence against Indigenous Papuans', *Papuans Behind Bars* (online), October 2014 <http://www.papuansbehindbars.org/?p=3252>.
[32] Papuans Behind Bars, above n 3.
[33] Human Rights Watch, above n 25.
[34] Papuans Behind Bars, above n 3.
[35] Jim Elmslie, *Preface to Filep Karma's "As if We're Half Animals"* Tapol (1 December 2014) <http://www.tapol.org/briefings/preface-filep-karmas-if-were-half-animals#overlay-context=news/if-were-half-animals-filep-karma-racism-and-resistance>.
[36] *International Covenant on Civil and Political Rights*, opened for signature 16 December 1966, 999 UNTS 171 (entered into force 23 March 1976).
[37] *Penal Code* (Indonesia) 27 February 1982, art 106.
[38] *Penal Code* (Indonesia) 27 February 1982, art 110.
[39] *Emergency Law No 12 of 1951 on Firearms and Explosive Materials* (Indonesia).

Papua in recent years.[40] In 2014, 10 people were charged under this law. Emergency Law 12/1951 governs the possession of sharp weapons, ammunition, and explosives. It is often invoked in a discriminatory way as a basis for arresting Indigenous people in a context where it is common to carry knives, machetes or axes for common agricultural, hunting, and other daily needs. The UN Working Group on Arbitrary Detention noted this problem in 1999 and called for Indonesia's emergency laws to be repealed. However, in West Papua, these laws are still in common use.[41]

Figures by monitoring collective Papuans Behind Bars highlight there were 537 political arrests in 2013,[42] more than double the previous year.[43] Cases of torture and ill treatment in detention tripled and the number of cases involving unfair trials and denial of access to lawyers doubled. Papuans Behind Bars has documented cases of prisoners being tortured into making confessions, being forced to beat one another and being denied food and medical treatment.

Cann stated that 'torture is used to intimidate, punish, interrogate and extract forced confessions. Political detainees are often forced to confess or to sign false statements, and denied access to lawyers or family members.'[44] She described how once convicted, Papuan political prisoners are subject to poor prison conditions and discriminatory treatment:

> While conditions are unacceptable in many Indonesian prisons, political prisoners in West Papua are often singled out for particularly inhumane treatment. In November 2014, political prisoners Linus Hiluka and Kimanus Wenda were confined to holding cells and forced to use a plastic bottle to go to the toilet.[45]

She said accessing information about political prisoners in West Papua and providing advocacy and material support is fraught with difficulty. 'Those human rights defenders

[40] Cann, above n 17.
[41] Cann, above n 17.
[42] Papuans Behind Bars defines political arrests as, 'arrests which appear to be politically motivated, and can include arrests which happen in political contexts such as demonstrations or places used by politically active organisations and people', Papuans Behind Bars, *About the Data* <http://www.papuansbehindbars.org/?page_id=315>.
[43] Tapol, above n 6.
[44] Cann, above n 17.
[45] Ibid.

providing support to political detainees, in particular human rights lawyers, face stigmatization, intimidation, threats and attacks.'[46]

In 2014, by October there had been 286 political arrests, about half of which occurred at demonstrations.[47] Protests included topics such as the visit of the Melanesian Spearhead Group delegation, release of political prisoners, student protest regarding campus politics, KNPB boycott of Indonesian elections, and release of imprisoned French journalists.[48] 'The vast majority of those arrested were members of KNPB, a primarily peaceful organisation with mass support which is pushing for a referendum on Papua's political future,' Cann said.[49]

Cann wrote in email correspondence:

> Police in Papua frequently obstruct protests and demonstrations. This is done through refusing to issue receipt of notifications of public gatherings, and/or using the repressive Social Organizations Law to de-legitimize civil society groups who want to hold demonstrations. Police make public announcements in the lead-up to anniversaries of atrocities, instructing the public not to demonstrate or hold gatherings. When demonstrations do occur, they are likely to be shut down using heavy-handed tactics including mass arrests, sometimes including arbitrary detention of nearby minors and even babies.[50]

Indigenous Papuans are stigmatized by authorities and security forces as "separatists" and targeted for arbitrary arrest on the basis of their appearance, particularly those from the Central Highlands area or those with darker skin and dreadlocks.[51] 'Police frequently use excessive force, including beating and torturing demonstrators and firing into crowds, sometimes fatally.'[52]

In May 2013, UN High Commissioner for Human Rights, Dr Navi Pillay condemned the suppression of free speech in West Papua:

[46] Ibid.
[47] Ibid.
[48] Ibid.
[49] Ibid.
[50] Ibid.
[51] Ibid.
[52] Ibid.

> During my mission to Indonesia last November, I expressed concern over Papuan activists being imprisoned for the peaceful exercise of freedom of expression. It is disappointing to see more people arrested for peacefully expressing their views and I call upon the Government to release all prisoners in custody for crimes that relate to their freedom of expression.[53]

Paul Barber commented that 'the security approach is still in full swing. Protests should be welcomed as a sign of a flourishing if noisy democracy, but security forces feel threatened and crack down. This approach is trapping Papua in a futile cycle of repression and fear.[54]

Stifling free expression from within Papua is one symptom of the security approach; another is shuttering the region to international scrutiny. Foreign media, human rights observers, aid workers, and diplomats are effectively barred from accessing West Papua. Bureaucratic hurdles must be surmounted to get the required permits and this official obstruction means discerning eyes are kept far from areas where human rights abuses are rife.

The UN Special Representative on human rights defenders and the UN Special Rapporteur on torture were allowed to visit West Papua in 2007. They returned with disturbing reports, the former expressing her deep concern about testimonies 'indicating the continuing activities of the police, the military and other security and intelligences agencies that are aimed at the harassment and intimidation of defenders or to restrict their access to victims and sites of human rights violations.'[55] This criticism has resulted in reluctance by Indonesia to allow other UN representatives to visit West Papua. The government withdrew its invitation to the UN Special Rapporteur on the freedom of expression and opinion in 2012 after learning about his intended visit to the troubled region.[56]

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[53] Office of the High Commissioner for Human Rights, *Pillay concerned about persistent violence and abuses in Papua* (2 May 2013) OHCHR <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=13287&LangID=E>.
[54] Cann, above n 17.
[55] Tapol, *Rights defenders at risk in Papua* (30 November 2007) Tapol <http://tapol.org/news-and-reports/news/human-rights-defenders-risk-papua>.
[56] The Alliance of Independent Journalists et al, 'Human rights in West Papua' (Report, The Alliance of Independent Journalists et al, 23 January 2014).

In recent years, the International Committee of the Red Cross has been expelled and Peace Brigades International forced to close its offices when restrictions made carrying out work impossible.[57] Amnesty International and HRW are also routinely denied visas.[58] A foreign journalist seeking to work inside West Papua must apply for a special permit. These are rarely approved. Fairfax Media's Indonesia correspondent Michael Bachelard wrote in a 2013 article that while travel features are often approved, 'most applications for serious reporting are rejected,' and if they are approved, the journalist will be escorted by secret police.[59]

Bachelard is one of few to receive a media permit. He applied to research the AIDS epidemic in West Papua and was approved, making him the first foreign journalist to be approved in 12 months, excluding travel writers. However, this was on the condition that a member of the Indonesian secret services would escort him. This article was a cover for the controversial story he intended to write about Papuan children being taken from their families, mainly Christian or animist, to Islamic boarding schools in Jakarta where they could be indoctrinated.[60] Reportedly, for logistical reasons, Bachelard's escort was never sent, giving him more freedom to move around.[61]

He describes the vetting process:

> The procedure involved writing to the Foreign Affairs department, supplying details of all the interviews I had planned, and who my interviewees were. Those organisations had to confirm my request on their letterhead. My proposal was then vetted by the 'Clearing House' committee, which meets weekly and has representatives from major Indonesian government departments, including the army and national police.[62]

Jakarta-based HRW researcher Andreas Harsono claims that currently, 18 different

[57] Asian Human Rights Commission et al, above n 29.
[58] Human Rights Watch, 'Out of Sight: Endemic Abuse and Impunity in Papua's Central Highlands', (Report, Human Rights Watch, July 2007) 21.
[59] Michael Bachelard, 'West Papua to remain closed to outside world', *Sydney Morning Herald* (online), 11 October 2013 <http://www.smh.com.au/world/west-papua-to-remain-closed-to-outside-world-20131011-2vdy4.html>.
[60] Michael Bachelard, 'They're taking our children', *Sydney Morning Herald* (online), 4 May 2013 <http://www.smh.com.au/lifestyle/theyre-taking-our-children-20130503-2inhf.html>.
[61] Aljazeera America, 'West Papua: A no-go zone for foreign journalists', *Aljazeera America* (online), 22 September 2014 < http://america.aljazeera.com/articles/2014/9/22/west-papua-mediablackout.html>.
[62] Michael Bachelard, 'Opening the doors to West Papua', *The Walkley Foundation* (online), 10 September 2014 <http://walkleys.com/opening-doors-west-papua/>.

government agencies must approve reporting visas for foreign journalists.[63] For this reason, many reporters prefer to take their chances with tourist visas, accepting that they will be deported if caught documenting the plight of the people, as has happened on multiple occasions. However, sending a shrill warning to journalists intending on taking this route, in 2014, two French journalists were imprisoned for 11 weeks for reporting from West Papua on tourist visas.[64] One of their sources, Lanny Jaya tribal leader Areki Wanimbo, who was arrested alongside the journalists, still faces charges of conspiracy to commit treason.[65] This case highlights the risks of reporting from the region, not only for journalists, but for their sources too.

The implications on freedom of expression are resounding. If a journalist was permitted to report in West Papua, what can they expect to hear from Papuans with police watching over their shoulder? And if people do speak honestly, what will this mean for their safety? Those who spoke to the UN Special Representative on human rights defenders about rights violations in 2007 were reportedly subject to 'death threats, intimidation and attacks'.[66] A letter signed by 23 non-government organisations and read aloud at the 27th Session of the UN Human Rights Council, explains that local journalists are often under surveillance by security forces while carrying out their work.[67]

Dr Ross Tapsell from Australian National University has written about the threats and intimidation local media receive, with regularity, while simply doing their jobs. 'It is difficult for them to report on issues involving local politicians, human rights and the role of security forces in the region. There are numerous stories that simply can't be published in the local press.'[68]

The *Pacific Journalism Review* published a comprehensive report on the status of media

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[63] Andreas Harsono, 'French journalists handed short jail terms in Papua, to walk free', *Channel News Asia* (online), 24 October 2014 <http://www.channelnewsasia.com/news/asiapacific/french-journalists-handed/1432558.html>.
[64] Unrepresented Nations and Peoples Organization, *West Papua: jailed French journalists return to France* (3 November 2014) <http://unpo.org/article/17665>.
[65] Papuans Behind Bars, above n 31.
[66] Tapol, above n 55.
[67] Budi Tjahjonol, 'INDONESIA: Freedom of expression in Papua and West Papua' (Speech delivered at the 27th Session of the UN Human Rights Council, 15 September 2014) <http://www.alrc.net/doc/mainfile.php/alrc_st2014/829>.
[68] Ross Tapsell, *Q&A: Australia's reaction to arrest of French journalists in West Papua* (6 October 2014) Australian National University <http://www.anu.edu.au/news/all-news/qa-australias-reaction-to-arrest-of-french-journalists-in-west-papua>.

freedom in 2011. The document points to West Papua as having the most extreme media freedom violations in the Pacific and lists the region as being affected by 'formal censorship'.[69] It states that in 2011, at least two journalists were killed in West Papua, five abducted, and 18 assaulted.[70] Along with criminal libel, Papuan journalists must contend with the crime of subversion, *makar*. West Papua Media editor, Nick Chesterfield, is quoted, 'regular labelling of the Papuan press as being pro-separatist is another significant threat against journalists seen to be giving too much coverage to self-determination.'[71] Similarly, in 2013, the Alliance of Independent Journalists Jayapura documented 20 cases of violence and intimidation against journalists, stating that most perpetrators were police, who largely act with impunity.[72]

While foreign media are predominantly barred from accessing West Papua, local media face threats to their safety when trying to report honestly on issues affecting Papuans. When you consider these factors beside the brutal treatment of protestors and the locking up of dissenters, it is clear how much effort goes into keeping news of abuses in and reporters of abuses out.

Fortunately, the spread of mobile phones is making it harder for human rights abuses to go unnoticed. News of happenings inside West Papua trickles through online veins — information breaking through the black out — allowing voices of the violated to reach an international audience. Leaked recordings of torture being carried out have been beamed onto screens around the world.

IV A HISTORY OF ABUSE

The shocking prevalence of torture by Indonesian security forces was revealed by a recent study, which found on average one incident of torture has taken place every six weeks for the past half-century.[73] Of the 431 documented cases reviewed, just 0.05 per cent of those tortured were proven to be members of militias — the vast

[69] Alex Perrottet and David Robie, 'Pacific media freedom 2011: A status report' (2011) 17(2) *Pacific Journalism Review* 148 <http://www.pjreview.info/sites/default/files/articles/pdfs/PJR17_2_pacific%20media%20freedom2011.pdf>.
[70] Ibid, 153.
[71] Ibid.
[72] The Alliance of Independent Journalists et al, above n 56.
[73] Denton, above n 4.

majority of victims were civilians, most commonly farmers and students.[74]

The PhD thesis of Dr Budi Hernawan concludes that torture has been deployed strategically by the Indonesian state in West Papua as a mode of governance with almost complete impunity.[75] While this is disturbing enough, data collected by Papuans Behind Bars suggests an even higher incidence of torture. In October 2014 there were 57 reported cases of torture among political detainees (both upon arrest and in detention) — more than one every week.[76]

In West Papua, some are tortured after being arbitrarily detained while other cases have taken place near villages.[77] Take the example of Yawan Wayeni, a tribal leader and former political prisoner, whose killing in 2009 was filmed and leaked online the following year. The Asian Human Rights Commission ('AHRC') reports that Indonesian Police, *Brimob,* shot Wayeni in the leg, before plunging a bayonet into his belly, spilling out his bowels.[78] He utters the word 'independence', while slowly dying in the jungle, to which a police officer responds, 'you Papuans are so stupid, you are savages.'[79] In an interview with Aljazeera, the police chief dealing with the case, Imam Setiawan, said that his men did not violate Wayeni's human rights and had to stop him from talking about independence and tell him, 'you will never get your independence…we are the unified state of Indonesia. Don't ever dream of your freedom.'[80]

This is not the only torture video to be leaked. In October 2010, a video of Indonesian military personnel torturing two West Papuan men, who human rights groups describe as simple farmers, surfaced online.[81] The men were accused of having information about weapons caches. One man, Tunaliwor Kiwo, is kicked in the face and chest, his genitals

[74] Ibid.
[75] Budi Hernawan, *From the theatre of torture to the theatre of peace: The politics of torture and re-imagining peace building in Papua, Indonesia* (PhD Thesis, Australian National University, March 2013)..
[76] Papuans Behind Bars, above n 31.
[77] Tapol, *Urgent Appeal: Freedom of expression in Papua* (17 May 2013) Tapol <http://www.tapol.org/briefings/urgent-appeal-freedom-expression-papua>.
[78] Asian Human Rights Commission et al, above n 29.
[79] The Hub, 'The Killing of Yawan Wayeni,' *Witness* (online), 8 May 2010 <http://hub.witness.org/en/upload/killing-yawan-wayeni>.
[80] Aljazeera, 'Activist's killing angers Papuans', *Aljazeera* (online), 3 August 2010 <http://www.aljazeera.com/news/asia-pacific/2010/08/201083213426470365.html>.
[81] The Observers France24, 'Amateur video shows West Papuans tortured by Indonesian army', *The Observers France24* (online) 24 January 2011 <http://observers.france24.com/content/20101023-amateur-video-shows-west-papuans-tortured-indonesian-army>.

seared with a burning stick. The other, Telangga Gire, is threatened with a knife, the blade pushed against his throat and dragged across his face. Kiwo later recounts in a recorded testimony, that he escaped on the third day of the ordeal, and describes how he was also suffocated with plastic bags, had his toes crushed with pliers, and chillies smeared in his burns and cuts.[82]

In January 2011, three soldiers involved in the abuse were sentenced to terms of eight to 10 months for 'not following orders'.[83] Despite Indonesia ratifying the UN *Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment* in 1999, the military criminal code does not recognize torture as a punishable crime. In a speech to military and police forces just days before the sentences were handed out, former President Susilo Bambang Yudhoyono dismissed the case as a 'minor incident' and claimed that 'no gross violations' of human rights have occurred since he took office in 2004.[84]

It is true, he was not in power when the Biak Massacre took place in 1998, in which scores of peaceful demonstrators were allegedly shot at, tortured, raped, and mutilated, survivors loaded onto navy ships and dumped at sea to drown, their bodies later washing up on shore.[85] Crimes against humanity for which, according to the findings of a citizens' tribunal held in Sydney, none of the perpetrators have been held accountable.[86]

It is correct that Yudhoyono was not leader in 2003 when, Amnesty International reports, nine civilians were killed, 38 tortured and 15 arbitrarily arrested during a series of police raids in Wamena which displaced thousands of villagers, dozens later dying from hunger and exhaustion.[87] But Yudhoyono was certainly in power in October 2011, when security forces were filmed opening fire at an independence

[82] Engage Media, 'Video testimony of Kiwo', *Engage Media* (online), 19 August 2012 <http://www.engagemedia.org/Members/dewanadatpapua/videos/kiwotestimony_en>.
[83] Sarah Schonhardt, 'Indonesian military trial outrages activists who charge torture', *Christian Science Monitor* (online), 24 January 2011 <http://www.csmonitor.com/World/Global-News/2011/0124/Indonesian-military-trial-outrages-activists-who-charge-torture>.
[84] The Jakarta Post, 'SBY describes Papua torture as 'minor', *Jakarta Post* (online), 22 January 2011 <http://www.thejakartapost.com/news/2011/01/22/sby-describes-papua-torture-%E2%80%98minor%E2%80%99.html>.
[85] Journeyman Pictures, *Indonesian military accused of grisly Biak Massacre* (18 September 2007) YouTube <http://www.youtube.com/watch?v=VbbndM9U4Fs>.
[86] Marni Cordell, 'West Papuans tortured, killed and dumped at sea, citizens' tribunal hears', *Guardian* (online), 13 December 2013 <http://www.theguardian.com/world/2013/dec/13/west-papuans-tortured-killed-and-dumped-at-sea-tribunal-hears>.
[87] Amnesty International UK, *Papua Digest* (8 October 2012) <http://www.amnesty.org.uk/sites/default/files/amnesty_international_papua_digest_29-01-2011.pdf>.

rally,[88] reportedly killing six protestors.[89] And in June 2012, when political leader, Mako Tabuni 'was gunned down by police in broad daylight' in a killing that allegedly involved Densus 88 (also known as Detachment 88) — a counter-terrorism unit funded and trained by Australia, the UK, and the US following the Bali bombings. Tabuni was deputy chairperson of the civil protest campaign KNPB.[90]

V THE FUTURE?

With a new era of Indonesian politics, heralded by the election of Joko Widodo, it remains to be seen what the future holds and how the situation for Papuans may improve. Early indication of President Widodo's willingness to open up West Papua to foreign journalists has proven encouraging.[91] Not so encouraging, however, is the appointment of former army Chief Ryamizard Ryacudu as defence minister. Numerous media reports have raised concern about this appointment citing Ryamizard Ryacudu's dubious human rights record.[92] He reportedly played a key role in crushing the "Papuan Spring" that bubbled up between 1998 and 2001.

Researcher and journalist Nic Maclellan notes as the Suharto regime crumbled in 1998, the West Papuan church, Indigenous leaders and NGOs held discussions on democracy and self-determination that resulted in the formation of the Papua Presidium Council, 'led by Chief Theys Eluay, a key Indigenous leader who proposed dialogue rather than conflict with Jakarta.'[93] 'Eluay was murdered by Indonesian soldiers on November 10, 2001,

[88] Survival International, 'Shocking video confirms Indonesia's brutal suppression of West Papuan rally ahead of US visit', *Survival International* (online), 16 November 2011 <http://www.survivalinternational.org/news/7878>.
[89] Step Vaessen, 'Indonesian forces raid Papuan independence rally, 6 die, 17 missing', *Pacific Scoop* (online), 25 October 2011 <http://pacific.scoop.co.nz/2011/10/indonesian-forces-raid-papuan-independence-rally-6-dead/>.
[90] ABC, 'Australia faces link to West Papua torture', *7.30 Report,* 28 August 2012 (Hayden Cooper and Lisa Main) <http://www.abc.net.au/7.30/content/2012/s3578010.htm>.
[91] Michael Bachelard, 'Joko Widodo promises to focus on West Papua', *The Sydney Morning Herald* (online), 23 August 2014 <http://www.smh.com.au/world/joko-widodo-promises-to-focus-on-west-papua-20140823-107jd0.html>.
[92] See, eg, Jarrah Sastrawan, 'Jokowi's "Business as usual" cabinet is bad news for West Papua, *New Matilda* (online), 4 November 2014 <https://newmatilda.com//2014/11/04/jokowis-business-usual-cabinet-bad-news-west-papua>.
[93] Nic Maclellan, 'Brutal new Defense Minister undermines Jokowi's overtures to West Papua', *Crikey* (online), 29 October 2014 <http://www.crikey.com.au/2014/10/29/brutal-new-defence-minister-undermines-jokowis-overtures-to-west-papua/>.

shortly after attending an event at the Kopassus Special Forces base near Jayapura.'[94]

The report continues that Ryacudu, then army commander-in-chief, hailed Eluay's murderers heroes, commenting 'I don't know, people say they did wrong, they broke the law. What law? OK, we are a state based on the rule of law, so they have been punished. But for me, they are heroes because the person they killed was a rebel leader.'[95]

In 2003, seven low-level Kopassus soldiers were found guilty of 'mistreatment and battery'; the harshest sentence handed out was just three-and-a-half years.[96] No further investigation into who ordered the killing was undertaken.

Inside Indonesia published a story about the life and death of Theys Eluay. It noted he was friendly with top Indonesian army and police commanders and members of the Kopassus Special Forces. 'They, it seems, died at the hands of the very people who just before had honoured him publicly as the Great Leader and Hero of the Papuan Struggle. He and his driver considered these people their personal friends.'[97]

There is also *Radio Australia*'s description that, 'the chief was regarded as a moderate independence leader, who kept the door open for talks with Jakarta.'[98] This case is symbolic of all that is wrong with Papua-Jakarta relations. When a former army chief calls even a "moderate" Papuan leader — who worked with Jakarta and security forces to create an open channel of dialogue — a "rebel leader" and celebrates his murder, you get a sense of how all Papuans expressing desire for self-determination, even through peaceful means, are considered enemies of the state. The fact that Ryamizard Ryacudu can revel in the assassination of a prominent Papuan leader and then get promoted to defence minister by the new President (who has resolved to address issues affecting the West Papuan people) brings the culture of impunity and hypocrisy into sharp focus.

[94] Ibid.
[95] Ibid.
[96] Human Rights Watch, above n 58.
[97] At Ipenburg, 'The life and death of Theys Eluay', *Inside Indonesia* (online), April – June 2002 <http://www.insideindonesia.org/weekly-articles/the-life-and-death-of-theys-eluay>.
[98] Radio Australia, 'Murder of Papuan leader provokes rioting', *Radio Australia* (online), 19 March 2012 <http://www.radioaustralia.net.au/international/radio/onairhighlights/428180>.

Critics of Ryacudu's appointment include coordinator of the Commission for Missing Persons and Victims of Violence (Kontras) Haris Azhar,[99] coordinator of ETAN John Miller, and Joe Collins of the Australia West Papua Association ('AWPA').[100] Joe Collins wrote in a 27 October, 2014 media release:

> The people of West Papua live in fear of security operations in the territory and the appointment of Ryamizard Ryacudu as Defence Minister can only add to this fear. There was some hope that the election of Jokowi would bring an easing of tension in West Papua, but with Ryamizard Ryacudu's appointment it looks like there could be a continuation of solving issues of concern in West Papua by the security approach, not by dialogue.[101]

Leaders have expressed hope for President Widodo. A *Sydney Morning Herald* article quotes John Djonga, a Christian leader in Wamena, in the remote highlands, as saying, '[i]f there is really concrete change in the society, if the situation improves, then even the hard-line [separatists] may soften.'[102]

A document on human rights in West Papua prepared for European Parliament by multiple rights groups states that 'support from international human rights mechanisms, other independent observers like human rights organisations and media scrutiny is key to ending the conflict cycle and the related human rights violations.'[103] So far, Indonesian governments have resisted resounding international calls to lift the curtain and let the light of scrutiny in. If Joko Widodo is serious about resolving long-simmering tensions and ending the conflict cycle, as he claims to be, he should follow through and open up West Papua; enough with the shroud of secrecy that aids perpetrators in acting with impunity.

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[99] Farouk Arnaz and Ezra Sihite, 'Kontras: Ryamizard appointment shows Jokowi "negligent" on human rights', *The Jakarta Globe* (online), 27 October 2014 <http://thejakartaglobe.beritasatu.com/news/kontras-ryamizard-appointment-shows-jokowi-negligent-human-rights/>.

[100] John Miller, 'ETAN opposes appointment of retired general Ryamizard Ryacudu as defense minister', *ETAN* (online), 26 October 2014 <http://www.etan.org/news/2014/10ryamizard_ryacudu%20.htm>.

[101] Australian West Papua Association Sydney, 'New Indonesia Defense Minister Ryamizard Ryacudu, a cause for concern', (Media Release, 27 October 2014) <http://awpasydneynews.blogspot.com.au/2014/10/media-release-new-indonesian-defense.html>.

[102] Bachelard, above n 91.

[103] The Alliance of Independent Journalists et al, above n 56.

Along with giving access to human rights observers and foreign media, releasing political prisoners and making room for freedom of expression, some of the changes that must take shape revolve around addressing the marginalisation of Papuans in their ancestral lands.

VI ECONOMIC DEVELOPMENT: ENTRENCHING POVERTY

WikiLeaks released cables to *The Age* in 2010, revealing that US diplomats blame the Indonesian government for 'chronic underdevelopment' in West Papua, and believe that human rights abuses and rampant corruption are fuelling unrest.[104] Still, military ties between the two countries were renewed.[105] The cables also confirmed that US based mining company Freeport-McMoRan, which owns the world's largest gold–copper mining venture — called Grasberg — in Papua province, has paid millions of dollars to members of the Indonesian security forces to help "protect" its operations.

Concessions for this company were granted by Indonesia in 1967, two years before the dubious independence vote. Declassified US policy documents divulge its support for Indonesian rule — this arrangement meant the US could carry out its plans to carve up Papua's rich natural resources. The then-national security adviser, Henry Kissinger wrote to President Richard Nixon just prior to the vote, that a referendum on independence 'would be meaningless among the Stone Age cultures of New Guinea.'[106] Kissinger later became a board member of Freeport. He is described in a 1997 *CorpWatch* article as being the 'company's main lobbyist for dealings with Indonesia.'[107]

Freeport is Indonesia's biggest taxpayer, reportedly channelling $9.3 billion to Jakarta between 1992 and 2009.[108] And yet, Papua, where Freeport's Grasberg mine is located,

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[104] Philip Dorling and Nick McKenzie, 'Jakarta accused over Papua', *The Age* (online), 23 December 2010 <http://www.theage.com.au/world/jakarta-accused-over-papua-20101222-195na.html>.
[105] Democracy Now, 'WikiLeaks Cables Released about West Papua', *Democracy Now* (online), 23 December 2010 <http://www.democracynow.org/2010/12/23/headlines/wikileaks_cables_released_about_west_papua>.
[106] Jim Lobe, 'US sacrificed Papua to court Suharto', *Asia Times* (online), 13 July 2004 <http://www.atimes.com/atimes/Southeast_Asia/FG13Ae03.html>.
[107] CorpWatch, 'Freeport McMoRan's corporate profile', *CorpWatch* (online), 19 May 1997 <http://www.corpwatch.org/article.php?id=986>.
[108] Carmel Budiardjo, 'Resource-rich West Papua, but who benefits?', *Tapol* (online), 14 May 2012 <http://www.tapol.org/news-and-reports/letters/resource-rich-west-papua-who-benefits>.

is the poorest province in Indonesia,[109] with one of the 'most alarming food insecurity and malnutrition rates.'[110] About 30 per cent of the population lives in poverty,[111] compared to 13 per cent in East Java. The infant mortality rate in West Papua is at least twice the national average.[112]

Survival International's Asia Campaigner Sophie Grig commented:

> The mine has caused environmental devastation by discharging waste directly into the local river, on which the local Kamoro tribe depends for drinking water, fishing and washing, and Indonesia employs soldiers to protect the area resulting in reports of grave human rights violations such as torture, rape and killings of Papuans.[113]

Grig notes that the HIV/AIDS rate in Papua province is up to 20 times higher than the rest of the country.

Some three decades ago, Papuans made up about 90 per cent of the region's population, however, years of Indonesia's transmigration policies have resulted in non-ethnic Papuans, mostly ethnic Malayans from other parts of the archipelago, making up 50 per cent of the current population.[114] It is projected that by 2030, Indigenous Papuans will comprise just 15 per cent of the total population of West Papua.[115] With development and urban influences comes a change to the traditional way of life, the influx of workers and security personnel, for example, resulting in the emergence of karaoke bars and prostitution. In 2011, the Papua AIDS Prevention Commission revealed that the area with the highest increase of cases and overall infection rate was Mimika district, which is home to the Grasberg mine.[116]

Down to Earth, an organisation that promotes sustainable livelihoods in Indonesia, has

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[109] Badan Pusat Statistik, 'Human Development Index by Province and National 1996-2013', *Badan Pusat Statistik* (online), 19 March 2012 <http://www.bps.go.id/eng/>.
[110] Catherine Wilson, 'West Papua searches far for rights', *Inter Press Service* (online), 29 December 2013 <http://www.ipsnews.net/2013/12/west-papua-searches-far-rights/>.
[111] Ibid.
[112] Stella Peters and Wouter Bronsgeets, 'Extremely High Infant Mortality in West Papua Result of Discrimination' (Press Statement, 12 November 2012) <http://www.sdsp.nl/>.
[113] Email from Survival International press officer Alice Bayer to Gemima Harvey, 6 January 2014.
[114] Peters and Bronsgeets, above n 112.
[115] The Alliance of Independent Journalists et al, above n 56.
[116] Survival International, 'HIV/AIDS rates in West Papua rocket', *Survival International* (online), 20 May 2011 <http://www.survivalinternational.de/news/7294>.

investigated development projects in West Papua for more than two decades and points to a common pattern in the way projects are handled. The thread amounts to exploitation, 'top-down decision-making, official announcements which package projects as being for the public benefit, the appropriation of land owned by Indigenous peoples, and the import of non-Papuan labour.'[117] The 2011 article continues that these 'top-down projects imposed from outside,' often come with the threat or use of violence to enforce plans.[118]

The latest "development" project, the Merauke Integrated Food and Energy Estate (MIFEE), is already showing signs of marginalising Papuans and entrenching poverty in the region. August 2010 marked the launch of the mega MIFEE project, which former President Yudhoyono announced would '[f]eed Indonesia, then feed the World.'[119] The venture earmarks 1.28 million hectares in southern Papua for crops such as, timber, palm oil, rice, corn, soya bean, and sugar cane. Indonesia produces roughly half the global supply of palm oil and plantation expansions in other parts of the archipelago have been linked to rapid rates of deforestation and land conflicts.[120]

A report by the Asian Human Right's Commission exposes MIFEE as being part of a 'global land-grabbing phenomenon,' which strings together powerful state and private actors in a dubious chain of collusion.[121] The report notes that specific to MIFEE is 'the military-business-political framework and the climate of political intimidation and oppression present in West Papua.'[122] The report highlights that key players in MIFEE are all politically connected, raising serious questions about the blurring of political, security, and corporate interests. The Comexindo Group, for example, is owned by Hashim Djojohadikusumo, the brother of Prabowo Subianto, the ex-special forces general and son-in-law of former President Suharto.

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[117] Carolyn Marr, 'Twenty-two years of top-down resource exploitation in Papua', *Down to Earth* (online), November 2011 <http://www.downtoearth-indonesia.org/story/twenty-two-years-top-down-resource-exploitation-papua>.
[118] Ibid.
[119] Brooke Nolan, 'Destroying local livelihoods with Mifee', *JakartaGlobe* (online), 20 January 2013 <http://thejakartaglobe.beritasatu.com/archive/destroying-local-livelihoods-with-mifee/>.
[120] See, eg, Forest Peoples Programme, *Palm oil and RSPO*, Forest Peoples Programme <http://www.forestpeoples.org/topics/responsible-finance/private-sector/palm-oil-rspo>.
[121] Asian Human Rights Commission et al, above n 29.
[122] Ibid.

Customary land tenures are being wiped out without the free, prior and informed consent of local villagers. Compensation given to communities that are duped into handing over their land is beyond inadequate; lured by empty promises of greater prosperity or intimidated by a company's security personnel. Indigenous people are left hungry and with deep regret. According to Awas MIFEE, a network of activists monitoring the mega project, the average rate of compensation to an affected community is about $30 per hectare, a "pitiful" amount considering the many generations a forest can sustain.[123]

MIFEE is touted as a source of jobs for impoverished Papuans but numerous accounts contest this.[124] Indigenous Papuans lack the knowledge and experience to gain meaningful employment in these plantations and are given menial jobs that pay below a living wage, while lucrative positions go to migrants. A massive influx of workers is expected.[125] Government predictions, reported by *The Jakarta Globe*, suggest the population of Merauke could rise from about 175 000 to 800 000 as a result of the project, making Papuans the ethnic minority in their ancestral lands.[126]

Papuans are traditionally hunter-gatherers, living on staples of sago starch and wild meat, foraging for tropical fruit, and cultivating plots of sweet potato and other plants in small gardens. Since chunks of forest in Zanegi were cleared to make way for acacia and eucalyptus plantations, the resulting timber destined for power stations in Korea, the villagers are having a harder time finding food. A local nurse, interviewed in the documentary *Our Land is Gone*, points to the rise in cases of infants suffering chronic malnutrition — from one a year in the past up to a dozen since the forest was destroyed.[127] In the first half of 2013, five infants reportedly died of malnutrition.[128] Pollution from fertilizers and wood chipping has also caused a surge in cases of

[123] Awas MIFEE, *Three years of MIFFEE (part 1): A Growing Movement Against Plantations in West Papua*, Awas MIFEE (23 October 2013) <https://awasmifee.potager.org/?p=650>.
[124] Diana Parker, 'Agribusiness project leaves Indigenous communities in Indonesia New Guinea hungry and in poverty, report says', *Mongabay* (online), 3 September 2013 <http://news.mongabay.com/2013/0903-dparker-mifee-papua.html>.
[125] Awas MIFEE, above n 123.
[126] Arti Ekawati and Fidelis E Satriastanti, 'Activists say Papua food estate "not the answer"', *JakartaGlobe* (online), 5 March 2010 <http://thejakartaglobe.beritasatu.com/archive/activists-say-papua-food-estate-not-the-answer/>.
[127] Mama Malind su Hilang, *Our Land Has Gone* (18 October 2012) YouTube <https://www.youtube.com/watch?v=RqYoRh1aApg>.
[128] Parker, above n 124.

bronchitis and asthma. A man interviewed in the documentary laments that the company, a subsidiary of Medco Group, broke its promise to leave a buffer of 1500 meters around sacred sites and cleared sago groves and destroyed birds of paradise habitat. Another villager said, '[w]e thought they had come here to develop our village but in reality they are crushing us, to put it bluntly, they are stomping on us.'[129]

Two UN experts have warned that moves to convert 1–2 million hectares of rainforest and small-scale farming plots to export-led crop and agro-fuel plantations in Merauke could affect the food security of 50 000 people.[130] Survival International's Grig said:

> It is ironic that a project designed to ensure food security is robbing self-sufficient tribal people of their land and livelihoods – which have sustained them for many generations. The same human rights problems that have plagued the communities around the Grasberg mine are now beginning to emerge in the MIFEE area too. It is an emerging humanitarian and environmental crisis.[131]

VII CONCLUSION

The West Papuan struggle for self-determination is unwavering despite half a century of Indonesian security forces brutally muzzling independence sentiments. Freedom of expression is not free in West Papua, it is paid for with life and liberty. Sadly, too often, this is the price of protest. Human rights advocate and author Octavianus Mote astutely wrote that by branding all Papuans as enemies of the state every time they try to exercise their right to freedom of expression, and by continuing to commit gross human rights abuses, the resolve of the Papuan people to be liberated will grow stronger — Indonesia's fears will become a self-fulfilling prophecy.[132] In January 2014, the Free West Papua Campaign ('FWPC') opened an office in Port Moresby, Papua New Guinea, where the Mayor raised the Morning Star Flag alongside the PNG national flag in a show of solidarity. FWPC wrote on social

[129] Mama Malind su Hilang, above n 127.
[130] Olivier De Schutter, *South-East Asia/Agrofuel: UN rights experts raise alarm on land development mega-projects* (23 Mary 2012) United Nations Special Rapporteur on the Right to Food <http://www.srfood.org/en/south-east-asia-agrofuel-un-rights-experts-raise-alarm-on-land-development-mega-projects>.
[131] Bayer, above n 113.
[132] Octavianus Mote, *Special Autonomy Issue*, ETAN <http://etan.org/issues/wpapua/1207spaut.htm>.

media, 'Indonesia can draw as many lines on the map as it likes, but it can never separate the spirit of the people of New Guinea. We are one people, one soul, one *Kumul* [bird of paradise] Island.'[133]

[133] *Free West Papua Campaign* (5 January 2014) Facebook <https://www.facebook.com/freewestpapua/photos/a.310692780009.322467.53611440009/10153690930815010/?type=1&ref=nf>.

REFERENCE LIST

A *Articles/Books/Reports*

Amnesty International, 'Indonesia: Grave Human Rights Violations in Wasior, Papua' (Report No 21/032/2002, Amnesty International, September 2002)

Asian Human Rights Commission et al, 'Asian Human Rights in Papua 2010/2011' (Report, Asian Human Rights Commission et al, November 2011)

Elmslie, Jim and Camellia Webb-Gannon, 'A Slow Motion Genocide: Indonesian Rule in West Papua' (2013) 1(2) *Griffith Journal of Law & Human Dignity* 142 <http://media.wix.com/ugd/6daf1c_8d680debc3db466d93348f0e1f8b63b2.pdf>

Human Rights Watch, 'Out of Sight: Endemic Abuse and Impunity in Papua's Central Highlands', (Report, Human Rights Watch, July 2007)

Perrottet, Alex and David Robie, 'Pacific media freedom 2011: A status report' (2011) 17(2) *Pacific Journalism Review* 148 <http://www.pjreview.info/sites/default/files/articles/pdfs/PJR17_2_pacific%20media%20freedom2011.pdf>

Saltford, John, *The United Nations and the Indonesian Takeover of West Papua, 1962–1969: The anatomy of betrayal* (RoutledgeCurzon, 2003)

Tapol, 'No Political Prisoners? Suppression of Political Protest in West Papua' (Report, Tapol, April 2013)

The Alliance of Independent Journalists et al, 'Human rights in West Papua' (Report, The Alliance of Independent Journalists et al, 23 January 2014)

B *Legislation*

Penal Code (Indonesia) 27 February 1982

Emergency Law No 12 of 1951 on Firearms and Explosive Materials (Indonesia)

C *Treaties*

International Covenant on Civil and Political Rights, opened for signature 16 December 1966, 999 UNTS 171 (entered into force 23 March 1976)

D *Other*

ABC, 'Australia faces link to West Papua torture', *7.30 Report,* 28 August 2012 (Hayden Cooper and Lisa Main) <http://www.abc.net.au/7.30/content/2012/s3578010.htm>

Aljazeera America, 'West Papua: A no-go zone for foreign journalists', *Aljazeera America* (online), 22 September 2014 <http://america.aljazeera.com/articles/2014/9/22/west-papua-mediablackout.html>

Aljazeera, 'Activist's killing angers Papuans', *Aljazeera* (online), 3 August 2010 <http://www.aljazeera.com/news/asia-pacific/2010/08/201083213426470365.html>

Aljazeera, 'Activist's killing angers Papuans', *Aljazeera* (online), 3 August 2010 <http://www.aljazeera.com/news/asia-pacific/2010/08/201083213426470365.html>

Amnesty International UK, *Papua Digest* (8 October 2012) <http://www.amnesty.org.uk/sites/default/files/amnesty_international_papua_digest_29-01-2011.pdf>

Amnesty International, *Indonesia: Investigate military attacks on villagers in Wamena, Papua* (9 June 2012) Amnesty International <http://www.amnesty.org.au/news/comments/28886/>

Amnesty International, *Indonesia: Paniai shootings – make investigation findings public and bring perpetrators to justice* (12 January 2015) Amnesty International <http://www.amnesty.org.au/news/comments/36323/>

Arnaz, Farouk and Ezra Sihite, 'Kontras: Ryamizard appointment shows Jokowi "negligent" on human rights', *Jakarta Globe* (online), 27 October 2014 <http://thejakartaglobe.beritasatu.com/news/kontras-ryamizard-appointment-shows-jokowi-negligent-human-rights/>

Australian West Papua Association Sydney, 'New Indonesia Defense Minister Ryamizard Ryacudu, a cause for concern', (Media Release, 27 October 2014) <http://awpasydneynews.blogspot.com.au/2014/10/media-release-new-indonesian-defense.html>

Awas MIFEE, *Three years of MIFFEE (part 1): A Growing Movement Against Plantations in West Papua*, Awas MIFEE (23 October 2013) <https://awasmifee.potager.org/?p=650>

Bachelard, Michael, 'Joko Widodo promises to focus on West Papua', *The Sydney Morning Herald* (online), 23 August 2014 < http://www.smh.com.au/world/joko-widodo-promises-to-focus-on-west-papua-20140823-107jd0.html>

Bachelard, Michael, 'Opening the doors to West Papua', *The Walkley Foundation* (online), 10 September 2014 <http://walkleys.com/opening-doors-west-papua/>

Bachelard, Michael, 'They're taking our children', *Sydney Morning Herald* (online), 4 May 2013 <http://www.smh.com.au/lifestyle/theyre-taking-our-children-20130503-2inhf.html>

Bachelard, Michael, 'West Papua to remain closed to outside world', *Sydney Morning Herald* (online), 11 October 2013 <http://www.smh.com.au/world/west-papua-to-remain-closed-to-outside-world-20131011-2vdy4.html>

Badan Pusat Statistik, 'Human Development Index by Province and National 1996-2013', *Badan Pusat Statistik* (online), 19 March 2012 <http://www.bps.go.id/eng/>

Budiardjo, Carmel, 'Resource-rich West Papua, but who benefits?', *Tapol* (online), 14 May 2012 <http://www.tapol.org/news-and-reports/letters/resource-rich-west-papua-who-benefits>

Cordell, Marni, 'West Papuans tortured, killed and dumped at sea, citizens' tribunal hears', *Guardian* (online), 13 December 2013 <http://www.theguardian.com/world/2013/dec/13/west-papuans-tortured-killed-and-dumped-at-sea-tribunal-hears>

CorpWatch, 'Freeport McMoRan's corporate profile', *CorpWatch* (online), 19 May 1997 <http://www.corpwatch.org/article.php?id=986>

De Schutter, Olivier, *South-East Asia/Agrofuel: UN rights experts raise alarm on land development mega-projects* (23 Mary 2012) United Nations Special Rapporteur on the Right to Food <http://www.srfood.org/en/south-east-asia-agrofuel-un-rights-experts-raise-alarm-on-land-development-mega-projects>

Democracy Now, 'WikiLeaks Cables Released about West Papua', *Democracy Now* (online), 23 December 2010 <http://www.democracynow.org/2010/12/23/headlines/wikileaks_cables_released_about_west_papua>

Denton, Jenny, 'West Papuans tortured, terrorised', *Sydney Morning Herald* (online), 7 October 2013 <http://www.smh.com.au/world/west-papuans-tortured-terrorised-20131006-2v2ae.html>

Di Natale, Richard, 'Step up on West Papua: Greens', *Greens MPs* (online), 18 December 2012 <http://richard-di-natale.greensmps.org.au/content/media-releases/step-west-papua-greens>

Dorling, Philip and Nick McKenzie, 'Jakarta accused over Papua', *The Age* (online), 23 December 2010 <http://www.theage.com.au/world/jakarta-accused-over-papua-20101222-195na.html>

Ekawati, Arti and Fidelis E Satriastanti, 'Activists say Papua food estate "not the answer"', *The Jakarta Globe* (online), 5 March 2010 <http://thejakartaglobe.beritasatu.com/archive/activists-say-papua-food-estate-not-the-answer/>

Elmslie, Jim, *Preface to Filep Karma's "As if We're Half Animals"* Tapol (1 December 2014) <http://www.tapol.org/briefings/preface-filep-karmas-if-were-half-animals#overlay-context=news/if-were-half-animals-filep-karma-racism-and-resistance>

Email from Survival International press officer Alice Bayer to Gemima Harvey, 6 January 2014

Email from Tapol campaigns coordinator Esther Cann to Gemima Harvey, 8 January 2014

Engage Media, 'Video testimony of Kiwo', *Engage Media* (online), 19 August 2012 <http://www.engagemedia.org/Members/dewanadatpapua/videos/kiwotestimony_e>

Forest Peoples Programme, *Palm oil and RSPO*, Forest Peoples Programme <http://www.forestpeoples.org/topics/responsible-finance/private-sector/palm-oil-rspo>

Free West Papua Campaign (5 January 2014) Facebook <https://www.facebook.com/freewestpapua/photos/a.310692780009.322467.53611440009/10153690930815010/?type=1&ref=nf>

Harsono, Andreas, 'French journalists handed short jail terms in Papua, to walk free', *Channel News Asia* (online), 24 October 2014 <http://www.channelnewsasia.com/news/asiapacific/french-journalists-handed/1432558.html>

Hernawan, Budi, *From the theatre of torture to the theatre of peace: The politics of torture and re-imagining peace building in Papua, Indonesia* (PhD Thesis, Australian National University, March 2013)

Human Rights Law Centre, *Joint Statement HRLC and ILWP: Conviction of West Papuan independence activists breaches human rights* (16 March 2012) Human Rights Law Centre <http://hrlc.org.au/conviction-of-west-papuan-independence-activists-breaches-human-rights-16-march-2012/>

Human Rights Watch, *Indonesia: New President Should Highlight Human Rights Abuses in Papua* (20 October 2014), Human Rights Watch <http://www.hrw.org/news/2014/10/20/indonesia-new-president-should-highlight-rights-papua>

Human Rights Watch, *Indonesia: Security Forces Kill Five in Papua* (10 December 2014) Human Rights Watch <http://www.hrw.org/news/2014/12/10/indonesia-security-forces-kill-five-papua>

Ipenburg, At, 'The life and death of Theys Eluay', *Inside Indonesia* (online), April – June 2002 <http://www.insideindonesia.org/weekly-articles/the-life-and-death-of-theys-eluay>

Journeyman Pictures, *Indonesian military accused of grisly Biak Massacre* (18 September 2007) YouTube <http://www.youtube.com/watch?v=VbbndM9U4Fs>

Lobe, Jim, 'US sacrificed Papua to court Suharto', *Asia Times* (online), 13 July 2004 <http://www.atimes.com/atimes/Southeast_Asia/FG13Ae03.html>

Maclellan, Nic, 'Brutal new Defense Minister undermines Jokowi's overtures to West Papua', *Crikey* (online), 29 October 2014 <http://www.crikey.com.au/2014/10/29/brutal-new-defence-minister-undermines-jokowis-overtures-to-west-papua/>

Mama Malind su Hilang, *Our Land Has Gone* (18 October 2012) YouTube <https://www.youtube.com/watch?v=RqYoRh1aApg>

Marr, Carolyn, 'Twenty-two years of top-down resource exploitation in Papua', *Down to Earth* (online), November 2011 <http://www.downtoearth-indonesia.org/story/twenty-two-years-top-down-resource-exploitation-papua>

Miller, John, 'ETAN opposes appointment of retired general Ryamizard Ryacudu as defense minister', *ETAN* (online), 26 October 2014 <http://www.etan.org/news/2014/10ryamizard_ryacudu%20.htm>

Mote, Octavianus, *Special Autonomy Issue*, ETAN <http://etan.org/issues/wpapua/1207spaut.htm>

Nolan, Brooke, 'Destroying local livelihoods with Mifee', *The Jakarta Globe* (online), 20 January 2013 <http://thejakartaglobe.beritasatu.com/archive/destroying-local-livelihoods-with-mifee/>

Office of the High Commissioner for Human Rights, *Pillay concerned about persistent violence and abuses in Papua* (2 May 2013) OHCHR <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=13287&LangID=E>

Papua Merdeka, *West Papua-The secret war in Asia,* YouTube (4 February 2011) <http://www.youtube.com/watch?v=kslNnhVCksw>

Papuans Behind Bars, *About the Data* <http://www.papuansbehindbars.org/?page_id=315>

Papuans Behind Bars, 'Filep Karma', *Papuans Behind Bars* (online), <http://www.papuansbehindbars.org/?prisoner_profile=filep-karma&lang=en>

Papuans Behind Bars, '"Bloody Yotefa": police turn a blind eye to violence against Indigenous Papuans', *Papuans Behind Bars* (online), October 2014,<http://www.papuansbehindbars.org/?p=3252>

Parker, Diana, 'Agribusiness project leaves Indigenous communities in Indonesia New Guinea hungry and in poverty, report says', *Mongabay* (online), 3 September 2013, <http://news.mongabay.com/2013/0903-dparker-mifee-papua.html>

Peters, Stella and Wouter Bronsgeets, 'Extremely High Infant Mortality in West Papua Result of Discrimination' (Press Statement, 12 November 2012) <http://www.sdsp.nl/>

Radio Australia, 'Murder of Papuan leader provokes rioting', *Radio Australia* (online), 19 March 2012 <http://www.radioaustralia.net.au/international/radio/onairhighlights/428180>

Robinson, Jennifer, 'The UN's chequered record in West Papua', *Aljazeera* (online), 21 March 2012 <http://www.aljazeera.com/indepth/opinion/2012/03/201232172539145809.html>

Sastrawan, Jarrah, 'Jokowi's "Business as usual" cabinet is bad news for West Papua, *New Matilda* (online), 4 November 2014 <https://newmatilda.com//2014/11/04/jokowis-business-usual-cabinet-bad-news-west-papua>

Schonhardt, Sarah, 'Indonesian military trial outrages activists who charge torture', *Christian Science Monitor* (online), 24 January 2011 <http://www.csmonitor.com/World/Global-News/2011/0124/Indonesian-military-trial-outrages-activists-who-charge-torture>

Surabut, Dominikus, 'The Papuan nation is murdered and jailed due to Indonesia's colonialism', *Tapol* (online), 2 April 2014 <http://www.tapol.org/sites/default/files/sites/default/files/pdfs/Domi%20Surabut%20message%20EN_0.pdf#overlay-context=press-statements/papuan-prisoner-protest-highlights-indonesia%25E2%2580%2599s-secret-shame>

Survival International, 'HIV/AIDS rates in West Papua rocket', *Survival International* (online), 20 May 2011 <http://www.survivalinternational.de/news/7294>

Survival International, 'Shocking video confirms Indonesia's brutal suppression of West Papuan rally ahead of US visit', *Survival International* (online), 16 November 2011 <http://www.survivalinternational.org/news/7878>

Tapol, 'Papuan prisoner protest highlights Indonesia's hidden shame' (Press Statement, 2 April 2014) <http://www.tapol.org/press-statements/papuan-prisoner-protest-highlights-indonesia%E2%80%99s-secret-shame>

Tapol, *Police intimidation of Papuan lawyer continues* (16 October 2014) Tapol <http://www.tapol.org/news/police-intimidation-papuan-lawyer-continues>

Tapol, *Rights defenders at risk in Papua* (30 November 2007) Tapol <http://tapol.org/news-and-reports/news/human-rights-defenders-risk-papua>

Tapol, *Urgent Appeal: Freedom of expression in Papua* (17 May 2013) Tapol <http://www.tapol.org/briefings/urgent-appeal-freedom-expression-papua>

Tapsell, Ross, *Q&A: Australia's reaction to arrest of French journalists in West Papua* (6 October 2014) Australian National University <http://www.anu.edu.au/news/all-news/qa-australias-reaction-to-arrest-of-french-journalists-in-west-papua>

The Hub, 'The Killing of Yawan Wayeni,' *Witness* (online), 8 May 2010 <http://hub.witness.org/en/upload/killing-yawan-wayeni>

The Jakarta Post, 'SBY describes Papua torture as 'minor', *Jakarta Post* (online), 22 January 2011 <http://www.thejakartapost.com/news/2011/01/22/sby-describes-papua-torture-%E2%80%98minor%E2%80%99.html>

The Observers France24, 'Amateur video shows West Papuans tortured by Indonesian army', *The Observers France24* (online) 24 January 2011 <http://observers.france24.com/content/20101023-amateur-video-shows-west-papuans-tortured-indonesian-army>

Tjahjonol, Budi, 'INDONESIA: Freedom of expression in Papua and West Papua' (Speech delivered at the 27th Session of the UN Human Rights Council, 15 September 2014) <http://www.alrc.net/doc/mainfile.php/alrc_st2014/829>

Unrepresented Nations and Peoples Organization, *West Papua: jailed French journalists return to France* (3 November 2014) <http://unpo.org/article/17665>

Vaessen, Step, 'Indonesian forces raid Papuan independence rally, 6 die, 17 missing', *Pacific Scoop* (online) 25 October 2011, <http://pacific.scoop.co.nz/2011/10/indonesian-forces-raid-papuan-independence-rally-6-dead/>

West Papua Media, 'Thousands of students rally to reject Otsus Plus and provincial division', *West Papua Media* (online), 6 November 2013 <http://westpapuamedia.info/2013/11/06/thousands-of-students-rally-to-reject-otsus-plus-and-provincial-division/>

Wilson, Catherine, 'West Papua searches far for rights', *Inter Press Service* (online), 29 December 2013 <http://www.ipsnews.net/2013/12/west-papua-searches-far-rights/>