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Amnesty International

Submission to the Permanent Peoples' Tribunal (PPT)

Session on Environmental Destruction and State Repression in West Papua, 27 to 29 June 2024

Introduction

Amnesty International is presenting the following information to the Permanent Peoples' Tribunal (PPT) for the upcoming Session on Environmental Destruction and State Repression in West Papua on 27 to 29 June 2024. This submission highlights our concerns and findings regarding the dire human rights situation in Indonesia's easternmost region of West Papua¹, where repression of fundamental rights and state-sponsored violence against Indigenous Papuans continued amid escalating tensions and intensifying military operations in the area.

This submission draws attention to Amnesty International's findings that attest to the Indonesian Government's failure to uphold and fulfil its human rights obligations in West Papua, including the right to freedom of expression, the right to freedom of peaceful assembly and association, the right to life, the right to be free from discrimination, the right to a clean, healthy, and sustainable environment, as well as the cultural and land rights of Indigenous Peoples. Moreover, the absence of accountability for cases of serious human rights violations – including past human rights abuses, unlawful killings, and excessive use of force by Indonesian security personnel – further entrenched impunity, leaving many victims without access to justice and reparations.

In West Papua, state authorities continued to use repressive measures against individuals and activists, including blanket prohibition of peaceful protest, and threats of arrest and prosecution under the treason (*makar*) provisions, mainly under Articles 106 and 110 of the Old Criminal Code (KUHP) on crimes against the security of the state. People engaging in peaceful demonstrations, particularly on political issues, often face criminal charges under treason provisions. Amnesty International recorded that, between January 2019 to June 2023, at least 118 Papuans were arrested and detained solely for exercising their right to freedom of expression and peaceful assembly. Moreover, state security forces have also used discriminatory excessive force and racially abused Papuan protesters in peaceful demonstrations, including during protests opposing the renewal of the Papuan Special Autonomy Law in July 2021.

Violations of the right to life, including unlawful killings, have been reported for years in West Papua amid ongoing armed clashes between Indonesian security forces and pro-independence armed groups. Between January 2018 and March 2024, Amnesty International recorded at least 81 suspected incidents of unlawful killings by members of the security forces, involving 131 victims, among which 129 were Indigenous Papuans. In most cases, the authorities fail to thoroughly investigate these unlawful deaths and to bring suspected perpetrators to justice, therefore leading to impunity and encouraging further attacks.

The increased presence of Indonesian security forces in Indigenous Papuans' customary lands across the region has also created an environment of violence, fear and intimidation, driving thousands of individuals to flee their houses to other cities and the forest. Many are afraid of returning due to heavy presence of security forces in their villages. Human Rights Monitor (HRM) recorded that, as of April 2024, more than 76,000 individuals, mostly Indigenous Papuans, remain internally displaced across the region.²

¹ The term West Papua in this submission refers to Indonesia's easternmost provinces of Papua, Papua Barat (West Papua), Papua Tengah (Central Papua), Papua Selatan (South Papua), Papua Pegunungan (Highland Papua) and Papua Barat Daya (Southwest Papua).

² Human Rights Monitor, "IDP Update April 2024: New internal displacements in Paniai," <https://humanrightsmonitor.org/reports/idp-update-april-2024-new-internal-displacements-in-paniai/> (accessed on 22 May 2024)

Indigenous Papuans are further exposed to risks of abuses amid the absence of law on Indigenous Peoples's rights that could effectively recognize and protect their rights, including their rights to customary land, territories, economic and cultural rights. In many instances, the government fails ensure that Indigenous Papuans are effectively and meaningfully consulted in development projects and business operations that will affect them, including ensuring their right to free, prior and informed consent prior to the development process.

Among the latest example is the government's plan to mine gold in Wabu Block, Intan Jaya Regency in Central Papua Province, where Indigenous Papuans live in fear and under restrictions due to increasing militarization in the area. A number of Indigenous Papuans have told Amnesty they oppose the mining plans for Wabu Block due to its potential to harm both the environment and local communities, including environmental pollution, loss of customary land and damage to their livelihoods. With the existing tensions, as armed clashes continued amid heavy security presence, the required conditions for a free consultation process with the affected Indigenous Papuans are significantly absent, therefore undermining the government's ability to obtain their free, prior and informed consent for the planned mining operation.

The pattern of human rights violations that is occurring in West Papua against Indigenous Peoples highlights the need for the Government of Indonesia to act expediently and find durable solutions that fully respect, protect, and fulfil the rights of Indigenous Papuans.

This submission comprises Amnesty International's published research reports, UN submissions, and other documents relevant to serve as supporting evidence for the Tribunal. The details are attached below.

Suppression of Peaceful Political Expression

The last decade has seen an many instances of pro-independence political activities in West Papua, particularly those led by students and youth. Security forces often use repressive measures against the activists, including the blanket prohibition of peaceful protest, the threat of arrest and prosecution under the treason (*makar*) articles of the Criminal Code (KUHP), mainly under Articles 106 and 110 which govern crimes against the security of the state.

Article 106 of the KUHP authorizes the courts to sentence a person to: “Life imprisonment or a maximum of twenty years imprisonment for perpetrating makar with the intent to bring the territory of the state in whole or in part under foreign domination or to separate the part thereof.” In addition, Article 110 stipulates that conspiracy to commit makar is punishable as a violation of Article 106. Indonesian authorities have used these provisions to prosecute dozens of peaceful pro-independence political activists.

At the end of December 2022, the Indonesian House of Representatives (DPR) passed the New Penal Code to replace the KUHP. However, despite several UN Special Rapporteurs' grave concerns, the New Penal Code still contains many problematic provisions, including retaining the treason provision under Article 192. This provision is almost identical to the prohibition of treason in the Old Penal Code, which is notorious for its misuse to suppress peaceful political expression, especially in West Papua and Maluku. The Code will come into force in December 2025 and may significantly impact freedom of expression. From January 2019 to June 2023, Amnesty International recorded at least 118 Papuans facing prosecution to be prisoners of conscience (PoC) imprisoned solely for peacefully expressing their opinions. They are being charged and detained under Articles 106 and 110 of KUHP, which cover crimes against the security of the state and impose life imprisonment as a maximum punishment. Amnesty International defines a PoC as a person who has been deprived of their liberty solely because of their conscientiously held beliefs, or for discriminatory reasons relating to their ethnicity, sexuality, gender, or other identity, who has not used violence or advocated violence or hatred.

In August and September 2019 there were nationwide protests condemning racial abuse against Papuan students. The anti-racism protests were sparked by the actions of a mob from local religious organizations that attacked a dormitory of Papuan students in Malang and Surabaya, East Java, accusing them of destroying the Indonesian national flag and throwing it in the sewer. During the incident, the mob verbally attacked the students, using racist slurs such as “monkey,” “dog,” “animal,” and “pig.” Some of the racist verbal harassment was recorded on video and shared widely on social media, leading Papuans to stage larger protests in West Papua. While some of these protests turned violent, the majority were peaceful. In several demonstrations, West Papuan political activists unfurled the Morning Star Flag. Based on monitoring conducted by Amnesty International, at least 96 people were arrested for exercising their rights to peaceful assembly, association and freedom of expression in connection with the anti-racism protests in Malang and Surabaya.

Papuan Students often face unique challenges in exercising their right to peaceful expression. Benyamin, a Papuan student activist, told Amnesty International that during the 2019 anti-racism protests, security forces targeted Papuan students. In one incident, members of the security forces pushed their way into Benyamin's dormitory, and tried to force him to make a video declaring his loyalty to the Indonesian Government. According to Benyamin, “whenever a protest occurs, they ask, ‘did Papuan students join the protest or not?’”. Yohanis, another Papuan student activist, said that along with other Papuan students he was pressured by the security forces to swear an oath of loyalty and that “The Republic of Indonesia is worth the price of death”.³

On 8 August 2023, the panel of judges at the Jayapura District Court in Papua Province found Ambros Fransiskus Elopere, Devio Tekege and Yoseph Ernesto Matuan guilty of treason under Article 106 of the Penal Code. According to the legal team of the three defendants, they were each sentenced to 10 months in prison.

The three were arrested after holding a freedom of expression event with a group of other students at the campus of the University of Science and Technology Jayapura (USTJ) on 10 November. The event was broken up and some students were arbitrarily arrested by the police on the pretext that it was dominated by speeches and pamphlets calling for a referendum, an independent West Papua, and the raising of the Morning Star flag.

³ Interview with Benyamin and Yohanis, 20 May 2022

The police initially arrested 15 students after dispersing the gathering. Six were released at 23:00 on 11 November 2022, while nine students remained in custody as suspects. Of those nine, three, Ambros Fransiskus Elopere, Devio Tekege and Yoseph Ernesto Matuan, were charged with treason at Jayapura District Court and sentenced to 10 months in prison. After serving time in prison, the three were released on 7 September 2023.

On 5 May 2023, Papuan activist Victor Yeimo was sentenced to 8 months in prison after the judges found him guilty of treason. He had been arrested without a warrant on 9 May 2021 for his alleged involvement in a peaceful anti-racism protest in 2019. As spokesperson for the West Papua National Committee, Victor was charged with treason for a statement he made during that protest, when he called for a referendum on independence. Victor Yeimo was released on 23 September 2023.

Amnesty International does not take any position regarding the political status of any region in Indonesia, including calls for independence. However, the organization believes that the right to freedom of expression includes the right to peacefully advocate for independence through referenda, or other political positions.

Recommendations:

Amnesty International urges the Indonesian authorities to:

- Drop all charges against individuals solely for peacefully exercising their human rights.
- Take effective measures to ensure that threats, attacks, intimidation and harassment against individuals expressing peaceful opinions, including human rights defenders and journalists, are promptly, thoroughly, impartially, independently, transparently and effectively investigated, and that those suspected of being responsible are tried in line with international standards of fairness.
- Respect, protect, promote, and fulfil the rights to freedom of expression, including by ensuring a safe and enabling environment in which media outlets, journalists, civil society organizations, and human rights defenders are effectively protected and can work safely without any fear of reprisal.
- Immediately repeal or revise problematic regulations that are used to undermine and suppress human rights including the rights to freedom of expression, association, and peaceful assembly including provisions for treason under the New Penal Code.

Physical Violence and Racial Abuse of Papuan Protesters

In July 2021, the Indonesian House of Representatives passed revised Law No. 2/2021 on Papuan Special Autonomy. The Papuan Special Autonomy Law was first adopted in 2001 in response to growing calls for Papuan self-determination following the fall of former President Soeharto's New Order regime. The law was meant to give the Papuan people more autonomy to govern themselves while still remaining part of Indonesia. One of the main focuses of the 2001 legislation was the protection of Indigenous Peoples.

In practice, the protections referred to in the Special Autonomy Law, particularly those regarding natural resources, have often been ignored or undermined by conflicting legislation. This is evidenced by ongoing deforestation in the region. According to data from Forest Watch Indonesia, as cited in Mongabay, the deforestation rate in West Papua between 2002-2021 stood at around 60,300 hectares per year, while between 2013-2017, the rate had more than tripled to 189,300 hectares per year.⁴

Additionally, the revised Special Autonomy Law also introduces changes that strengthen central government authority and reduce the autonomy of Papuan institutions. The renewed law creates a special agency responsible for coordinating and evaluating the implementation of Special Autonomy, chaired by the Indonesian Vice President and with a designated office located in West Papua. The new law also removes the right of Papuans to form local political parties, previously established under article 28(1) of the Special Autonomy Law.

These changes have resulted in widespread dissatisfaction with Special Autonomy, leading to an eruption of protests in West Papua and other regions over the past year. These protests are often met with excessive use of

⁴ Asrida Elisabeth, "Revisi UU Otonomi Khusus, Bagaimana Posisi Masyarakat Adat dan Alam Papua?", Mongabay, <https://www.mongabay.co.id/2020/05/07/revisi-uu-otonomi-khusus-bagaimana-posisi-masyarakat-adat-dan-alam-papua/> (accessed on 26 September 2022)

force by Indonesian security personnel. Although Amnesty International has verified that law enforcement officers arrested and/or used excessive force against no less than 74 protesters, we believe the numbers are even higher.

In a demonstration that took place on 14 July 2021 at Cendrawasih University, Jayapura, at least four students were injured during clashes with the security forces. Twenty-three other students were arrested and eventually released. Two protesters told Amnesty International that police beat protesters with their fists, guns, and rubber batons. One woman student activist also reported being kicked in the shin by a member of the security forces.⁵ Video recordings of the protest verified by Amnesty International show two security officials beating protesters with batons.

On the morning of 15 July 2021, authorities used excessive force to disperse protestors in front of the Indonesian House of Representatives. The authorities arrested at least 50 protesters and took them to Jakarta Police Headquarters. A student who took part in the protest told Amnesty International that members of the security forces had beaten and racially abused him before his arrest.

"I was dragged and taken far away from the protest, and then I was punched about seven times. When I tried to escape, the police pulled me back and stamped on me, on my shoulders and thighs, all the while calling me 'monkey'. I had to cover my face with my hands to protect myself from the beating. I was arrested and thrown in a truck."

This incident was corroborated by another protestor who reported having witnessed police officers kicking a man and beating him.

A protester who participated in a demonstration in Sorong on 19 July 2021 told Amnesty International that police officers beat him during his arrest. He said, "I was kicked in the stomach and in the head. I was only arrested because I was calling on the National Chief of Police to release the protesters that had been arrested and detained by the police." The arrest and beating were corroborated by other protesters and video footage. Another protester in Sorong criticized the excessive use of force by security forces. He said, "They just don't want us Papuans to speak out about our rights. That's why every time we take action, we're always forced to disband using violence."⁶

On 16 August 2021, during a protest in Yahukimo, in the newly created province of Highland Papua, a protestor told Amnesty International he had heard multiple gunshots allegedly fired by security personnel, and that several empty cartridges were found close to where the protest took place.⁷ During a protest in Jayapura on the same day, protesters confirmed that members of the security forces used water cannons, as well as beating protesters with rubber batons and guns. Amnesty International has verified video recordings of the event showing the use of water cannons as well as the use of rubber batons by the security forces.⁸

Even public discussions about Special Autonomy are met with repression. When the Papuan People's Assembly (MRP), an official state institution established through the Special Autonomy Law as a cultural representation of the indigenous people in West Papua, sought to hold a public meeting about the implementation of Special Autonomy in Merauke in November 2020, two MRP members and their staff were arrested on allegations of treason. They were later released without charge.⁹

The excessive use of force also occurred during the protest against the government's plan to establish new administrative areas in West Papua. Protests broke out in multiple locations in Jayapura, including Abepura, Waena and Perumnas Tiga. When hundreds of students and activists took to the streets in Abepura, Papua Province on 5 May 2022, they were met with overwhelming unlawful force, and subjected to beatings and other ill-treatment in a flagrant disregard of the right to freedom of peaceful assembly.

⁵ Interview with Vanessa, 18 May 2022

⁶ Amnesty International, "Indonesia: Papuan protesters shot, beaten and racially abused by security forces – new research," 20 August 2021, <https://www.amnesty.org/en/latest/news/2021/08/indonesia-papuan-protesters-shot-beaten-and-racially-abused-by-security-forces-new-research/> (accessed on 28 August 2021).

⁷ Ibid.

⁸ Ibid.

⁹ Amnesty International, "Papuan special autonomy law must ensure protection of indigenous rights and meaningful involvement of Papuan people," 16 July 2021, <https://www.amnesty.id/papuan-special-autonomy-law-must-ensure-protection-of-indigenous-rights-and-meaningful-involvement-of-papuan-people/> (accessed on 19 July 2021).

One of the student activists, Lucas, told Amnesty International that when the protesters gathered at a dormitory in Waena and began to walk to the House of Representatives, their path was blocked by security personnel. The officers called Lucas for negotiation and asked him to disperse the crowd immediately. As he walked back from the negotiation, the officers had already started counting down from 10. The protesters immediately dispersed in panic, leaving Lucas alone. Two officers approached Lucas, grabbing his head and hands from behind.¹⁰

"I was kicked in the chest by the police. They held a gun up against my head, and then fired the gun just to the side of my head, hitting an electricity pole. I was very shocked. After that, another man who wasn't wearing a uniform hit me with wooden club, hitting me again in the chest. I passed out. My friends found me and brought me back to the student dormitory," said Lucas.¹¹ At least 37 students were injured during the protest due to the excessive use of force by the police officers, including beatings with rubber batons and wooden clubs to the head and chest, causing severe injuries.¹²

Recommendations:

Amnesty International urges the Indonesian authorities to:

- Conduct prompt, thorough, impartial, independent, transparent and effective investigations into all credible allegations of unnecessary or excessive use of force, and hold officers found to have acted unlawfully to account.
- Urgently review and reform policies on the use of tear gas and other less-lethal weapons – including explicitly prohibiting the firing of tear gas grenades directly at individuals and in confined spaces – to ensure that these weapons are always used in full compliance with international human rights standards.
- Immediately repeal or revise provisions that unduly restrict the right to freedom of peaceful assembly, including treason provisions in the Criminal Code.

Rights of Indigenous Peoples, Mining Plan and Increasing Militarization

Indonesia has not passed the Indigenous Peoples Bill, which stipulates the recognition of Indigenous Peoples and protection of their rights, including the right to customary lands and free, prior and informed consent. The deliberation of the bill has stalled in parliament for more than a decade, despite being three times included in the national legislative program priority (*prolegnas prioritas*) since it was first initiated by The Alliance of Indigenous Peoples of the Archipelago (*Aliansi Masyarakat Adat Nusantara*, AMAN) in 2009.¹⁰ In addition to the stalled progress, the current bill still contains various problems, such as an intricate process to acquire recognition of Indigenous Peoples from the state.¹¹ Consequently, the rights of Indigenous Peoples in Indonesia are still far from its full realization.

In many instances, the government has failed to ensure effective human rights due diligence, including ensuring the Indigenous Peoples' right to free, prior and informed consent prior to development projects and/or business operations, as seen in the development plan of Wabu Block in Central Papua Province.

On 21 March 2022, Amnesty International issued a briefing titled '*Gold Rush: Indonesia's Mining Plans Risk Fueling Abuses in Papua*¹³', which documents the human rights risks of proposed gold mine plans in Wabu Block. The briefing is based on research conducted by Amnesty International from March 2021 to January 2022 about Intan Jaya, and covers mining plans in Wabu Block, the escalation of the Indonesian military's presence in the current conflict situation and its human rights impacts.

For this research, our organization carried out remote interviews with 31 people, including Indigenous people from Intan Jaya regency, government officials, human rights defenders, and representatives of civil society organizations. Analysis of official documents, media reports and scientific studies regarding Wabu Block were also conducted, together with open-source investigations and remote sensing analysis.

¹⁰ Hengky Yeimo, "*Demonstran Petisi Rakyat Papua: Kami dibubarkan, ditendang, dan dipukul*," Jubi, 12 May 2022, <https://jubi.id/tanah-papua/2022/demonstran-petisi-rakyat-papua-kami-dibubarkan-ditendang-dan-dipukul/> (accessed on 18 May 2022).

¹¹ Interview with Lucas, 19 May 2022.

¹² Hengky Yeimo, "*Demonstran Petisi Rakyat Papua: Kami dibubarkan, ditendang, dan dipukul*," see footnote No. 9.

¹³ Indonesia: Gold Rush: Indonesia's mining plans risk fueling abuses in Papua, <https://www.amnesty.org/en/documents/asa21/5257/2022/en/>

Based on the findings in our briefing, as well as the latest developments in West Papua, we are concerned that the mining plan, if forced through under the present circumstances and without proper prior consultation with the affected Indigenous Papuans, would result in more violations of Indigenous rights, including their right to customary land as well as to obtain free, prior and informed consent on the mining plans. It also risks aggravating the existing conflict and driving human rights violations in the Intan Jaya regency and across West Papua.

The increased presence of Indonesian security forces in the regency since late 2019 – following the killing of three motorcycle taxi drivers by the members of the Free Papua Movement (Organisasi Papua Merdeka – OPM), a Papuan pro-independence armed group – has been accompanied by multiple restrictions imposed to Indigenous Papuans' public and private lives, and reports of unlawful killings, raids and beatings carried out by Indonesian security officers against civilians. Residents we interviewed said that security forces restrict where they go, their use of electronic devices, and even how they should dress. Security personnel in their villages continuously suspected them of being members of OPM just because of their appearance, such as men with beard, dreadlocks, and long hair, although such characteristics are common in the region and part of their culture.

Amnesty International documented 12 suspected unlawful killings carried out by Indonesian security forces in Intan Jaya throughout 2020 and 2021, the highest number among all regencies and cities documented by the organization in Papua and West Papua provinces in the same period. The hostile situation prompted many Indigenous Papuans to leave their communities for the safety of other cities or the forest. Many are afraid of returning because of the presence of Indonesian security forces in their villages.

Despite this context, the Indonesian government announced its intention to move ahead with plans for a massive gold mine in Intan Jaya.

In September 2020, the Indonesian government publicly stated its intention that PT Aneka Tambang Tbk (ANTAM), a subsidiary to state-owned mining company, develops mining activities in Wabu Block, Intan Jaya, which is located north of PT Freeport Indonesia's Grasberg mine in Mimika Regency, Papua. Intan Jaya is inhabited by Indigenous Papuans, mostly belonging to the Moni tribe, and remains predominantly covered by forest. Official estimates suggest that Wabu Block holds approximately 8.1 million ounces of gold, making it one of Indonesia's five largest known gold reserves.

While the area of the mining concession of Wabu Block has not yet been officially declared, Amnesty International obtained official documents that detailed the proposed concession area. According to those documents, it would cover over 69,000 hectares, an area roughly equivalent in size to Indonesia's capital city of Jakarta, with 94 percent of which covered by garden land and primary rain forest. On 6 February 2023, ANTAM expressed interest in joining the bid for mining concession in Wabu Block once the government of Indonesia decides to auction the mining site.¹⁴ As of April 2023, there is no public information yet regarding the government's plan to hold the auction.

Under Indonesian Law, the Ministry of Energy and Mineral Resources is responsible for conducting the licensing process of mining areas, which essentially involves the determination of the area of the mining concession and the granting of a business license to develop mining activities in the concession.

Amnesty International has not found any evidence indicating direct involvement of ANTAM and/or the Ministry of Energy and Mineral Resources in the existing conflict in Intan Jaya. However, we are concerned about the potential human rights impacts of mining in Wabu Block in the existing context.

As the proposed gold mine is under deliberation, the government of Indonesia has forced through a plan to establish three new provinces in Papua, namely South Papua, Central Papua, and the Papua Highland, albeit without meaningful and effective consultation with the Indigenous Papuans who may be affected by the policy. The House of Representatives passed three laws on the establishment of the three provinces on 30 June 2022, a follow up to the passage of a revision to the 2001 Papuan special autonomy law in July 2021, which drew

¹⁴ CNBC Indonesia, "BUMN Incar Gunung Emas 'Perawan' Papua, Ini Kabar Terbarunya," 7 February 2023, <https://www.cnbcindonesia.com/news/20230207114643-4-411718/bumn-incar-gunung-emas-perawan-papua-ini-kabar-terbarunya>

criticisms from Indigenous Papuans who argued that they were not meaningfully involved in the deliberation of the revision.¹⁵ The President of Indonesia, Joko Widodo, officially enacted the three laws on 25 July.¹⁶

Under the new law, Intan Jaya regency, where the forecasted concession mining area is located, becomes one of the regencies under the administrative of the Central Papua Province. We are concerned that the creation of new provinces — which will have new governors as well — may expedite plans to set up gold mining in Wabu Block without proper consultation with the affected Indigenous Papuans. The current Governor of Papua, Lukas Enembe, has consistently voiced opposition to the mining plan. He has previously sent a letter dated 18 February 2022 to the Minister of Energy and Mineral Resources, asking the central government to halt the mining plan “until the security of the local communities is ensured.”¹⁷

On 11 November 2022, Home Minister Tito Karnavian appointed three acting governors to lead the provinces before official local elections are held in 2024, with Ribka Haluk, the minister’s expert staff member, being named as the acting governor of Central Papua Province.¹⁸ Although the provincial government has yet to make any decision regarding the Wabu Block, Papuan activists are concerned that the state officials may move forward with the mining plan despite opposition from Indigenous peoples whose customary land is located within the planned concession area.¹⁹

Indigenous Papuans and human rights defenders told Amnesty International that they fear the Indonesian authorities will use the creation of new provinces as an excuse to send more security forces to West Papua, as each province in Indonesia has its own military command. Many Papuans took to the street in Jayapura, Papua, and several other cities even before the laws were passed to protest the Indonesian government’s policy that they said was unilaterally enforced and neglected the views of Indigenous Papuans. Many of the protests were met by excessive use of force by Indonesian security officers, even though protestors merely exercised their rights to express their opinions peacefully.²⁰

Furthermore, the mining plan emerges amid escalating tensions and intensifying military operations in the region of West Papua, which civilians have continued to bear the brunt of. On 18 April 2023, Indonesian Military (TNI) Commander Adm. Yudo Margono raised the status of their operation in West Papua to “combat ready”. It was announced after at least four soldiers were killed in a shootout with members of pro-independence armed group on 15 April 2023 during a joint military-police operation to rescue Philip Mehrkens, a New Zealand national and a pilot, who was taken hostage in February by an armed group in Nduga regency, Papua Highland Province. According to a statement by the TNI, the combat-ready status was intended only for “vulnerable areas” in term of armed groups’ operations, although they did not go into details as to which cities and regencies were under the designation.²¹

A mapping by the Papua Police designated eight regencies and a city to be at high risk of attacks by armed groups in the region, including Intan Jaya²², meaning that “combat ready” status may also be implemented in the regency. The possibility is high considering the escalating tension in the area. On 9 April 2023, an army soldier was killed in a shootout with members of an armed group in Sugapa District, Intan Jaya. The continued armed clashes coupled with frequent security raids have pushed at least 5,859 individuals in Intan Jaya to be

¹⁵ The Jakarta Post, “House passes law to create more provinces in Papua,” 30 June 2022, <https://www.thejakartapost.com/indonesia/2022/06/30/house-passes-law-to-create-more-provinces-in-papua.html>

¹⁶ The Jakarta Post, “Analysis: Much work to be done in new Papuan provinces”, 8 August 2022, <https://www.thejakartapost.com/opinion/2022/08/08/analysis-much-work-to-be-done-in-new-papuan-provinces.html>

¹⁷ A copy of the letter obtained by Amnesty International Indonesia (Ref: 540/2044/SET)

¹⁸ Cabinet Secretariat of the Republic of Indonesia, “Mendagri Resmikan Tiga Provinsi Baru di Papua”, 11 November 2022, <https://setkab.go.id/mendagri-resmikan-tiga-provinsi-baru-di-papua/>

¹⁹ SUARAPAPUA.com, “Pj Gubernur Papua Tengah Diingatkan Tidak Legalkan Blok B Wabu,” 13 April 2023, <https://suarapapua.com/2023/04/13/pj-gubernur-papua-tengah-diingatkan-tidak-legalkan-blok-b-wabu/>

²⁰ Amnesty International, “Repeated excessive use of force against peaceful protests show disregard for Papuan voices”, 4 June 2022, <https://www.amnesty.id/repeated-excessive-use-of-force-against-peaceful-protests-show-disregard-for-papuan-voices/>

²¹ CNN Indonesia, “TNI: Siaga Tempur Hanya di Daerah Rawan dan Pusat Operasi KKB Papua”, 19 April 2023, <https://www.cnnindonesia.com/nasional/20230419171636-20-939893/tni-siaga-tempur-hanya-di-daerah-rawan-dan-pusat-operasi-kkb-papua>

²² CNN Indonesia, “Polda Papua Perketat Keamanan 9 Daerah Rawan Serangan KKB”, 13 January 2023, <https://www.cnnindonesia.com/nasional/20230113004659-12-899785/polda-papua-perketat-keamanan-9-daerah-rawan-serangan-kkb>

internally displaced. They fled their villages to escape the violent conflict.²³ If the military operation is intensified, we fear that the existing hostility would worsen, putting civilians at higher risk and increasing the potential for the occurrence of human rights violations.

Prior to the launching of the report, Amnesty International has sent a letter on 2 February 2022 to the Minister of Energy and Mineral Resources to inform him of the preliminary findings in our report regarding the situation in Intan Jaya as well as to seek further information on the details of the mining plans, including the project's environmental impact assessment, and the licensing process of Wabu Block. Having received no response, Amnesty sent another letter on 1 April 2022 as a follow-up and to amplify the call for the central government to halt the mining plan.

Further, a number of Indigenous Papuans told Amnesty International that they oppose the mining plans for Wabu Block due to its potential to harm both the environment and local communities. They described using the proposed mining area for cultivating crops, hunting animals, and collecting timber. They fear environmental pollution, loss of customary land and livelihoods if the area will be designated as mining concession area. On 28 March 2022, representatives of the Indigenous Peoples of Intan Jaya voiced their opposition to the mining plans during a meeting with members of the House of Representatives' Commission VII, which is responsible for energy, mineral resources, research and technology, and environmental affairs.²⁴

As of 27 July 2022, there is no report or official confirmation on whether the authorities have conducted an environmental impact assessment for the mining plans in Wabu Block. However, activists and environmental human rights defenders have raised fears over potential environmental impacts from Wabu Block mining, saying that it may bring about environmental damages similar to the operation of PT Freeport Indonesia's Grasberg mine, which has affected the lives of Indigenous Kamoro and Amungme tribes whose customary land was exploited for the gold mining.²⁵

A briefing by the International Coalition of Papua (ICP) published in December 2020 reported that toxic and acid rock tailings from the Grasberg mining have damaged the ecosystem on rivers, lake, and forests, impacting livelihoods and places sacred to the tribes.²⁶ The toxic tailings negatively affected vegetations and trees, including their staple food sources such as Sago palm and Matoa fruit trees, and contaminated water of the rivers with elevated concentrations of chemicals, including iron and manganese oxides, thereby disrupting traditional fisheries.²⁷ The Indonesian Financial Audit Agency (BPK RI) estimated in 2017 that the potential loss from environmental damage associated with the toxic tailings amounted to US\$13 billion.²⁸

Moreover, we are concerned that the mining plan in Wabu Block, if carried out without meaningful consultation and participation with the affected Indigenous communities, may further escalate tensions in West Papua. The existing extractive business activities, including mining, logging and palm oil plantations, have contributed to the armed conflict in West Papua as they have impacted local communities, destroyed livelihoods and fuelled marginalisation.

The forest area in the West Papua region, estimated to cover 83 percent of the land as of 2019, held about 42 percent of Indonesia's forests and is "the Asia Pacific region's largest area of intact old-growth forest", according to a study published in *Biological Conservation Journal* in September 2021.²⁹ Having found that 94 percent of

²³ CNN Indonesia, "Ribuan Warga Papua Mengungsi Usai Pecah Kontak Senjata", 30 October 2021,

<https://www.cnnindonesia.com/nasional/20211030195433-12-714496/ribuan-warga-papua-mengungsi-usai-pecah-kontak-senjata>

²⁴ DPR RI, "Komisi VII DPR Terima Audiensi Masyarakat Adat Intan Jaya Papua Terkait Rencana Penambangan Blok Wabu", 28 Maret 2022,

<https://www.dpr.go.id/berita/detail/id/38294/t/Komisi+VII+DPR+Terima+Audiensi+Masyarakat+Adat+Intan+Jaya+Papua+Terkait+Rencana+Penambangan+Blok+Wabu>

²⁵ JATAM, "Political Economy of Military Deployment in Papua", 18 August 2021, <https://www.jatam.org/en/political-economy-of-military-deployment-in-papua/>

²⁶ International Coalition for Papua, "PT Freeport Indonesia and its trail of violations in Papua: human, labour and environmental rights", December 2020, https://www.tapol.org/sites/default/files/PT_Freeport_Indo_tail_of_violations_in_Papua_Dec20.pdf

²⁷ WALHI Papua: Kajian Fisika-Kimia Muara Yamaima, Muara Okorpa, Kabupaten Mimika, Provinsi Papua, 13 Maret 2018

²⁸ CNBC Indonesia, "BPK Sebut Freeport Rugikan Negara Rp 185 T", 19 March 2018, <https://www.cnbcindonesia.com/news/20180319163402-4-7750/bpk-sebut-freeport-rugikan-negara-rp-185-t>

²⁹ David Gaveau and others, "Forest loss in Indonesian New Guinea: trends, drivers and outlook", *Biological Conservation* 26 (2021) 109225, 2021

the proposed mining concession area of Wabu Block is predominantly covered by trees, Amnesty International believes that the mining will likely result in deforestation, although so far we cannot estimate the size of area that could be deforested for the mining activities. We are concerned that the clearing of forests for mining, if it happens, may bring about devastating impacts on human rights and would backtrack global commitment to fight against climate change, severely affecting millions of people, including, among others, the rights to life, water, food, health, and sanitation.

Amnesty International considers that, under the present circumstances of violence, fear, and intimidation in Intan Jaya, there are significant obstacles to moving forward with the licensing process and engaging in a consultation with the affected Indigenous people. Moreover, we are concerned that the mining plan, if went ahead without any meaningful consultation and participation, coupled with the potential environmental impacts and the recent passing of the laws on the creation of three new provinces in West Papua, would further exacerbate the existing conflict and human rights violations in the region.

Under international human rights law, Indonesia's Constitution and national legislation, Indonesian authorities have the obligation to respect and protect Indigenous peoples' rights, including their rights to self-determination, customary land, territories, and cultural rights. Article 18B (2) of the 1945 Constitution of the Republic of Indonesia states that the State shall recognize and respect Indigenous peoples and their traditional rights. Law No. 39/1999 on Human Rights further recognizes and protects "the differences and needs of indigenous peoples" as well as "the cultural identity of indigenous peoples, including indigenous land rights."

In their guidance, the UN Committee on Economic, Social and Cultural Rights (CESCR) and the UN Committee on the Elimination of Racial Discrimination (CERD) reaffirmed that State parties to the International Covenant on Economic, Social and Cultural Rights and the International Convention on the Elimination of All Forms of Racial Discrimination — both of which Indonesia has ratified — shall "recognise and protect the rights of indigenous peoples to own, develop, control and use their communal lands, territories and resources".³⁰

In line with the UN Declaration on the Rights of Indigenous Peoples, the Indonesian authorities are obliged to meaningfully consult with the Indigenous people to obtain their free, prior, and informed consent before adopting and implementing any policy that may affect their lands or territories that are particularly linked to the development, utilization, or exploitation of natural resources, including minerals and water.

A meaningful consultation process to obtain free, prior, and informed consent is a collaborative and iterative process of dialogue and negotiation. All members of the affected Indigenous Peoples should have a meaningful opportunity to participate in the decision-making process, particularly those who might be disproportionately affected by the plan. The government must also fully respect the customary decision-making process, including respecting the results of consultation if it meets with rejection from the Indigenous Peoples.

Recommendations:

Amnesty International calls on the Indonesian authorities to:

- Ensure that any development plan does not result in the forced eviction of Indigenous Peoples from their homes and lands.
- Pause the licensing process of Wabu Block until a consultation in order to obtain the free, prior and informed consent of the affected Indigenous Papuan people can be carried out. The consultation must consider all feasible alternatives to evictions, including those proposed by the affected communities that are less restrictive of their rights.
- Carry out a "consultation on the consultation" with the Indigenous Peoples' representative institution to ascertain whether a full and effective consultation on the proposed mining in Wabu Block is feasible and desirable, given the situation of insecurity, and, if so, how such a consultation would be carried out. The "consultation on the consultation" and the consultation itself must follow international human rights standards.
- Meaningfully consult with affected Indigenous Peoples and civil society on the proposed Indigenous Peoples Bill and ensure Indigenous Peoples' free prior and informed consent is obtained before passing it.

³⁰ CESCR General comment No. 21, Right of everyone to take part in cultural life, E/C.12/GC/21, 2009, para. 36; CERD General recommendation 23 on the rights of indigenous peoples, 1997, para. 5.

- Where relocations take place with the consent of the affected peoples, introduce special measures to ensure that they do not adversely impact the livelihoods of affected communities.

Unlawful killings, torture, and other ill-treatment

West Papua is a region with a high number of cases of unlawful killings, with at least 81 suspected incidents carried out at the hands of members of the security forces, involving 131 victims, the killings were recorded between January 2018 and March 2024.³¹ The Office of United Nations High Commissioner for Human Rights (OHCHR) received reports of allegations of unlawful killings, enforced disappearances, torture and inhuman treatment and the forced displacement of at least 5,000 Indigenous Papuans by the Indonesian security forces between April and November 2021 due to the heavy security presence and ongoing armed clashes.³²

In August 2022, six members of the Indonesian military killed and mutilated four Indigenous Papuans in Timika, West Papua Province after a deal to buy weapons from the Indonesian troops went wrong. On 26 August 2022 local residents of Iwaka village, outside the town of Timika, discovered their bodies in sacks floating down the Pigapu River.³³ In February 2023, a military court in Papua region sentenced the five soldiers to prison terms ranging from 15 years to life. One of the six soldiers died before receiving a verdict. They were all fired from their positions in the Indonesian military.³⁴

In many instances, the authorities fail to investigate these threats and to bring suspected perpetrators to justice, leading to impunity and encouraging further threats and attacks.

In September 2023, joint military police officers allegedly shot five Indigenous Papuans to death in Yahukimo Regency, Papua Pegunungan province. The five victims, aged between 15 and 18, were members of the Kingmi Church Papua congregation. According to the Head of the Yahukimo Churches Federation, Pastor Atias Matuan, military personnel were stationed at the Dekai city limits, requiring residents leaving subdistrict Dekai to report to the security post. If they failed to report, they were considered part of the West Papua National Liberation Army, even if they were not carrying war equipment. The five victims were walking on foot, and were not carrying any sharp tools or weapons, but the Indonesian security forces shot them, and they died from gunshot wounds to the abdomen, chest and legs.³⁵ As of the end of December 2023, no investigative process has been initiated.

Concerns regarding the situation in West Papua have also been communicated to Indonesia's Minister of Foreign Affairs on 27 December 2021 under the mandates of the Special Rapporteur on the rights of indigenous peoples, the Special Rapporteur on extrajudicial, summary or arbitrary executions and the Special Rapporteur on the human rights of internally displaced persons. These concerns include allegations indicating several instances of extrajudicial killings, including young children, enforced disappearance, torture and inhuman treatment and the forced displacement of at least 5,000 indigenous Papuans by security forces between April and November 2021.³⁶

Torture and other ill-treatment remained commonplace in West Papua, where incidents of arbitrary detention and torture also occurred in the context of military operations in and around Nduga regency. On 6 April 2023, the military detained and tortured six Indigenous Papuans from Kwiyawagi village in Lanny Jaya regency, Papua Pegunungan province. The six, who included four boys, were transported by helicopter to the military

³¹ Amnesty International monitoring data on unlawful killings in Papua. For data monitoring purposes, we collect data from reliable media outlets that have been registered with the Press Council. Any data collected from the media will be verified and corroborated with our local partners (i.e., local NGOs, CSOs, and coalitions of NGOs).

³² Office of the United Nations High Commissioner for Human Rights (OHCHR), "Indonesia: UN experts sound alarm on serious Papua abuses, call for urgent aid", <https://www.ohchr.org/en/press-releases/2022/03/indonesia-un-experts-sound-alarm-serious-papua-abuses-call-urgent-aid> (accessed on 30 March 2023)

³³ Human Rights Watch, "Indonesian Soldiers Arrested for Killing 4 Papuans", <https://www.hrw.org/news/2022/09/02/indonesian-soldiers-arrested-killing-4-papuans> (accessed on 25 October 2023).

³⁴ *Al Jazeera*, "Indonesia military court jails four soldiers over Papua killings", <https://www.aljazeera.com/news/2023/2/16/indonesia-military-court-sentences-4-soldiers-for-papua-killings> (accessed on 25 October 2023).

³⁵ Jubi, "PGGY: 5 shooting victims in Yahukimo are not members of TPNPB", <https://jubi.id/tanah-papua/2023/pggy-5-korban-penembakan-di-yahukimo-bukan-anggota-tpnpb/> (accessed on 29 October 2023).

³⁶ Mandates of the Special Rapporteur on the rights of indigenous peoples, the Special Rapporteur on extrajudicial, summary or arbitrary executions and the Special Rapporteur on the human rights of internally displaced persons, AL IDN 11/2021, <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?Id=26909> (accessed on 6 October 2023)

headquarters in Timika, where 17-year-old Wity Unue died, reportedly as a result of injuries sustained from torture. The five others were released without charge on 20 April 2023, but were reported to be in poor health. No one had been brought to justice by the end of the year.

According to Amnesty International's findings, on 22 February 2022 a number of military officers allegedly tortured seven minors detained following accusations of stealing an SS2 assault rifle and 25 rounds of ammunition at PT Modern Post, Tapulunik Sinak Airport, Puncak Regency, Papua.³⁷ The officers took the minors to a room next to the security post, interrogated and tortured them repeatedly with cables and iron bars.³⁸ One of the victims had injuries and bruises all over his body and claimed to have been tortured from morning until night.³⁹ According to the victim, the torture only stopped after one of the minors died.⁴⁰

Amnesty International is also concerned about the restrictions on access to West Papua placed on international human rights NGOs and foreign media, which have been in place for many years, and include Amnesty International. The denial of access to Papuan provinces limits independent reporting of the human rights situation. It contributes to the climate of impunity in a region with a history of torture and other ill-treatment, unnecessary and excessive use of force and firearms and unlawful killings by security forces.

Recommendations

Amnesty International urges the Indonesian authorities to ensure that:

- All unlawful killings alleged to have been committed by Indonesian security forces are investigated promptly, thoroughly, independently, impartially, transparently and effectively. The investigation, and any prosecutions, should not be limited to direct perpetrators, but should also investigate any involvement of commanders, irrespective of rank.
- 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.
- Victims and their families receive comprehensive and effective reparations in accordance with international standards.
- Publicly acknowledge the serious problem of torture and other ill-treatment by security forces, and send a clear, public message to all security forces in Indonesia that: torture and other ill-treatment are strictly prohibited at all times; any allegations of such treatment must be promptly, thoroughly, impartially, independently, transparently and effectively investigated; and all those suspected of criminal responsibility will be brought to justice in fair trials and without recourse to the death penalty.
- Undertake comprehensive reform of the security forces, focusing on human rights and the rule of law, which aims to achieve, among other things, equal treatment and opportunities for everyone in gaining access to security and justice, with the police and military services protecting and promoting respect for human rights.
- Ensure that there are clear guidelines requiring members of the security forces to report abuses, and that personnel at all levels of the chain of command, including at the local level, know about these guidelines and are held responsible for enforcing them, with penalties imposed for failing to report, or for covering up, misconduct.
- Ratify the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, incorporate the provisions into domestic law, and implement it in policy and practice.
- Revise the Law on Military Tribunals (Law 31/1997) so that military personnel suspected of offences involving human rights violations are only prosecuted before independent civilian courts, in proceedings that meet international fair trial standards.

³⁷ Amnesty International, "Penyiksaan Anak di Puncak Papua Bukti Negara Tidak Serius Lindungi Anak di Papua", <https://www.amnesty.id/penyiksaan-anak-di-puncak-papua-bukti-negara-tidak-serius-lindungi-anak-di-papua/> (accessed on 30 March 2023).

³⁸ Kompas.id, "Investigasi Komnas HAM, Anggota TNI Diduga Aniaya Tujuh Anak di Sinak", <https://www.kompas.id/baca/nusantara/2022/03/24/investigasi-komnas-ham-anggota-tni-diduga-aniaya-tujuh-anak-di-sinak> (accessed on 30 March 2023).

³⁹ Ibid.

⁴⁰ Ibid.

Forced Internal Displacement

On 2 December 2018, the Free Papua Movement (Organisasi Papua Merdeka – OPM), a Papuan pro-independence armed group, allegedly involved in the killing of 28 construction workers in Nduga Regency. In response, the army launched a major operation in the region, resulting in thousands of people having to seek refuge in other surrounding regencies.

In managing internal displacement, the Indonesian government refers to Law No. 24 of 2007 on Disaster Response and Law No. 7 of 2012 on managing Social Conflict. The latter law elaborates explicitly on the management of IDPs displaced for economic and political reasons. However, the conflict in West Papua, due to its complex political spectrum, is not accommodated in the above-mentioned laws.

According to Human Rights Monitor, as of April 2024, there are approximately 76,000 internally displaced persons (IDPs) from the Nduga, Puncak, Intan Jaya, Maybrat, Pegunungan Bintang and Yahukimo districts.⁴¹ The IDPs live in squalid conditions, deprived of various essential facilities (such as food, health services, education, and sanitation), and the vast majority of these IDPs have not received any support from the government.⁴²

Recommendations

Amnesty International urges the Indonesian authorities to ensure that:

- Ensure and facilitate unhindered humanitarian access to humanitarian organizations, churches, UN agencies and their implementing partners to provide access to food, medical supplies, education and sanitation to the IDPs in need in West Papua; and
- Guarantee the safe, voluntary and dignified return of the IDPs to their homes, including by significantly reducing the heavy security force presence in villages in West Papua that may create fear and insecurity from the conflict.

Impunity for gross human rights violations

Although President Joko Widodo has made promises to solve past human rights violations and has taken positive steps by acknowledging 12 gross human rights violations that occurred between 1965 and 2003, further action to bring those suspected of criminal responsibility to justice and victims' access to the truth have yet to be made.

Law No. 26 of 2000 on the Human Rights Court provides that gross human rights violations pertain to crimes against humanity and genocide. It further provides that the National Commission of Human Rights (Komnas HAM) is the sole body authorised to initiate and carry out preliminary inquiries into alleged gross human rights violations, and should the National Commission of Human Rights consider there is sufficient preliminary evidence that a gross human rights violation has occurred, the findings of the inquiry shall be submitted to the Attorney General Office. The Attorney General Office should then undertake an investigation to follow up the inquiry result, and should they find enough evidence to do so, they should bring the alleged perpetrator to be prosecuted before the Human Rights Court.

Concerns arise as a result of the government's failure to guarantee due process in the context of trials, and the fact that, when those suspected of criminal responsibility are brought to trial, they are all too frequently acquitted. This is evident in the trial of the 2014 Paniai tragedy. On 8 December 2022, a former military commander was acquitted by the Human Rights Court in Makassar, South Sulawesi province, of the unlawful killing of four Papuan high school students in Paniai District in 2014.⁴³

⁴¹ Human Rights Monitor, "IDP Update April 2024: New internal displacements in Paniai," <https://humanrightsmonitor.org/reports/idp-update-april-2024-new-internal-displacements-in-paniai/> (accessed on 22 May 2024)

⁴² Ibid.

⁴³ Amnesty International, "Indonesia: Verdict in 2014 Paniai tragedy a 'slap in the face' for victims", <https://www.amnesty.id/indonesia-verdict-in-2014-paniai-tragedy-a-slap-in-the-face-for-victims/> (accessed on 29 March 2023)

Previous investigations by Komnas HAM found that members of the XVII/Cenderawasih military unit opened fire on a crowd of Indigenous Papuans protesting alleged military abuses of Papuan children, killing four minors and injuring 21 others.⁴⁴ Additionally, many Papuans and other civil society organizations questioned the decision to hold the human rights court in Makassar rather than in Papua, as mandated in the Special Autonomy Law on Papua (Law No. 21/2001).⁴⁵ The Special Autonomy Law states that the human rights court involving cases in the region of Papua must be held in Papua. This is important for providing transparency and accountability not just for the Indonesian public in general, but for Papuans in particular.⁴⁶

Victims and families of victims of the 2014 Paniai case have previously criticized the legal proceeding, on the grounds that the Attorney General's Office brought only one suspect to trial while no charges have been brought against high-ranking security officials and those suspected of being the direct perpetrators. They also refused to take part in the trial at the human rights court.⁴⁷

Another case from West 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.⁴⁸ 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.⁴⁹

In January 2001 Komnas HAM announced that it would establish a Commission of Inquiry for Papuan (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.⁵⁰ 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 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.⁵¹

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 Wamena⁵² and forward the case to the Human Rights Court. Despite this promise and President Joko Widodo's official acknowledgement in January 2023 of the two incidents as past human rights violations in Indonesia, judicial proceedings of Wasior and Wamena tragedy are yet to be seen and there has been little overall progress towards accountability for past human rights violations.

⁴⁴ Ibid.

⁴⁵ In Article 45 of the Special Autonomy Law in Papua, it is stated that to carry out the enforcement of human rights in Papua, the government should establish representative offices of Komnas HAM, the Human Rights Court, and the Truth and Reconciliation Commission in Papua.

⁴⁶ Media Indonesia, "Warga Minta Pemerintah Gelar Pengadilan HAM Berat Paniai di Papua", <https://mediaindonesia.com/politikdan-hukum/510155/warga-minta-pemerintah-gelar-pengadilan-ham-berat-paniaidi-papua> (accessed 20 June 2023)

⁴⁷ Amnesty International, "Indonesia: Verdict in 2014 Paniai tragedy a 'slap in the face' for victims", <https://www.amnesty.id/indonesia-verdict-in-2014-paniai-tragedy-a-slap-in-the-face-for-victims/> (accessed on 29 March 2023)

⁴⁸ Amnesty International, Briefing to the UN Committee Against Torture, footnote No. 237, p. 39-41

⁴⁹ Amnesty International, Indonesia: Killing and torture acquittals demonstrate failure of justice system, Press Release, 8 September 2005, (Index: ASA 21/018/2005)

⁵⁰ 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

⁵¹ Supreme Court Decision No. 01 K/PID.HAM AD HOC/2006 on Johnny 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.

⁵² 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.

Recommendations

Amnesty International urges the Indonesian authorities to:

- Review all information that the Attorney General Office (AGO) has received about crimes under international law committed in Indonesia, including from Komnas HAM and other bodies, and ensure thorough, impartial, independent, transparent and effective investigations.
- Thoroughly, impartially, independently, transparently and effectively investigate all cases of crimes under international law and gross human rights violations in which the suspects have been released, until all those who are suspected of criminal responsibility, both directly and people in command or superiors, are identified and brought to justice in fair trials.
- Provide access to justice and effective remedies for victims and establish a programme to provide full and effective reparation (including restitution, compensation, rehabilitation, satisfaction and guarantees of non-repetition) to all victims of past human rights violations in Indonesia. The programme should be devised in consultation with victims to ensure that it is effective and reflects the different needs and experiences of victims and survivors, including based on gender or any other status.