



INDONESIA

# Out of Sight

Endemic Abuse and Impunity in Papua's Central Highlands

HUMAN  
RIGHTS  
WATCH



## Out of Sight

### Endemic Abuse and Impunity in Papua’s Central Highlands

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## Map of Papua and West Irian Jaya<sup>1</sup>



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<sup>1</sup> On April 18, 2007, the name West Irian Jaya was changed to West Papua.

## I. Summary

The performance of security forces in the Central Highlands region of Indonesia's Papua province<sup>2</sup> is an important barometer of the success of security sector reform efforts in the country more generally. Outside scrutiny is minimal and the security challenges are pronounced—pro-independence guerrillas have long been based in the region and public resentment of Indonesian authorities and institutions continues to simmer. The Central Highlands show how security forces act when hidden from public view.

For this report, Human Rights Watch investigated 14 cases of alleged human rights violations in the region, interviewing more than 50 victims, witnesses, and family members of victims. Government limits on access and the rugged terrain of the region posed unique obstacles to research and follow-up as needed what we found gives serious cause for concern.

Among our key findings are that while civilian complaints of brutal treatment by soldiers continue to emerge, police officers rather than soldiers are responsible for most serious rights violations in the region today. We found that both army troops and police units, particularly mobile paramilitary police units (*Brigade Mobil* or *Brimob*), continue to engage in largely indiscriminate village “sweeping” operations in pursuit of suspected militants, using excessive, often brutal, and at times lethal force against civilians. Another finding is that even in routine policing, officers sometimes use excessive force.

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<sup>2</sup> The Indonesian territory of Papua occupies the western half of the island of New Guinea. Originally one province in the republic, in 2003 it was controversially divided into two new provinces. The new province of West Irian Jaya now occupies the western part of the region with a new provincial capital of Manokwari. The new province in the eastern half is still called Papua, with Jayapura still serving as the provincial capital. Plans for a proposed third province named Central Irian Jaya, have been postponed. On April 18, 2007, the name West Irian Jaya was changed to West Papua. As used here, Central Highlands refers to the districts along the mountainous “spine” of the eastern province of Papua: the districts of Jayawijaya, Puncak Jaya, Mimika, Tolikara, Yahukimo, Pegunungan Bintang, and Paniai.

Underlying these mostly violent abuses is a culture of impunity. Members of the security forces continue to act as if they are above the law because, in fact, they rarely are prosecuted even when they commit the most serious of crimes.

In the 14 incidents documented in this report—which include eight alleged killings, two rapes, and many cases of ill treatment and torture—at writing, only one member of the security forces had faced prosecution, and that was before a military court; a low ranking officer was sentenced to eight months in prison for killing a 16-year-old Papuan high school student. To our knowledge, no Brimob or regular police officers have been investigated or prosecuted for their role in the remaining seven killings. No officers have been charged in either of the two rape cases in which police were implicated. No officers have been charged in connection with the cases of alleged police ill-treatment we documented. This report thus documents what appears to be the near total absence of accountability for members of the security forces who commit abuses in the Central Highlands.

\* \* \*

The Central Highlands region for years has been the site of tense confrontations between Indonesian police and military units and small cells of *Organisasi Papua Merdeka* (OPM, known in English as the Free Papua Movement) guerrillas. The pro-independence guerrillas have conducted repeated low-level armed attacks against Indonesian security forces, while Indonesian security forces, fearful of a repeat of the successful movement for independence in East Timor, have conducted regular sweeping operations to search for OPM guerrillas or their supporters. These operations have typically involved looting, destruction of property, and in some cases harm to civilians and displacement. Public support for the guerrillas is perhaps stronger in the Central Highlands than anywhere else in Papua.

Some proponents of Papuan independence have alleged that Indonesia is carrying out genocide in the Central Highlands, while others claim that serious human rights violations are a thing of the past. The reality is that surprisingly little is known about what is happening in many parts of the region. One reason is that this region is a

large, mountainous, inaccessible, and sparsely populated area with little modern infrastructure. News can take days to reach towns if it reaches them at all.

A more important reason is that journalists, human rights workers, and even diplomats are barred from entry to the area without permits, which are hard, at times impossible, to obtain. Outsiders who do visit are able to do so only very irregularly and under tight surveillance by authorities. This means that little solid information comes out, creating fertile ground for rumors and unfounded speculation. The lack of reliable factual accounts means that unfounded rumors circulate with much the same potency as accurate accounts. The prominence of misinformation has served only to magnify the Central Highlands' reputation as a hotbed of dissent and abuse.

While Indonesian security forces have improved their practices in some important respects in the provinces of Papua and West Papua, the situation remains of serious concern, particularly in the highlands. Security forces often presume civilians to be linked to, or vicariously responsible for, acts by the OPM.

During the course of this research Human Rights Watch documented eight confirmed and five other possible extrajudicial killings since 2005, all involving members of the police, and one for which members of the *Tentara Nasional Indonesia* (TNI), the Indonesian military, appear to be primarily responsible. We documented two rapes, one by a TNI soldier of a child, and another by Brimob officers.

In 10 of the 14 cases documented in this report, members of the police force were the perpetrators. Several victims told Human Rights Watch about their forced displacement due to sweeping operations by Brimob and army units, and were eyewitnesses to the deaths of nine civilians (two children and seven adults), most likely caused by exposure to diseases such as malaria and lack of access to medical treatment during displacement.

As noted above, many of the most serious violations we documented occurred as the police conducted sweeping raids through the communities believed to have hosted OPM leaders, or in areas where the OPM had allegedly led attacks upon security forces. In 2005 the operations caused the dislocation of thousands of villagers

fleeing in fear to the mountains. This displacement restricted peoples' access to food, medical treatment, and other basic services such as education and access to livelihoods.

Extrajudicial killings and ill-treatment also occurred when regular police and Brimob units used disproportionate or excessive force to break up or control gatherings of people. In one of the cases, victims were individuals trying to fly the "Morning Star," the Papuan independence flag. The Indonesian government remains highly intolerant of even peacefully expressed pro-independence sentiment. Those involved in Morning Star flag-raising or other peaceful expressions of aspirations for independence are dealt with harshly.

Police officers appear to regularly commit abuses while carrying out ordinary police tasks, including arrest and detention of suspects for non-political crimes. This kind of daily abuse appears to be a reflection of the heavy security presence, the lack of meaningful consequences for offenders, and the general state of lawlessness in the area. Many of these violations took place when officers were not on official duty but in pursuit of private business or other ventures.

Human Rights Watch found that rape and other sexual violence against women and girls by security forces is a continuing problem. Such attacks, as well as the broader fear such attacks generate, shape the daily lives of women and girls in the Central Highlands region.

Many of the ordinary yet disturbing abuses we have documented arise primarily due to the impunity extended by the state to human rights violations by security forces in Papua and Indonesia more generally. Confidence of impunity is enjoyed by members of the security forces when they can abuse basic rights knowing that the risk of being held to account is negligible.

The vast majority of suspected perpetrators identified in this report are police officers (the majority are non-Papuan). This is a perceptible change from previous eras when members of the military committed the vast majority of serious human rights violations in Papua.



It appears that police and military members commonly abuse their power because they can do so, confident that no sanction or penalty will follow. They are, for all intents and purposes, above the law. When agents of the state, responsible for human rights protection, become its violators, there is a serious breach of public trust. Failure to rein-in abusive police and soldiers undermines the rule of law and the legitimacy of the state itself—in this case a state that still has much work to do to persuade Papuans of the benefits of citizenship. Much more attention needs to be paid to ensure that police re-direct their resources and energies to effective community protection and service.

## **Methodology**

Conducting research for this report posed unique challenges. Researchers endured difficult conditions and visited many communities accessible only by foot and via rugged terrain. In all, we were able to conduct in-depth interviews with 56 eyewitnesses, victims, and family members of victims, focusing on cases from 2005 and 2006. We also met with many other villagers, local community officials, and civil society leaders.

In our research, we prioritized allegations of particularly serious violations such as killings of unarmed people, rapes, and violent beatings. We examined a number of original documents relating to legal proceedings and autopsy reports where available. We also used secondary sources such as newspaper articles, reports by human rights and advocacy organizations, and other human rights archival sources to corroborate information provided through primary sources.

We found that witnesses were generally eager to tell their stories. However, as all of the alleged perpetrators are serving members of the police or military, witnesses remain understandably fearful of reprisal for participating in the research. Due to the high risk of reprisal we have omitted the names of sources, as well as the specific dates and locations of the interviews.

In advance of and during the course of the research, Human Rights Watch made several written and verbal requests to Indonesian authorities for formal access to the province. A request from Human Rights Watch was made in person to President

Yudhoyono in September 2005 for official access. A letter was sent to President Yudhoyono in February 2006 raising concern at the lack of access to the province for the media and international human rights organizations. In March 2006 Human Rights Watch issued a press release calling for access to the province to investigate rising tensions in the area. In January 2007 Human Rights Watch wrote to the Minister of Foreign Affairs requesting access to Papua. Human Rights Watch has also requested permission for access to Papua during several meetings held with Indonesian government officials over the course of 2006 and 2007 in Jakarta, Washington D.C., and London. At this writing, such permission had not been granted despite official indications that it would be forthcoming.

Because our queries and requests for official access were denied, we have not been able to include here the perspectives of local police, military, and government officials. In May 2007 Human Rights Watch wrote to both the police and TNI commanders in Papua asking for clarification and responses to specific cases raised in this report. To date we have received no reply

Such denial of access is shortsighted. We believe that the production of factually based and balanced reporting on the human rights situation will only improve governance in Papua and West Papua. It would also contribute to strengthening both the will and capacity of the Indonesian government to properly hold its security forces accountable where allegations are substantiated.

## II. Key Recommendations

### Human Rights Watch urges the Indonesian government to:

- Allow unfettered access for diplomats, journalists, and human rights organizations to all parts of the two Papuan provinces. Increased access to information will ensure more balanced and accurate reporting and allow problems such as police abuse to be identified and tackled rather than fester and contribute to continuing tensions in Papua;
- Investigate all cases, including those presented here, involving allegations of abuses by the police or soldiers. Where the information justifies prosecution, the cases should be brought before civilian courts under the criminal law and not be dealt with solely as disciplinary offences to be resolved by internal police or TNI mechanisms;
- Suspend from active service all police officers being investigated for human rights violations, pending the final determination of any legal proceeding. Authorities should dismiss officers found responsible for human rights violations;
- Provide victims of sexual violence with appropriate and timely health services. These services should include counseling, emergency contraception, and post-exposure prophylaxis (PEP) to prevent HIV-transmission, voluntary testing, and treatment for those affected with HIV/AIDS.

### III. Background

The tensions and complexities that characterize policing in Papua are difficult to appreciate without understanding the context of the conflict in the province. For this reason, the next section of the report will go into some detail on the roots of security force operations in the area, and the history behind the ongoing tensions.

#### Roots of the Papuan conflict

The provinces of Papua and West Papua are in the most eastern part of Indonesia. The indigenous population in this region is ethnically quite different from any other in Indonesia, and boasts over 300 distinct ethno-linguistic groups. Recent years have seen a growing sense of “pan-Papuan” identity in response to the process of decolonization, Indonesia’s military presence, and the recent history of transmigration of non-Papuans from other Indonesian territories. The arrival of overseas missionaries has engendered a large part of the indigenous population turning away from traditional animist practice and converting to Christianity. Churches and church communities have become important focal points in modern Papuan life.<sup>3</sup>

Some Papuan peoples in Indonesia claim they are victims of an historical injustice, robbed of the independence promised to them by their former Dutch colonizers. While the rest of Indonesia gained independence in 1949 following a war of independence, the Dutch retained control in Papua into the 1960s. In the later years of Dutch rule, colonial officials in the region had been preparing Papua for independence by encouraging Papuan nationalism and by allowing the establishment of political parties and nascent institutions of state.<sup>4</sup>

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<sup>3</sup> R. Chauvel “Constructing Papuan Nationalism; History, Ethnicity and Adaptation,” *Policy Studies* 14, East-West Centre, Washington, <http://archives.pireport.org/archive/2006/March/papua-nationalism.pdf> (accessed June 25, 2007).

<sup>4</sup> Kees Lagerberg, “West Irian and Jakarta Imperialism,” (London, Palgrave Macmillan, 1979), pp. 58-72; Nonie Sharp “The Rule of the Sword: The Story of West Irian,” (Victoria, Kilford Books, 1977); J. Saltford “The United Nations and the Indonesian Takeover of West Papua, 1962-1989: The Anatomy of Betrayal,” (London, Routledge, 2003), pp. 9-10.

However, rather than handing over control of the territory to Papuans, the Dutch instead agreed in 1962 to transfer authority over the territory to a United Nations Temporary Executive Authority, and then to Indonesia within a year,<sup>5</sup> on condition that by end of 1969<sup>6</sup> an “Act of Free Choice” would be conducted to determine Papua’s future status. Every adult Papuan would be eligible to participate in this act of self-determination.<sup>7</sup>

Instead of creating a process of universal suffrage, the Indonesian authorities decided to conduct the referendum through “representative” assemblies. With the agreement of the Dutch and the United Nations, the Act of Free Choice was conducted by Indonesia in April 1969, with United Nations assistance.<sup>8</sup> The assemblies chose just 1,026 Papuans to participate.<sup>9</sup> The majority of the 1,022 who actually did participate were nominated by the Indonesian authorities and then voted on behalf of the rest of the population through eight regional councils.<sup>10</sup> According to one historian’s account, the Indonesian military used intimidation and coercion against the delegates.<sup>11</sup> The result was a unanimous vote for continued integration with Indonesia.

Indonesia has always maintained that, as a former part of the Netherlands East Indies, West New Guinea (as it was then named) was a legitimate part of Indonesia.

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<sup>5</sup> Agreement between the Republic of Indonesia and the Kingdom of the Netherlands concerning Western New Guinea (West Irian), signed at UN Headquarters, New York, August 15, 1962 (New York Agreement), Article XII, <http://www.freewestpapua.org/docs/nya.htm>.

<sup>6</sup> *Ibid.*, art. XX.

<sup>7</sup> *Ibid.*, art XVIII (d).

<sup>8</sup> The UN team only witnessed 195 out of 1000 of the “elections,” due to obfuscation by the Indonesian Government; See also J. Saltford “The United Nations and the Indonesian Takeover of West Papua, 1962-1989: The Anatomy of Betrayal,” (London, Routledge, 2003), pp. 143-148; S. Blay “Why West Papua Deserves Another Chance,” *Inside Indonesia*, Issue 61, Jan-Mar 2000.

<sup>9</sup> 1,026 were selected but four were unable to participate due to illness or other reason on the day; See J. Saltford “The United Nations and the Indonesian Takeover of West Papua, 1962-1989: The Anatomy of Betrayal,” (London, Routledge, 2003).

<sup>10</sup> J. Saltford “The United Nations and the Indonesian Takeover of West Papua, 1962-1989: The Anatomy of Betrayal” (London, Routledge, 2003), pp. 129-140; See also S. Blay “Why West Papua Deserves Another Chance,” *Inside Indonesia*, Issue 61, January-March 2000.

<sup>11</sup> Some diplomats reported open threats were made against delegates “a council member asked what would happen to him if he opted for Independence; the reply was that he would be shot.” On May 24, the *Tjenderawasih* newspaper reported that Major Soewondo addressing 200 village chiefs stated that “I am drawing the line frankly and clearly. I say I will protect and guarantee the safety of everyone who is for Indonesia. I will shoot dead anyone who is against us-and all his followers.” See J. Saltford “The United Nations and the Indonesian Takeover of West Papua, 1962-1989: The Anatomy of Betrayal” (London, Routledge, 2003), p. 147.

Indonesia further argued that the level of education was so low in the territory that the “one man, one vote” principle could not be applied.

The Act of Free Choice is widely considered by Papuans to be a fraudulent basis for Indonesian annexation of the territory, and fuels the continuing demand for “historical rectification,” and a new act of self determination. The OPM (the Free Papua Movement), established in 1965,<sup>12</sup> has since maintained a low-level, armed guerrilla war targeting mainly members of the Indonesian security forces, but has also on occasion targeted Indonesian transmigrants,<sup>13</sup> foreign workers, and journalists.<sup>14</sup> Despite the dubious bona fides of the Act of Free Choice, the OPM has never succeeded in garnering much international support<sup>15</sup> with only a handful of small Pacific states<sup>16</sup> officially supporting the OPM’s key demand for a new vote of self-determination.

In the Soeharto period, Indonesia’s strategy to deal with the OPM was typically through military operations which sought, often brutally, to repress the OPM and its supporters. During the 1970s and 1980s a series of military campaigns against the OPM resulted in large-scale civilian deaths through execution-style killings in village sweeping operations, aerial bombardments, and malnutrition caused by forced displacement.<sup>17</sup> Campaigns targeted communities and relatives of OPM members

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<sup>12</sup> R. Osborne “Indonesia’s Secret War: The Guerilla Struggle in Irian Jaya,” (Sydney, Allen and Unwin, 1985), p. XIV.

<sup>13</sup> Transmigration was an Indonesian government policy to alleviate overpopulation in some parts of the country, by moving large communities to other areas of the archipelago. Most transmigrants originated in Java and Bali and were moved to places like Papua, East Timor, Kalimantan and Sulawesi.

<sup>14</sup> For example, the kidnapping and killing of 8 Javanese students in 1986, and the kidnapping of an international research team of 12, including the killing of two of them during a military rescue operation in 1996; See U.S. State Department “Country Reports on Human Rights Practices: Indonesia 2001,” Washington DC, U.S. State Department, March 2002; See also the kidnapping of two Belgian journalists for two months in 2001; See U.S. State Department, “Country Reports on Human Rights Practices: Indonesia 2001,” Washington DC, U.S State Department, March 2002.

<sup>15</sup> R. Osborne “Indonesia’s Secret War: The Guerilla Struggle in Irian Jaya,” (Sydney, Allen and Unwin), 1985, p. XIV.

<sup>16</sup> Tuvalu, Nauru and Vanuatu called for Papuan independence in September 2000 at the United Nations Millennium Summit in New York; See Nic Maclellan, “Self determination or territorial integrity?” *Inside Indonesia*, Issue 67, July-September 2001; Australia and Papua New Guinea have prioritized strengthening relations with Jakarta, as has the newly independent Timor-Leste; See interview with then Timor-Leste Foreign Minister Jose Ramos Horta in which he urges Papuans to relinquish their struggle for independence, “Timor-Leste Foreign Minister & 1996 Nobel Peace Prize Winner Jose Ramos-Horta Talks West Papua,” Scoop independent News, October 31, 2005, <http://www.scoop.co.nz/stories/HL0510/S00344.htm>.

<sup>17</sup> Allegations have been made of the use of napalm and other chemical weapons; See “Indonesian Human Rights Abuses in West Papua: Application of the Law of Genocide to the History of Indonesian Control,” Indonesia Human Rights Network, Allard K. Lowenstein International Human Rights Clinic, Yale Law School, April 2004, pp. 19-26; R. Osborne “Indonesia’s Secret War: The Guerilla Struggle in Irian Jaya,” (Sydney, Allen and Unwin), 1985.

and many were arbitrarily detained, tortured, raped, and, in some cases, killed. Most detained Papuans were not formally charged and tried, but those who were brought to courts did not receive fair trials. Small scale attacks on military and police posts by the OPM were met with disproportionate retaliatory operations which often arbitrarily targeted civilians.<sup>18</sup>

In the mid-1980s Indonesian government policy supported “transmigration,” the transfer of typically poor families from other islands to Papua in large numbers. This program, together with increasing spontaneous migration by people seeking economic opportunities in resource-rich Papua, drastically altered the demographic composition of Papua. The Government appropriated, usually without compensation, large tracts of land from traditional owners to support the new arrivals. For example “Operation Clean Sweep” in June 1981 was reportedly used to force Papuans off their lands in the border regions to vacate land for incoming transmigrants. This resulted in entire Papuan communities being displaced and increased feelings of marginalization by the indigenous population, especially in the mining towns where non-Papuans sometimes vastly outnumbered Papuans. Non-Papuans also dominated government bureaucracies and had better access to higher education and employment. By 2000 when government-supported transmigration programs ended, non-ethnic Papuans made up around 35 percent of the population.<sup>19</sup>

The struggle for control of Papua’s abundant natural resources has contributed significantly to the conflict. Concessions given to mining companies without consideration for the rights of local people, and the involvement of state security forces in guarding mining sites, has provided fertile ground for conflict. The direct involvement of senior members of the police and army in resource extraction, such as where members of the military hold logging concessions themselves or receive payment from mining companies for security services, combined with the lucrative

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<sup>18</sup> For example in April 2003 rebels broke into a military armory and stole a number of rifles. In an army campaign responding to this attack Komnas HAM found that at least seven Papuans were killed, 48 tortured and some 7,000 others forced to flee. See “Papuan Leaders want rights findings revealed,” *The Jakarta Post*, July 17, 2004.

<sup>19</sup> According to UN figures around 35 percent of the Papuan population are non-Papuan migrants, S. Jones “Papua Shrouded by Misperception,” *The Australian Financial Review*, August 29, 2006. For the year 2000 census figures indicated for the province of West Papua a population of 1,460,846 indigenous people and 772,684 non-indigenous people; See Statement to UN Working Group on Minorities, Commission on Human Rights, 12-16 May 2003, <http://www.ohchr.org/english/issues/minorities/docs/westpapua.doc>; “Papua: Answers to Frequently Asked Questions,” Asia Briefing no. 53, International Crisis Group, September 5, 2006.

taxes which flow to the Indonesian state, provide powerful motives for the state to retain tight control.<sup>20</sup>

Civilians who protest against the impact of these activities upon their environment, livelihoods, and communities are often repressed by security force members who have frequently responded to community protest with disproportionate and fatal force.<sup>21</sup> The US owned Freeport copper and gold mine has a particularly long history of troubled relations with local communities who, despite the mine's development programs, feel excluded from the economic benefits of the mine yet bear the brunt of its environmental impact.

Mining towns have been centers of HIV/AIDS transmission in Papua. A survey of more than 600 sex workers in Timika (location of the Freeport mine) showed that Timika has the second highest rate of HIV/AIDS infection in Papua,<sup>22</sup> which again is the highest throughout Indonesia.<sup>23</sup> High rates of migration among mining workers, poor literacy, and inadequate education campaigns and HIV/AIDS-specific services all contribute to the spread of the disease.

Women in the region are particularly vulnerable, having higher illiteracy rates, lower knowledge of sexual health, and a low status in Papuan culture vis-à-vis men, which restricts their ability to negotiate safe sex with their partners.<sup>24</sup> Papuan women suffer from the poorest health in Indonesia. For maternal mortality in Indonesia per

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<sup>20</sup> "Indonesia: Resources and Conflict in Papua," International Crisis Group, Brussels, September 2002; Human Rights Watch, *Indonesia-Too High a Price: The Human Rights Cost of the Indonesian Military's Economic Activities*, vol. 18, no. 5(C), June 21, 2006.

<sup>21</sup> "Indonesia: Resources and Conflict in Papua," International Crisis Group, Brussels, September 2002.

<sup>22</sup> N. Silitonga, A. Roddick, and FS. Wignall "Mining, HIV/AIDS and Women Timika, Papua Province, Indonesia" McDonald I, Rowland C (eds); 'Tunnel Vision: Women, Mining and Communities,' Oxfam Community Aid Abroad, (Melbourne, Oxfam, November 2002).

<sup>23</sup> In 2002, 20.4 people per 100,000 were infected by HIV in Papua, compared to only 0.42 cases per 100,000 in the rest of Indonesia. Approximately 40 percent of HIV/AIDS cases in Indonesia have been reported in Papua which has approximately 1 percent of the population; Leslie Butt et al., "The Smokescreen of Culture: AIDS and the Indigenous in Papua, Indonesia," Pacific Health Dialog, September 2002.

<sup>24</sup> Leslie Butt et al., "The Smokescreen of Culture: AIDS and the Indigenous in Papua, Indonesia," 1, Pacific Health Dialog, September 2002.



100,000 live births the rate was 450 in 1,986, falling to 334 in 1995 and 307 in 2000. However, in Papua in 1995 the rate was 1,025 per 100,000 live births.<sup>25</sup>

## Post-Reformasi: A Bumpy and Uncertain Transition to Special Autonomy

Since the fall of Soeharto in 1998, the Indonesian government has engaged in an uneven set of reforms to address the political situation in Papua. One reform was to rename the province. Previously known as “Irian Jaya,” on January 1, 2000 President Wahid announced a name change for the province to “Papua.” The change was formalized in September 2002.<sup>26</sup> In 2003 the government of Megawati Sukarnoputri announced far more controversial plans to split Papua into three provinces: Papua, West Irian Jaya, and Central Irian Jaya.<sup>27</sup> The creation of Central Irian Jaya was shelved in August 2003 after violent clashes in Timika over the partition resulted in five deaths. Central Irian Jaya remained part of Papua. West Irian Jaya was created in November 2003<sup>28</sup> and on April 18, 2007, this name was changed to West Papua.

Many Papuans opposed the splitting of Papua, and in particular the creation of West Irian Jaya, as it was seen as a divide and rule tactic of Jakarta. The division of the province was deemed to be aimed at undermining Papuan efforts to unite behind a common goal of self-determination. Others feared new provinces would herald new provincial military command posts, with attendant increased troop levels in the area. There were also fears that the split would exclude West Irian Jaya from Special Autonomy status (a question that remains unresolved). Among others, local Papuan officials favored the split, believing that it would improve local services and

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<sup>25</sup> “National human Development Report 2004 - The Economics of Democracy: Financing Human Development in Indonesia,” BPS-Statistics Indonesia, Bappenas and the United Nations Development Program, Indonesia, 2004.

<sup>26</sup> See “President Changes Irian Jaya’s Name to Papua,” *The Jakarta Post*, January 4, 2000; “Indonesia’s Irian Jaya Province Officially Renamed Papua,” Agence France-Presse, October 1, 2002.

<sup>27</sup> Formation of Central Irian Jaya Province, Western Irian Jaya Province, Paniai kabupaten, Mimika kabupaten, Puncak Jaya kabupaten, and Sorong City, President of the Republic of Indonesia, Law 45, 1999; In January 2003 President Megawati issued a Presidential Instruction on the Acceleration of the Implementation of Law 45/1999; P. Stockman “Constitutional Court’s Ruling on the Partition of Papua” Watch Indonesia, Information and Analyses, November 24, 2004, [http://home.snafu.de/watchin/papuapartition\\_24.11.04.htm](http://home.snafu.de/watchin/papuapartition_24.11.04.htm).

<sup>28</sup> P. Stockman “Constitutional Court’s Ruling on the Partition of Papua” Watch Indonesia, Information and Analyses, November 24, 2004, [http://home.snafu.de/watchin/papuapartition\\_24.11.04.htm](http://home.snafu.de/watchin/papuapartition_24.11.04.htm); “Pemekaran yang Menyulut Perang,” *Tempo Magazine*, September 1-7, 2003, p. 35; On April 18, 2007, the name of West Irian Jaya was officially changed to West Papua.

governance. The division would make administering the vast region easier, through two or three provincial offices, rather than just one.<sup>29</sup>

But the centerpiece of the Indonesian government's strategy for reaching an accommodation with Papuans has been the offer of Special Autonomy which, as the name implies, involves the devolution of many political and fiscal powers to the province. The strategy is aimed at encouraging pro-independence supporters to work within the state and to build robust Papuan institutions.<sup>30</sup>

Fears of Papua becoming the next "East Timor" and the then-failing peace process in Aceh provided the context for the November 2001 law on Special Autonomy (*otonomi khusus* or *otsus*).<sup>31</sup> However lack of consensus within the Indonesian government, with nervousness that any concession would fan and strengthen demands for independence,<sup>32</sup> has resulted in the protracted and half-hearted implementation of the law.

At the core of this governance model is the MRP, the Papuan People's Council, made up of religious leaders, women, and customary representatives.<sup>33</sup> It was to be established within two years of enactment of the Special Autonomy law<sup>34</sup> and was mandated to protect and defend the rights of indigenous Papuans, especially in the areas of customary law, religion, and women's rights. The negotiation process dragged on and it became increasingly clear that President Megawati Sukarnoputri was not supportive of giving Special Autonomy any real substance.

Not long after President Susilo Bambang Yudhoyono took office in October 2004, the regulation enacting the MRP was finally issued and the body was established.

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<sup>29</sup> Indonesia – "Dividing Papua: How Not to Do it," International Crisis Group, Brussels, April 9, 2003.

<sup>30</sup> R. McGibbon "Secessionist challenges in Aceh and Papua: Is Special Autonomy the Solution?" East-West Centre, Policy Studies No 10, [http://www.eastwestcenter.org/res-rp-publicationdetails.asp?pub\\_ID=1523](http://www.eastwestcenter.org/res-rp-publicationdetails.asp?pub_ID=1523).

<sup>31</sup> Special Autonomy for Papua Province, Peoples Representative Assembly and the President of the Republic of Indonesia, Law no. 21, 2001, art. 19, <http://www.papuaweb.org/goi/otsus/files/otsus-id.html>.

<sup>32</sup> J. Timmer "Papua," *The Contemporary Pacific*, 17.2 (2005), pp. 448-456, [http://muse.jhu.edu/journals/contemporary\\_pacific/v017/17.2timmer.html](http://muse.jhu.edu/journals/contemporary_pacific/v017/17.2timmer.html).

<sup>33</sup> Special Autonomy for Papua Province, Peoples Representative Assembly and the President of the Republic of Indonesia, Law no. 21, 2001, art. 19, <http://www.papuaweb.org/goi/otsus/files/otsus-id.html>.

<sup>34</sup> *Ibid.*, art. 75, chapter XXIII.

Controversy then commenced about the composition and voting procedure for the new body with the powerful Papuan *Dewan Adat* (Customary Council), already disillusioned by the faltering process, refusing to support and participate in the new body.<sup>35</sup> Key religious bodies also boycotted the selection process until the last minute. Nonetheless, representatives for the MRP were selected, albeit not through direct elections. Irregularities in the selection process occurred in patches but monitors concluded that they were not sufficiently widespread to impugn the overall results.<sup>36</sup> MRP members were inaugurated on October 31, 2005.

One of the first blows dealt to the MRP was the government's refusal to consult with it on the creation of West Irian Jaya, as is required under the Special Autonomy law. This was exacerbated by the decision of the Indonesian government to push ahead with provincial elections in the new West Irian Jaya Province before its legal status in relation to Special Autonomy was finally resolved.<sup>37</sup> A decision of Indonesia's Constitutional Court in November 2004<sup>38</sup> further confused the new province's status. The court ruled that while the Special Autonomy law superceded the 1999 law creating the new province of West Irian Jaya, the new province should be recognized nonetheless as its existence was already a political *fait accompli*, the authorities having, for example, already conducted elections for a regional parliament.<sup>39</sup> No new regulations reconciling the status of West Irian Jaya with Special Autonomy have followed and uncertainty remains.<sup>40</sup> However, the two governors of the provinces in Papua, as well as local parliamentary and MRP leaders, signed an agreement on April

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<sup>35</sup> Dewan Adat Papua, (Papuan Customary Council) "Communique by the Papua Indigenous Peoples," August 12, 2005, <http://www.nieuwsbank.nl/papua-lobby/DAP12Aug05.pdf>.

<sup>36</sup> "Papua: The Dangers of Shutting Down Dialogue," International Crisis Group Briefing No 47, March 23, 2006, p.5; "The West Papua Report September 2005," Robert F. Kennedy Memorial Center for Human Rights (CHR)-West Papua Advocacy Team, [http://www.rfkmemorial.org/human\\_rights/1993\\_Bambang/WPReport\\_Oct\\_05.pdf](http://www.rfkmemorial.org/human_rights/1993_Bambang/WPReport_Oct_05.pdf); "Papuan Protest Puppet Government," *The Jakarta Post*, October 29, 2005.

<sup>37</sup> "Irate Papuans Threaten to Boycott Election," *The Jakarta Post*, October 10, 2003; "West Irian Jaya Governor Sworn in Despite Dispute," *The Jakarta Post*, November 15, 2003.

<sup>38</sup> Constitutional Court of the Republic of Indonesia, Putusan Perkara Nomor, 018/PUU-I/2003, <http://www.mahkamahkonstitusi.go.id>.

<sup>39</sup> With 70 percent of eligible voters turning out, adding substantially to its legitimacy; See "Papua: The Dangers of Shutting Down Dialogue," International Crisis Group, Asia Briefing No 47, March 23, 2006.

<sup>40</sup> Despite around 25 percent of MPR members being from West Irian Jaya, and the province being in receipt of Special Autonomy funds, the Provincial elections were governed under the general Law on Regional Governance suggesting the jurisdiction of Special Autonomy does not extend to West Irian Jaya.

18, 2007, that West Papua will come under Special Autonomy, and the two provinces will share the funds provided for it.<sup>41</sup>

Despite the difficulties experienced in establishing the MRP and implementing Special Autonomy, substantial decentralization of power has occurred. The central government in Jakarta has effectively devolved itself of control over most policy areas, though it retains control over foreign affairs, defense and security, fiscal and monetary policy, religious affairs, and justice.<sup>42</sup> Given that the governors of both Papuan provinces, all district heads, and all members of the MRP are indigenous Papuans, and that Special Autonomy has brought substantial financial resources to local coffers,<sup>43</sup> there is a new opportunity to address some of the Papuan people's longstanding grievances.

Unfortunately, despite the reforms, poor governance remains the norm in Papua with corruption and neglect of duty by indigenous Papuans on par with what had existed prior to the influx of Papuans into civil service leadership positions.<sup>44</sup> A lack of skilled civil servants and the overall limited human resource capacity restrict efforts to effectively implement and monitor development programs. The new post-Special Autonomy political elite in Papua commonly use their positions and influence to play out regional, ethnic, and tribal tensions.<sup>45</sup> Lack of attention to the poor performance of some local leaders by the central government has left many ordinary Papuans increasingly disillusioned with Special Autonomy, having seen no improvements to

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<sup>41</sup> Email correspondence with an International Crisis Group Indonesia analyst, May 29, 2007.

<sup>42</sup> Special Autonomy for Papua Province, Peoples Representative Assembly and the President of the Republic of Indonesia, Law No 21, 2001, <http://www.papuaweb.org/goi/otsus/files/otsus-id.html>, chapter IV Regional Authority, Article 4(1).

<sup>43</sup> The annual budget for Papua in 2006 was 4 trillion rupiah, making it one of the wealthiest provinces per capita in Indonesia. S. Jones "Papua Shrouded by Misperception," *Australian Financial Review*, August 26, 2006; A. Sumule "Social and Economic Changes in Papua since the Law on Special Autonomy Came into Effect," paper presented at conference: "Autonomy for Papua – Opportunity or Illusion," June 4, 2003, Berlin, Germany, <http://home.snafu.de/watchin/AfP2003sumule.htm>.

<sup>44</sup> See, for example the case of former Jayawijaya Bupati, David Hubi, the first Papuan administration to be tried for corruption. On August 29, 2006, Hubi was found guilty and sentenced to five years imprisonment for embezzling 13,6,01,780,000 (approx US\$1.5million) from the State; "Hubi Dihukum 5 Tahun Penjara," *Cenderawasih Pos*, August 30, 2006; "Bupati Mimika Sudah Tiga Bulan Tak Masuk Kantor," *Kompas*, August 8, 2006.

<sup>45</sup> R. Chauvel "Constructing Papuan Nationalism; History, Ethnicity and Adaptation," Policy Studies 14, East-West Centre, Washington, <http://archives.pireport.org/archive/2006/March/papua-nationalism.pdf>; J. Timmer "Decentralization and Elite Politics in Papua," Discussion Paper 2005/6, State, Society and Governance in Melanesia," Research School of Pacific and Asian Studies, Australian National University, <http://www.papuaweb.org/dlib/lap/ssgm/2005-d6-timmer.pdf>, p.8; "Regional Autonomy 'fuelling tribalism,'" *The Jakarta Post*, August 31, 2006.

their standard of living, despite much greater local management of the wealth of the Papuan provinces.<sup>46</sup> The 2004 Human Development Report for Indonesia noted that Papua was “ranked 26 places lower in the Human Development Index than in Gross Domestic Product, a clear indication that the income from Papua’s natural resources has not been invested sufficiently in services for the people.”<sup>47</sup>

While the Special Autonomy process has been marred by long delays and wavering commitment on the part of the Indonesian government, the latter cannot be blamed for all of Papua’s continuing problems, and an increasing proportion of responsibility must rest with Papuan maladministration.

In late July 2006 the media reported that OPM leaders, meeting in Papua New Guinea, had decided to end their armed struggle and to continue their demands for independence using peaceful means. They did, however, maintain their right to defend themselves if attacked.<sup>48</sup> In response, TNI Commander in Chief Marshal Djoko Suyanto stated that the military would remain “vigilant” but that they would no longer conduct offensive operations to pursue OPM separatists.<sup>49</sup> It remains to be seen whether these developments will usher in a new commitment to peace and restraint on both sides. A series of attacks on security officers in Puncak Jaya in December 2006 allegedly by the OPM cell led by Goliat Tabuni (the attacks included two fatal shootings of TNI soldiers (one retired) on December 8 in the Yamok mountain area, 2 kilometers from the old city Mulia; one non-fatal shooting of a Brimob officer on December 13; and the brief kidnapping of a TNI officer on December 24) was a major setback.

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<sup>46</sup> J. Timmer “Decentralization and Elite Politics in Papua,” Discussion Paper, State, Society and Governance in Melanesia, Research School of Pacific and Asian Studies, Australian National University, June 2006, <http://www.papuaweb.org/dlib/lap/ssgm/2005-d6-timmer.pdf>; J. Timmer “Papua,” *The Contemporary Pacific*, February 17, 2005, pp. 448-456, [http://muse.jhu.edu/journals/contemporary\\_pacific/v017/17.2timmer.html](http://muse.jhu.edu/journals/contemporary_pacific/v017/17.2timmer.html).

<sup>47</sup> “National human Development Report 2004 - The Economics of Democracy: Financing Human Development in Indonesia,” BPS-Statistics Indonesia, Bappenas and the United Nations Development Program Indonesia, 2004.

<sup>48</sup> “Papua Fighters Promise Non-Violent Future,” ABC, Lateline, July 27, 2006.

<sup>49</sup> “Suyanto: TNI still keeping on guard against OPM,” *Tempo Interactive*, August 1, 2006.

The Indonesian government remains intolerant of even peaceful expressions of pro-independence sentiment. Those involved in Morning Star flag-raising or other peaceful expressions of pro-independence sentiment are dealt with harshly.<sup>50</sup>

The most recent example concerns two men, Filep Karma and Yusak Pakage, who were found guilty on charges of rebellion<sup>51</sup> and expressing hostility towards the government<sup>52</sup> by the Jayapura District Court. They were sentenced on May 27, 2005, to 15 and 10 years of jail, respectively. The men had participated in a peaceful gathering on December 1, 2004, in Abepura to commemorate Papuan “Independence Day” at which the Morning Star flag was unfurled. Police violently broke up the gathering and arrested several, later releasing all but the two men. The sentence far exceeded the five years sought by the prosecution. In February 2007 Human Rights Watch published the report, “Protest and Punishment: Political Prisoners in Papua,” detailing arrests and convictions for those peacefully campaigning for independence in the region.<sup>53</sup>

In 2006 Indonesia took some steps towards protecting human rights but has yet to take decisive measures to end impunity by its security forces. In May 2006 Indonesia acceded to the International Covenant on Civil and Political Rights (ICCPR). In the same month, the International Covenant on Economic, Social and Cultural Rights (ICESCR) took legal effect in Indonesia.<sup>54</sup> Indonesia had earlier ratified the Convention Against Torture, (CAT, 1998), the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW, 1984), the International

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<sup>50</sup> It has not always been this way. At the height of government tolerance to pro-independence aspirations, President Wahid had permitted the raising of the Morning Star flag providing it was flown below the Indonesia flag. See, for example “Dividing Papua: How not to do it,” International Crisis Group, Asia Briefing Paper, April 9, 2003; Human Rights Watch, *Indonesia-Human Rights and Pro-Independence Actions in Papua, 1999-2000*, vol. 12, no. 2, May 2000, <http://www.hrw.org/reports/2000/papua/Pap004.htm>. With the demise of President Wahid the Reformasi political space in Papua greatly contracted. Under the administration of President Megawati, then Security Minister Susilo Bambang Yudhoyono warned that any commemoration of the independence declaration would be regarded as an “act of treason” and tough measures would be taken against perpetrators. See “West Papuans to ignore warnings,” *Sydney Morning Herald*, November 24, 2000.

<sup>51</sup> Indonesian Criminal Code (KUHP), Articles 110 and 106.

<sup>52</sup> Indonesian Criminal Code (KUHP), Articles 154 and 155.

<sup>53</sup> For more information, see Human Rights Watch, *Indonesia – Protest and Punishment: Political Prisoners in Papua*, vol. 19, no. 4 (C), February 21, 2007.

<sup>54</sup> Indonesia is yet to ratify the first Optional Protocol to the ICCPR, the Optional Protocol to the Convention Against Torture (CAT) or the Optional Protocol to CEDAW, all which include mechanisms for individual victims to make complaints to treaty oversight bodies.

Convention on the Elimination of All Forms of Racial Discrimination (1999), and the Convention on the Rights of the Child (1990).<sup>55</sup> Indonesia is also in the process of implementing its second national human rights plan (2004-2009).

In May 2006 Indonesia was elected to the UN Human Rights Council, a step which was cynically received in many quarters, but which may create some pressure on Indonesian officials to ensure more consistent adherence to international standards. Indonesia is also currently a member of the UN Security Council.

The real test of the significance of these developments will be the willingness and ability of the Indonesian government to implement the newly ratified human rights standards both in law and in everyday practice. Indonesia has long paid lip-service to international institutions and treaties but, with only a few exceptions, has failed to create effective mechanisms for implementation. For example, despite ratifying the Convention Against Torture (CAT) in 1998, Indonesia has failed to incorporate the term “torture” into its legislative vocabulary or create any mechanism for systematically translating CAT principles into practice.<sup>56</sup>

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<sup>55</sup> Indonesia has also signed but not ratified the Optional Protocol to CEDAW (2000), International Convention on the Protection of All Migrant Workers and Members of Their Families (2004), and the First and Second Optional Protocols to the CRC (2001.)

<sup>56</sup> Indonesia has within the past 6 years created in rapid succession a Constitutional Court, Truth and Reconciliation Commission, National Law Commission, Judiciary Commission, Ombudsman Commission, Prosecutorial Commission, Police Commission, Corruption Eradication Commission and the Special Court for Corruption. The effectiveness of these new bodies is yet to be tested. The Constitutional Court has in numerous decisions shown substantial independence in decision making. A promising recent decision was when the Constitutional Court found the criminalization of insulting the President and Vice President unconstitutional; Charmain Mohamed (Human Rights Watch), “A Court Ruling on Human Rights that Deserves Presidential Support,” commentary, *The Jakarta Post*, December 15, 2006, <http://hrw.org/english/docs/2006/12/15/indone14876.htm>; A commitment to the rule of law was also shown in the decision to annul Indonesian Criminal Code (KUHP) Law 15/2001, July 26, 2004, making retrospective its application to the Bali bombing; “Indonesia’s Constitutional Court blocks Anti-Terrorism Law” Asia News, July 26, 2004, <http://www.borrull.org/e/noticia.php?id=37322>; On the other hand, in August 2006 the Constitutional Court emasculated promising efforts by the Judiciary Commission to monitor judges, claiming a conflict with the constitution and limiting the Commission to its role in screening applicants for Supreme Court vacancies. Davidson, Soren, Juwono, Vishnu and Timberman, “Curbing Corruption in Indonesia,” 2004-06; A survey of National Policies and Approaches,” The United States-Indonesia Society, Centre for Strategic and International Studies p. 40, [www.usindo.org/pdf/korupsi\\_web.pdf](http://www.usindo.org/pdf/korupsi_web.pdf). While the Prosecutorial Commission, Police Commission and Judiciary Commission are all separate from the bodies they are intended to provide oversight to, they are not independent bodies as they are still controlled by the Government. “Building Capacity from Within and Advocating Pressures from Without, to Combat Systemic Corruptions in Indonesia,” Piet Soeprijadi, Partnership for Governance Reform in Indonesia, [http://www.kemitraan.or.id/data/pdf/building-capacity-from-within\\_piet-soeprijadi.pdf](http://www.kemitraan.or.id/data/pdf/building-capacity-from-within_piet-soeprijadi.pdf).

## IV. Restrictions on Access to Papua

Severe restrictions on access to Papua for human rights monitors mean that reliable information on conditions is hard to come by. Word of mouth is the most common means of transmitting news of alleged human rights abuses, and independent corroboration can be difficult. National human rights monitors are frequently harassed or intimidated.<sup>57</sup> Human rights workers from Elsham, Legal Aid, Kontras, the Catholic Office for Justice and Peace, and other NGOs work under an atmosphere of intimidation.<sup>58</sup> Members of international monitoring groups such as Human Rights Watch are routinely denied visas to conduct visits.<sup>59</sup>

While tourists can freely visit Papua and are not restricted to the capital, visitors with other purposes must apply and provide detailed itineraries and plans to the police for permission. Those granted permission to travel to Papua are likely to be subject to surveillance to ensure their true purpose is not political or related to human rights. In June 2006 two Americans working for an indigenous land rights group traveling on visas which permitted tourism, cultural, business, or government activities, were deported from Indonesia after attending a meeting of the *Dewan Adat* (Papuan Customary Council) a body committed to peaceful advocacy for independence.<sup>60</sup>

While Indonesian journalists can somewhat openly report on developments in Papua, authorities have largely denied international journalists access to the region since 2003, although some exceptions have been made for known Jakarta-based international journalists working on themes deemed non-political. However, even

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<sup>57</sup> Most recently, Paula Makabory, a staff member from ELSHAM Institute for the Study and Advocacy for Human Rights in West Papua, has been accused by BIN (National Intelligence Agency) of involvement in organizing the flight of a group of 43 Papuans who were granted temporary asylum in Australia in March 2006. 1000 PeaceWomen Update, October 20, 2000, <http://www.1000peacewomen.org/typo/index.php?id=74&L=1>.

<sup>58</sup> Aloysius Renawin from Elsham, October 20, 2006; 1000 PeaceWomen Update, October 20, 2000, <http://www.1000peacewomen.org/typo/index.php?id=74&L=1>.

<sup>59</sup> As detailed in the 'Methodology' section above, Human Rights Watch has made several written and verbal requests to the Indonesian government for official access to Papua. These requests have, to date, not been answered. See also TAPOL Briefing on the Current Situation in West Papua, March 14, 2005, p.1.

<sup>60</sup> "Two U.S citizens questioned over visa violations in Papua," Associated Press, June 27, 2006; "Indonesian Government to deport 2 U.S citizens for Papua action," Associated Press, June 28, 2006.



those granted permission assert that Papuan police continually harass them and interfere with their work.<sup>61</sup> In February 2006 Indonesia's Defense Minister, Juwono Sudarsono, defended restrictions on foreign media access to West Papua. He was quoted as saying "Indonesian unity and cohesion would be threatened by foreign "intrusion and concern," and that reporters could be "used as a platform" by Papuans to publicize the alleged abuses.<sup>62</sup>

Academic freedom also has its limits. In 2006 Australian National University's Chris Ballard, an anthropologist whose main focus is Papua, said he had been unable to visit the province since 2001.<sup>63</sup> May of 2006 the Indonesian government boycotted cooperation with two Australian universities (RMIT and Deakin Universities in Victoria) on the basis that they employ academic staffs who have been critical of the Indonesian government's policies in Papua.<sup>64</sup>

The work of international organizations, including the UN, is hampered by restricted access. In May 2006, UNHCR Regional Representative Neil Wright expressed concern that the organization had been denied access to Papua despite repeated requests to the Indonesian government.<sup>65</sup> In his 2005 report to the Commission on Human Rights, UN Special Rapporteur on Torture Manfred Nowak expressed his "regret" that the longstanding request of his office to visit Indonesia, initially made in 1993, was still being ignored.<sup>66</sup> In response Indonesia finally extended him an invitation and at this writing he was due to visit Indonesia at the end of 2007, though it was unclear whether he would visit Papua. In January 2006, the UN Secretary-General's special envoy on the prevention of genocide, Juan Mendez, expressed concern at the

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<sup>61</sup> "Journalists Face Difficulties in Papua, Even with Work Permits," *The World Today*, September 26, 2006, <http://www.kabar-irian.com/news/msg03592.html> (accessed June 25, 2006).

<sup>62</sup> "Foreign media ban in Papua to be maintained: Juwono," *Agence France Presse*, February 6, 2006.

<sup>63</sup> "Papua Travel Ban Halts Abuse Scrutiny: Envoy," *Sydney Morning Herald*, March 1, 2006.

<sup>64</sup> "Indonesian Government Attempts to Silence Foreign Critics of its Policies in West Papua," *The Age*, May 22, 2006.

<sup>65</sup> Transcript of Inquiry into the provisions of the Migration Amendment (Designated Unauthorised Arrivals) Bill 2006, Senate Legal and Constitutional Affairs Committee, May 26, 2006, UNHCR Regional Representative, p. 7; Neil Wright, "I can confirm that, despite repeated requests, UNHCR has not been given permission by the government in Jakarta to have access to West Papua. So we do not have direct information from there. We do of course have information coming from those that cross into Papua New Guinea and are interviewed by us."

<sup>66</sup> Manfred Nowak, Report of the Special Rapporteur on the question of torture, UN Commission on Human Rights, sixty-second session, E/CN.4/2006/6, December 23, 2005, <http://daccess-ods.un.org/TMP/4598847.html>.

government's prevention of human rights monitors from observing the situation in Papua.<sup>67</sup>

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<sup>67</sup> 'UN Expert Says Action Needed to Prevent Genocide in Several African Countries' Voice of America, January 27, 2006.

## **V. Human Rights Violations in the Central Highlands**

This report consists almost entirely of first-hand testimony covering cases of human rights violations from across the Central Highlands in 2005 and 2006. During the course of this research Human Rights Watch documented eight confirmed and five other possible extrajudicial killings since 2005, all involving members of the police, and one of which members of the *Tentara Nasional Indonesia* (TNI), the Indonesian military, appear to be primarily responsible. We documented two rapes, one by a TNI soldier of a child, and one by Brimob officers.

In 10 of the 14 cases documented in this report, members of the police force were the perpetrators. Several victims told Human Rights Watch about their forced displacement due to sweeping operations by Brimob and army units, and were eyewitnesses to the deaths of nine civilians (two children and seven adults), most likely caused by exposure to diseases such as malaria and lack of access to medical treatment during displacement.

### **Extra judicial executions and other abuses during sweeping operations**

The passing of the Soeharto era and the transition to Special Autonomy has brought about some gradual easing of tensions between Papuans and the central government in Jakarta, resulting in some decrease in military crackdowns and sweeping operations of the Papuan population. The main reason for the recent reduction in these types of sweeping operations in Papua appears to be reduced armed activity by the OPM.

While the number and scale of sweeping campaigns in Papua as a whole has decreased since Soeharto stepped down, such operations still occur periodically, most often in the Central Highlands, where OPM activity and support remains strongest. While such operations typically are triggered by alleged OPM attacks, the security forces continue to respond with disproportionate and often lethal force, with surrounding communities subject to harsh collective punishment. Greater numbers of civilian lives are lost when communities, forced from their homes to set up

makeshift shelter in the forests, succumb to illnesses caused by poor nutrition, inadequate housing, and lack of access to health services. Widespread destruction of private and community property—including crops, livestock, and schools—looting, and desecration of churches by security forces are common occurrences and make it very difficult for returning communities to rebuild and sustain themselves, protracting the experience of displacement. Many of the testimonies we gathered, presented below, focus on the consequences of displacement that follows abusive behavior by security forces.

Known sweeping operations were undertaken by security forces in the Kiyawage area in 2003, in Puncak Jaya during 2004, and in the Tolikara regency from January-March 2005;<sup>68</sup> in August-October 2005 Puncak Jaya was targeted again in villages throughout Tinginamput District.

The 2004 and 2005 operations in Puncak Jaya were triggered by authorities' efforts to find Goliat Tabuni, an OPM leader who heads one of the more active OPM cells in the Mulia region. In both operations, religious leaders were killed. In September 2004 Rev. Elisa Tabuni was killed by members of the military after he denied knowing the OPM leader's whereabouts.<sup>69</sup> His son, also a pastor, managed to escape with his hands cuffed.<sup>70</sup> During the same operation, thousands were forcibly displaced to the mountains. The London-based human rights organization TAPOL, the Indonesia Human Rights Campaign, received a list of 53 names of civilians who reportedly had died as a consequence of the displacement.<sup>71</sup> Other groups reported that up to 15,000 people had been displaced and 20 people, mainly children, had died.<sup>72</sup> In the 2005 Puncak Jaya operation, another pastor, Apreke Tabuni, was

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<sup>68</sup> "Indonesian military reacting brutally in Wunin," Wurineri District, *West Papua News*, January 24, 2005.

<sup>69</sup> "Alleged murder to be probed," *The Jakarta Post*, October 29, 2004.

<sup>70</sup> TAPOL Briefing on the current situation in West Papua, TAPOL - The Indonesia Human Rights Campaign, March 14, 2005, <http://tapol.gn.apc.org/reports/ro50315wpbriefing.htm>; John, King and Peter Wing "Genocide in West Papua? The role of the Indonesian state apparatus and a current needs assessment of the Papuan people," Report prepared for the West Papua Project at the Centre for Peace and Conflict Studies, University of Sydney; ELSHAM, Lembaga Study dan Advokasi Hak Asasi Manusia, Jayapura, Papua, August 2005, p.19.

<sup>71</sup> TAPOL Briefing on the current situation in West Papua, TAPOL - The Indonesian Human Rights Campaign, March 14 2005, <http://tapol.gn.apc.org/reports/ro50315wpbriefing.htm>.

<sup>72</sup> "Thousands of Papuans Flee Troops," *Courier Mail*, November 27, 2004; Solidarity South Pacific, <http://www.eco-action.org/ssp/news/07120402.html> (accessed June 25, 2007); "Papuan Protesters Present Plea Calling for Jakarta to End Puncak Jaya Military Action," Radio New Zealand International, December 17, 2004.

executed by members of Brimob in circumstances similar to those under which the Rev. Elisa Tabuni had been killed the previous year.<sup>73</sup>

### *Brimob operations in Tolikara*

In March 2005 a Brimob police unit was air-dropped from Jayapura into Tolikara Regency, marched the approximately 60 kilometers to Wunmi District, and conducted an aggressive sweeping operation. This was in response to the burning of several schools in late February 2005, allegedly by the OPM. On March 13, 2005, en route to Wunmi, a member of Brimob shot and killed a civilian named Lele Jikwa. Although we were unable to find any eyewitnesses to the killing, a man who came across Lele shortly after he had been shot reported that Lele was unarmed at the time.

As the witness told Human Rights Watch:

That morning I heard the sound of a gunshot but did not know that Lele Jikwa had been shot. After Brimob had continued marching in the direction of the District of Wunmi, I went to the area from where I had heard shots. I saw blood spreading along the length of the road. Because of all the blood I began looking for an injured person, and then I heard him crying out from the side of the road to Ponim. I found Lele Jikwa seriously injured by a gunshot wound and, because of his condition, I offered him help standing up. As we went I felt very sad. He said to me 'I was shot by members of Brimob.' I could see he was shot to the right hand side of the back of his chest and I could see all the bones were shattered. The road to Ponim became red. I helped him to sit down and a number of friends came, bringing wood and rope, and we carried him on our shoulders to the house of his family. There were seven of us who carried the victim.<sup>74</sup>

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<sup>73</sup> Human Rights Watch Interviews (names and locations withheld), 2006.

<sup>74</sup> Human Rights Watch interview (name and locations withheld), 2006.

Another person recounts:

Around 8 a.m. I heard the sound of a single gunshot. I did not know who was shooting; the TNI or police, and I did not know until later that he [Lele Jikwa] had been shot by them...

I prepared to go to the garden. I was outside of the house when a large number of fully uniformed Brimob members marched past the yard. I do not know how many people. I felt scared and I returned to the house. They were wearing complete uniforms with guns and were marching in the direction of Wunmi district. After they had passed, at around 9 a.m. several community members brought Lele from the place of the incident...I couldn't think and didn't know what had happened...they had shot him on the right side of his back. I asked [name withheld] 'Who shot him?' and in the words of [name withheld] 'Those who shot him were members of Brimob from Jayapura.' After several hours, at 3 p.m., he died...after that incident, other community members fled as refugees to the jungle.<sup>75</sup>

Members of Brimob continued on to Wunmi, where community members report that officers burned 10 houses and shot and consumed dozens of chickens and pigs as well as large quantities of fruit from private houses in two villages, Honai and Inanagai, before returning to Tolikara on March 15. Following this incident, frightened villagers fled to the mountains where they remained until the end of April 2005. Witnesses claimed that seven displaced persons within their group died from malaria, diarrhea, or pneumonia they had contracted due to unhygienic conditions. One witness told Human Rights Watch:

After seeing this shooting incident and the burning of the houses we feared the same treatment so we decided to run to the mountains. At that time we wanted to take revenge on them but we felt we didn't have enough strength.

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<sup>75</sup> Human Rights Watch interview with (name and locations withheld), 2006.

The refugees lived together in one complex. We didn't struggle with food because the garden was close to the mountains. We had the women gather food in the garden and we were always close by accompanying them. After two months in the mountains, a number of people became sick and died...

Seven refugees died. There were three women, three men, and one child. One woman who died was Karetina Wenda, aged 29 years. She was sick with malaria... and had pneumonia. She was sick for five days beginning on April 10, and on April 15 she died. One other woman by the name of Teginia Wantik, aged 28, also died due to malaria. Her illness lasted for one month, from May 12 until June 10 when she died. Another woman, Memenaugé Murub, also died due to malaria. She was only sick for two days from May 1 and then on May 3 she died. She was around 50 years old. The three men who died were Yununggen Wandik, aged around 31 years. He was sick from diarrhoea. He was sick for one week beginning May 7. Another man, Bimbin Weya, aged around 45 years old, died from pneumonia. He was sick for two days commencing on March 9. Yunus Wantik also died from diarrhea. He was around 45 years and his illness began on June 7. The child who died, Paiserah Relak, was only one-year-old, she was sick for only three days.<sup>76</sup>

A health officer staying with the displaced community told Human Rights Watch:

The community's living conditions were very unhealthy and, as a consequence, seven people died, six adults and one small child. I tried to provide them with medical treatment but it didn't help and I feel great sorrow that they died. They suffered from malaria, diarrhea, coughing up blood and pneumonia so I gave them medicines...that I had brought from outside of the jungle.<sup>77</sup>

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<sup>76</sup> Human Rights Watch interview (name and location withheld), 2006.

<sup>77</sup> Human Rights Watch interview (name and location withheld), 2006.

### *Brimob operations in Puncak Jaya*

The sweeping operation undertaken by Brimob in Puncak Jaya in August 2005 occurred after Brimob officers from Mulia responded to a report that OPM leader Goliat Tabuni was present in the village of Kuragi visiting his ailing parents. Early in the morning of August 17, 2005, a number of Brimob officers arrived in Kuragi village and questioned villagers. Villagers told Human Rights Watch that they denied that Tabuni was in the area and, to placate Brimob members, had offered them meat. Later, however, the Brimob officers arrested three people in the local church, after which the situation deteriorated. At some point a Brimob member was shot in the right rib, although the circumstances of the shooting remain unclear. The officer was evacuated to Jayapura for medical treatment.

The remaining Brimob members redoubled their search for Goliat Tabuni and his OPM followers. On August 18 and 19 more Brimob reinforcements were air-dropped from Jayapura by helicopter and commenced sweeping operations across at least 13 villages in the district of Tinginamput. One witness told Human Rights Watch:

On August 17, at 9 p.m., a number of Brimob officers arrived by truck. They stayed in several churches there and planned their fighting strategy... on the 18th and 19th troops began dropping from Jayapura by helicopter to Puncak Jaya and they spread through several districts including Pigiragi, Brime, Ngalume, Erumugun, Limajari, Monia, Wonaluka, Poruageneri, Pawagarau, Kekung, Erimuli, Kuragi, and the city of Mulia. In all the places they shot their weapons but no community members were shot because they had already fled.<sup>78</sup>

Villagers in the area told Human Rights Watch that they estimate as a consequence of these deployments 16,000 civilians fled to the mountains or to other regions. Local residents' fears were stoked by reports that Brimob officers had tortured an OPM member they had caught. As one witness told us:

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<sup>78</sup> Human Rights Watch interview (name and location withheld), 2006.



[The OPM member] was shot in the chest, with the bullet entering through his back. At that time he was holding an M16 weapon which was taken by Brimob. After he was shot [dead] his hair was drenched with cooking oil and set alight.<sup>79</sup>

During the sweeping operation, Brimob troops reportedly destroyed houses and buildings, and looted or burned gardens and fields. The widespread destruction and lack of assistance in re-building, many villagers did not return to their houses for several months.<sup>80</sup> Describing the fear the sweeping operation induced, a villager told Human Rights Watch:

After the shooting [of the Brimob member] on August 17, many more Brimob came from the city of Mulia to the village of 'Five Fingers' where the Brimob member had been shot. As soon as they arrived they started shooting. I heard the shooting and began running in the direction of the jungle. I did not even have the opportunity to collect my belongings, which all remained at the house. Nor could I even collect my young child who at that time was being cared for by someone else, but was taken by them. Thereafter I, together with my child, and a number of members of the community from the village Monia began life as refugees close to Yamo. There we made a shelter...we could not get good food.<sup>81</sup>

Brimob established roadblocks and patrols through the area, preventing displaced persons from returning to collect food from whatever gardens were not destroyed.

Many displaced people remained in the jungle for four months until the end of December 2005. It is not known how many died. All suffered acute privations. One of those displaced told Human Rights Watch:

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<sup>79</sup> Human Rights Watch interview (name and location withheld), 2006.

<sup>80</sup> Human Rights Watch interview (name and location withheld), 2006.

<sup>81</sup> Human Rights Watch interview (name and location withheld), 2006.

After the shooting [of the Brimob officer], many troops were parachuted in by helicopter to the villages of Tingginamput and Kuragi...After hearing the sound of the shots I immediately ran to the jungle. The distance was approximately 10 kilometers. There I met with a number of families who had also fled because they did not feel safe. We were seven adults—four men, three women—and two children aged around five to six years old. For four months we lived as refugees in the jungle. There we stayed but did not feel safe as we often heard the sound of gunfire and were very nervous and traumatized.

On August 18 at 8 a.m., a number of members of Brimob and TNI began coming from Puncak Jaya in trucks to the villages of Tingginamput and Kuragi. They opened fire in many directions including in the direction of the jungle. After we heard the sound of shooting we ran deeper into the jungle. After four days and nights of sleeping in the jungle I fell ill with malaria. At that time there were no medical staff and it was difficult to obtain medicine...all the roads were guarded by members of Brimob and TNI who stopped members of the community seeking access to the community clinic or hospital in Puncak Jaya. At the time I was sick I took only traditional medicine collected from the jungle. At the end of December 2005 I was able to get to the hospital in Mulia and was provided with medical treatment until I had recovered. During the time I spent in the jungle I wasn't able to get good food. We could only collect a little food from the farms but it was very difficult because Brimob members guarded the roads to the gardens day and night.<sup>82</sup>

Another internally displaced person shared a similar story with Human Rights Watch:

For four months we lived in the jungle, from August until November 2005. During this time we were refugees. We could not get any good food as we were in the middle of the jungle and it was difficult to go to

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<sup>82</sup> Human Rights Watch interview (name and location withheld), 2006.

the gardens for food as all the pathways leading to and from the villages were guarded by members of Brimob and TNI. So for four months we ate only nettles and bananas. We were a group of eight adults—three women, five men—and three children...Two of our members died in the jungle as they could not be helped. Naniamban Wenda, a 45-year-old man who was sick for four months, died in December. The other was a two-month-old infant, Letera Tabuni, who died in September. During the time they were sick there were no health professionals to give them medicine and this caused their very sad deaths. We all suffered immensely. We did not sleep well and we ate little. Now and then we had food, but when there was none we just had to endure...due to our situation we did not eat well and our bodies became weak. If we found bananas in the jungle we gave them to the young children. It was especially hard on the children and so we made special efforts to look after them.<sup>83</sup>

Another man who was displaced from Kuragi and living with a different, larger group in the jungle similarly reported:

Amongst the refugees were many children who died because they did not have good food and good sleeping conditions. Mosquito bites made many people ill. The lack of medical treatment meant that many community members who became ill then died.<sup>84</sup>

Due to continuing prohibitions on media and NGO access to Papua, no reliable figures exist concerning the number of deaths caused by these operations or the total numbers of civilians displaced.

Forced displacement also prevents children from attending school and the burning and destruction of government buildings often includes schools, guaranteeing that

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<sup>83</sup> Human Rights Watch interview (name and location withheld), 2006.

<sup>84</sup> Human Rights Watch interview (name and location withheld), 2006.

such interruptions in education have long-term consequences. One villager told Human Rights Watch:

At the time, schools were shut down. School children were also victims and fled to the jungle with their parents... we have not yet returned to our village of Tinginamput because we remain very traumatized by all the things done by Brimob and TNI. We are still living in Mulia. A number of villages are overgrown, and the conditions in villages are now very poor.<sup>85</sup>

Many residents independently told Human Rights Watch that Brimob officers used churches for accommodation in their 2005 Puncak Jaya operation and sometimes desecrated them upon their departure. This caused ongoing disruption to religious activities and dampened the morale and emotional recovery of local communities. Many churches remain badly damaged.<sup>86</sup> As was the case during the Brimob operation in Tolikara (detailed above), religious leaders were not spared the direct brunt of human rights violations. One community member reported:

At the time of the Brimob operation the troops stayed in the church of Tanobaga. When they left all the sacred items in the church were burnt, and even the pulpit was destroyed. During the military operation the community could not enter the church for prayer and religious service. After the shooting started on August 17, 2005, all the church worship activities stopped until 2006. There are 10 church buildings that are still empty. The congregation is scared because a church leader, Anton Tabuni, was killed hiding in the church. During the four months we were displaced in the jungle from August until the end of December, the congregation worshipped in the jungle. After returning to the village we could not resume our worship properly until 2006.<sup>87</sup>

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<sup>85</sup> Human Rights Watch interview (name and location withheld), 2006.

<sup>86</sup> Human Rights Watch interviews (names and locations withheld), 2006.

<sup>87</sup> Human Rights Watch interview (name and location withheld), 2006.

Similarly, another victim reported:

Brimob and TNI used various churches including at Wurigele and Yogonik. They used them as places to sleep and eat, and when they were ready to leave they destroyed them. Glass was smashed, the sacred cloths and pulpit were burnt. Until this time, the churches remain damaged and the activities of the church disrupted.<sup>88</sup>

The destruction and looting of houses, gardens, crops, and the theft of livestock during sweeping operations ensure ongoing suffering even once displaced communities are able to return. Livelihoods are easily destroyed overnight but can take months and years to rebuild, especially when an entire community's financial capital has been destroyed. Such widespread destruction limits the ability of community members to help each other and further increases the hardships suffered by vulnerable groups, especially already marginalized people such as female-headed families with few or no resources to tide them over.

One man told Human Rights Watch:

After four months we returned to our village at the end of December 2005. Our village was badly damaged. The yards were totally overgrown, houses in a number of villages had been burnt by Brimob, all our gardens were destroyed... all the belongings we had left behind such as machetes, spades, axes, frying pans were all gone. Our pigs, more than three, were shot by Brimob and were used as their food for their operations.<sup>89</sup>

## **Serious human rights violations by the police**

### *2005 flag raising*

Ceremonies at which the Morning Star flag is raised, symbolizing independence aspirations, remain a common expression of Papuan nationalism and defiance.

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<sup>88</sup> Human Rights Watch interview (name and location withheld), 2006.

<sup>89</sup> Human Rights Watch interview (name and location withheld), 2006.

While such flag raisings are in themselves peaceful, they frequently are met with brutal repression by Indonesian authorities, who view them as a dangerous and illegal form of separatist activity.

One early morning in 2005 [exact date withheld], 12 members of TPN (*Tentara Papua Nasional*, Papua National Army) and OPM conducted a peaceful flag-raising ceremony in a field near a village in Bolakme [exact date and location withheld]. In response, Brimob arrived at the scene equipped with fire arms and in full uniform. They immediately opened fire aiming at the flag, into the air, and violently accosted those present. One witness told Human Rights Watch:

It was around 5 a.m. From out of the forest many people came. I also went down there. And there we raised the Morning Star flag. We stayed on the edge of the field until 7 a.m. and then we raised the flag. Brimob came there that morning. They pointed their guns at us. There were 12 members there. They asked 'Who is in charge here?' But we were all silent. All our bows and arrows were collected together. They ordered us to take off our shirts and they took away our bracelets and chicken feathers [head decorations of the Dani people]. After that they hit us using the end of their guns. They kicked us using their military boots. My teeth fell out. Blood flowed out. I was hit. I was kicked twice and then in the stomach twice again. I was kicked in the nose, the mouth and the teeth. More kicks were ordered and this was repeated. I could not count the number of times. I saw all my friends given the same treatment. Blood was flowing from them and they were forbidden from going to the toilet. They ordered us to swallow our blood. My nose was bleeding. They ordered us to swallow the blood again. I do not know the name of the officer in command. They all punched us, taking turns. We were given one cigarette and all ordered to suck it. One packet of noodles was given to us and we were ordered to share this for all of us. They ridiculed us saying, 'You've already eaten Papuan bread.'

The flag pole was yanked out. The flag was wrapped up. We were ordered to carry on our shoulders the heavy wood. There were 12 of us in total who had raised the flag.

Once we reached the Brimob post...[we] were still receiving blows. Brimob questioned us again about who was in charge. We were all silent and closed our mouths...a Brimob officer lit a lighter then placed it in our mouths. But we were still silent. They lit the lighter and put it on our tongues, then on our ears. They burnt my ear and my tongue. This was very painful. They beat us with their gun butts...they ordered us to eat blood. I didn't want to. They punched and kicked me continuously until I ate that blood. That morning they beat us with rifle butts and barbed wire. Until 8 a.m. they were still beating us.

After that they threw us in a truck. The truck took us to the police station. That morning was very cold. They turned on the water and drenched us one by one with a bucket. My head was drenched. We were quivering and shaking and still we did not answer. Then they beat us with their boots, aiming for our hearts. Each of us, two times. We were all dizzy. I was wanting to die. With their feet they kicked my head again.<sup>90</sup>

Another victim told a similar story:

The police came and we were arrested immediately by 12 members of Brimob. I was kicked by eight members of Brimob, to my back five times and to my ribs 10 times, five times on the right and five on the left. They beat me taking turns. They were all wearing complete uniforms, but I did not see their names and ranks clearly. They were Brimob, coming from Jayapura. Eight members of Brimob guarding me kicked me five times on the left and right with their boots, cracking my face until it was full of blood...the beating continued by them including

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<sup>90</sup> Human Rights Watch interview (name and location withheld), 2006.

with knives until my head was cut and face bloodied. One member of Brimob threatened me with a knife held to my neck, 'I will kill you, so you can pray first'. He also said 'You all will be taken by us to Wamena where you will be killed.' We were very scared by these threats and thought we were going to be killed there.<sup>91</sup>

Another man recounted his experience:

Brimob came and started shooting. They were wearing complete uniforms with guns, and they shot in the direction of the flag. The flag tore down the middle. We were arrested, hit, and kicked. We were ordered to squat and walk squatting to the Brimob post. We were tied together and ordered to carry the flag pole on our shoulders. On the road we were continually kicked. I was kicked twice by one member of the police to my eyebrow which was bleeding. I was hit again with the gun in the back three times, and then with the gun butt three times to my face. A Brimob member hit me with truncheon on my head twice...after that we were tied again into twos and thrown into a truck. But a number of women boarded the truck and they cut the ties binding us with a knife, and we escaped.<sup>92</sup>

A fourth man described how he was mistreated at the Brimob watch post:

On the long road we were continually kicked until we arrived at the watch post. I was guarded by a member of the police armed with a knife. My face was swollen by the assaults inflicted on me. I could not count the number of strikes as there were too many. My lips and nose were bleeding. My blood was mixed with chicken meat and I was ordered to eat it. I didn't want to and they forced me to. I was silent and didn't say anything. At their post they prepared cold water in a bucket and we were drenched one by one. We were given one cigarette

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<sup>91</sup> Human Rights Watch interview (name and location withheld), 2006.

<sup>92</sup> Human Rights Watch interview (name and location withheld), 2006.



stump and one packet of uncooked noodles and were ordered to eat, one by one, taking turns.<sup>93</sup>

### *The arrest of David Hubi*

On March 15, 2006, police appeared at the house of former district head (Bupati) David Hubi in Wamena, Jayawijaya. Hubi had been suspended from office on corruption charges and had four times failed to appear in court to face charges.<sup>94</sup> In preparation for his arrest, police had conducted surveillance of his house on March 14, and then blocked roads leading to his residence on March 15. Supporters, including family members, children, and women, along with some male supporters, armed with traditional weapons such as bows and arrows, spears, and machetes, flocked to Hubi's house to demonstrate their support, and to obstruct the authorities' access to the area.

From 6 a.m.-11 a.m. a standoff took place between Hubi and his supporters and the Jayawijaya special reserve police, alongside prosecutors from Wamena. Hubi's supporters refused to open the door to his house and Hubi continued to deny his surrender. Negotiators for Hubi said that the arrest warrant was not accompanied by a final order from the District Court and that the arrest was therefore unlawful. Negotiations broke down.<sup>95</sup>

According to Indonesia's national Human Rights Commission, KOMNAS HAM members of the reserve police asserted that members of the crowd started to attack them, with one officer reportedly injured by an arrow to his leg. The police then opened fire on the crowd, killing two men, Sodeman Hubi, the younger brother of David Hubi, and Mokaneak Kossay. They also seriously injured a third man, Hali Matuan, who later died from his injuries. Newspapers reported that some 143 other people were injured.<sup>96</sup>

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<sup>93</sup> Human Rights Watch interview (name and location withheld), 2006.

<sup>94</sup> 'Terdakwa Drs, David A. Hubi Sudah Dipanggil 4 Kali', *Cenderawasih Pos*, May 16 2006.

<sup>95</sup> Human Rights Watch interview (name and location withheld), 2006.

<sup>96</sup> "Komnas HAM Papua Laporkan Tindakan Kekerasan Polisi Jayawijaya," *Republika*, June 16, 2006.

According to witnesses interviewed by Human Rights Watch, police broke down the door to Hubi's home and discharged tear gas into the house, beating those in the way and forcing them into the yard. Police armed with rifle butts and rubber batons assaulted unarmed civilians. All those present on the property, including children as young as nine years old, were herded into police vehicles and tear gas was discharged nearby. Those detained were taken to Jayawijaya police station where victims say they were further mistreated and neglected by the police.

One eyewitness told Human Rights Watch:

On May 15 after 10 a.m., the prosecutor and police from Jayawijaya, guided by detective Nur Bakti, together with the head of operations, Naharudin, came to negotiate with us...the negotiations were not successful and the detective, Nur Bakti said, 'We will carry out the order using force and we will count to 10 but if you don't surrender to us, we will then use force.'

The police then began to shoot tear gas. I wanted to take pictures of them but the gas was affecting me...Police shot tear gas inside the hall and other rooms. Because my eyes were feeling hot I immediately went to the bathroom to wash my eyes. I was coming out of the bathroom when the agents entered. I wanted to use my camera but two police quickly grabbed me and arrested me. They took my camera and pulled at my clothes. At the same time they punched me and accused me of being a provocateur. I didn't have the chance to see who was punching me because my eyes were affected by the gas and my face had filled with blood. I was beaten with the end of a gun on my back, and with fists to my face. My mouth and eyes were smashed and bleeding. I felt dizzy and fell. Straight away I was kicked by five members of the police and Brimob. They were all wearing complete official uniforms with guns...then, a member of the police, Daud Matuan, ordered them to stop. I was barely conscious when five members of the police took me into the car. As they were taking me,

they punched me in the back three times with rifle butts and then in the car I was beaten with a truncheon.<sup>97</sup>

Another witness told Human Rights Watch:

[When the violence began] I was sitting [in David Hubi's house] together with Sodeman Hubi who was later shot...glass began breaking. I stopped some small children from entering the room. Brimob troops began shooting left and right. Before they began shooting they released tear gas. I couldn't resist because I couldn't see much...the children and I were inside the house...at that time we were treated as though we were terrorists. The door was shot down. I was very scared. I looked for shelter under the table on the floor. Left and right I could see troops with guns looking for me. "*Mana Ibu* [name withheld]" ["Where is name withheld"] were their words. I raised my hand. Brimob punched me...my nose was puffy and swollen. My eyes were injured...they hit using their hands; so many times I could not count. One police detective defended me...my face was distorted and full of blood. One Brimob member insulted me, calling me a 'whore.'<sup>98</sup>

Young children present at the former district chief's house were not spared. One 9-year-old boy told Human Rights Watch:

The day before the incident I hadn't been playing there but others told me that they wanted to arrest David and that we had to keep watch, so I went along. I didn't know there would be an incident...that morning we had finished our cake and I was playing with my friends. I saw that there were many police coming. I didn't know what they were coming for. I wanted to leave the area. But my older brother was angry. He said 'Don't go out or later police will beat you.' So I stayed where I was. I was always together with my brother. At around midday the police said

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<sup>97</sup> Human Rights Watch interview (name and location withheld), 2006.

<sup>98</sup> Human Rights Watch interview (name and location withheld), 2006.

that they wanted to arrest Mr. Hubi, I did not expect that they would beat us. But they immediately fired tear gas. My eyes were burning painfully and I could not see. I struggled for air but couldn't get it. They punched my brother. I felt very sorry for him. I cried and yelled 'Don't hit my brother,' but the police immediately hit me on my right cheek then held onto me with his right hand and threw me into the garden bed. I fell and was in a lot of pain. We young children gathered. The police were shooting to the left and right. I wanted to run but I was scared.

Not long after, three police came and beat the young children one by one. I was held and beaten again. It was very painful. The police ordered us to get into the police car. When I was close to the car, police threw me onto the car. He held my neck and threw me above. The car was full of tear gas. I was immediately dizzy and I couldn't see. They took us to the police station. We were thrown out of the car. Some other children were beaten as they got down...Police ordered us to line up in the sun. They ordered us to lie down. After that they didn't beat us but we didn't have food. We were held there until night-time. The small children were all told to leave at around midnight.<sup>99</sup>

A 13-year-old boy told a similar story:

Quickly the police entered into the yard of the [former] Bupati's house. They came complete with guns. There were many Brimob. I wanted to run but I couldn't. I did not expect them to attack and hit the children. But immediately the police used their tear gas. My eyes were burning. I couldn't see anything. We were crying, not only me, but all the small children. We were ordered to gather at the front. I wanted to run but was chased by police. The police officer hit me on my head twice. I was immediately dizzy. I cried. A Brimob officer kicked me and threw me to the front. They kicked me once. I fell. Police pulled me by my arm.

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<sup>99</sup> Human Rights Watch interview (name and location withheld), 2006.

When we were close to the police car, I was thrown on top with many other small children. When we were in the car Brimob again used tear gas. We could not see. Our eyes were burning.

After we arrived at the Polres Jayawijaya, police grabbed us and threw us down from the car. After that we were ordered to line up in the sun. While we were doing that, a policeman came and was angry with us. He said 'You small children should not be going along to demonstrations.' We stayed at Polres until 12 p.m. We didn't eat. Finally a number of women pleaded for us to be released, and we were released. There were many small children there. I couldn't count them all. I was sick so I couldn't count. After we left to go to my house, I felt sick. Afterwards I was still sick so I didn't go to school for five days.<sup>100</sup>

Similar brutality was shown to a woman who was six months pregnant:

At that time of the incident there were discussions continuing inside among police, Ms. [name withheld] and [name withheld]. But I could see that the atmosphere was already very serious. I stood close to the fence at the back of the building where many women were standing. Not long after that, we heard the sound of shooting and the main section of the door opened. Brimob burst in, shooting into the air. I thought they were only firing warning shots. I was startled to see them begin to use tear gas. At first I was not affected but then they shot the tear gas in our direction and it immediately affected my eyes. My eyes were in pain. I saw the Bupati's children being kicked. I became very scared. I wanted to run to the back but Brimob had already surrounded the place. They opened fire, shooting everywhere. We could not run and we bent down in submission. At that time I was 6 months pregnant. I was short of breath. My heart wanted to explode. I was confused because of the tear gas and then quickly I was threatened with a gun. Two members of Brimob did this. One member kicked me

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<sup>100</sup> Human Rights Watch interview (name and location withheld), 2006.

twice. I was stamped on and pulled up to stand. I was hit with a rifle butt to my nose and it immediately began bleeding.

After that I was ordered to climb into a police vehicle...but the vehicle was high, so they had to push me up. While they were holding me, a policeman kicked me in the stomach. I thought my baby would die. I could not get up. But I was kicked again in the back so I got in. After that many others were put in and they closed the door.

At the police station, my baby was heavy so I wanted to get out slowly but I was immediately pushed outside. Three police climbed on top of the vehicle to push us out. While getting out I was hit again to my left calf. This was very painful as the blow was with a truncheon.

After we arrived at the police station we were all ordered to line up in the yard. We were told to lie out in the sun for around one hour. I felt very sorry for the small children. They were also beaten and forced to lie in the sun. There were also many women, approximately 20 although I do not know precisely how many. There were many children. We were punished all afternoon in the yard. At 8 p.m. that night I vomited twice. One police guard abused me saying, 'Whore, Woman working for the enemy.' At midnight we were released.

When I got back to my house I was very sick and vomited three times.<sup>101</sup>

In total around 200 people were detained in relation to this incident.<sup>102</sup> Most were released late on the night of March 15, 2006 or the following day. Eight people, including three women, were charged with offenses of threatening violence and

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<sup>101</sup> Human Rights Watch interview (name and location withheld), 2006.

<sup>102</sup> Human Rights Watch interview (name and location withheld), 2006.

obstructing arrest.<sup>103</sup> The three women who were detained were interrogated by the police for three days and then conditionally released.<sup>104</sup>

The five men were detained at Polres for 60 days and then transferred to cells at the Wamena prosecutor's office and detained for a further month.<sup>105</sup> After several hearings, at which seven members of the police and the prosecutor gave evidence against the charged group, the court issued a final decision in November 2006 sentencing the five men to three months of imprisonment. As they had already spent three months in jail they were immediately released.<sup>106</sup>

Human Rights Watch has been unable to confirm whether any police officers have been investigated or charged for their roles in this incident. We wrote to the head of the police in Papua asking for information on this case but did not receive any response. The police have consistently defended their behavior, claiming that the force used was both reasonable and proportionate.<sup>107</sup> Although some of the people surrounding Hubi's house did have spears and bows and arrows, the majority were unarmed. The testimony above strongly suggests that police used excessive force with respect to persons present who were not offering any serious resistance, including women and children.

Several victims from this incident have filed a complaint with Komnas HAM Papua, who then reported it to the Komnas HAM office in Jakarta. To our knowledge, however, there have been no further developments in the case.

### *Mulia DPRD Demonstration*

There is also some evidence suggesting that police may have used excessive and disproportionate force on September 29, 2006, in the city of Mulia, the regional capital of Puncak Jaya. In this case, the protesters were residents who had been

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<sup>103</sup> "Tiga tersangka dan BAP Diserahkan ke Kejaksaan," *Cenderawasih Pos*, July 11, 2006.

<sup>104</sup> Human Rights Watch interview (name and location withheld), 2006.

<sup>105</sup> Human Rights Watch interview (name and location withheld), 2006.

<sup>106</sup> Human Rights Watch interview (name and location withheld), 2006.

<sup>107</sup> "Terdakwa Drs, David A. Hubi Sudah Dipanggil 4 Kali," *Cenderawasih Pos*, May 16, 2006.

denied a government fuel subsidy (compensating for fuel price hikes) on grounds that they were not originally from the Puncak Jaya region. The disgruntled members decided to conduct a peaceful protest at the office of the Provincial Legislative Assembly (the DPRD) in New Mulia City. At 12p.m. that day they gathered in the old city and began a 10 kilometer march towards the DPRD office.

Witnesses recount that, as the crowd moved forward, marchers began throwing rocks breaking the windows of houses lining the main road.<sup>108</sup> Brimob was called to back up the police to prevent the protestors from entering the DPRD office compound. Under conditions that remain unclear and require additional public investigation, police opened fire upon the crowd, wounding three civilians, two men and a woman.

One eyewitness described the events as follows:

[When the march arrived at the] DPRD office where the protesters wanted to deliver their demands, the group was prevented by the police from entering. The crowd then became emotional, threatening to burn down the DPRD office. Iri Telenggen, a member of the DPRD, and Henok Ibo, a caretaker, summoned the police. The police opened fire. Three people were shot at that time: Lele, Iterina, and Mondin. Brimob had approximately four members using guns. After Lele was shot, Iterina Teleggen came forward wanting to assist, but Iterina was then shot in her left leg. The two were taken by ambulance to the Puncak Jaya hospital. At that same place, Mondin was shot by a member of Kopassus. After the shooting the crowd started to disperse.<sup>109</sup>

A second witness who assisted the victims at the scene told Human Rights Watch:

Police blocked the demonstration. The crowd continued marching towards their goal, the DPRD office, and finally Brimob opened fire

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<sup>108</sup> Human Rights Watch interview (name and location withheld), 2006.

<sup>109</sup> Human Rights Watch interview (name and location withheld), 2006.



shooting three civilian community members in the yard of the office of DPRD Puncak Jaya. Those shot were two men and one woman, Iterina Telenggen, Mondin Teleggen and Lele Tabuni...Iterina was shot in the left leg. Mondin Telenggen was shot twice in the back, twice in the right flank and once on his right arm between his armpit and elbow...members of Brimob were ordered to load the injured in an ambulance. That day I also went straight to the public hospital in Mulia. In Mondin's body were five bullets so he was later evacuated to Jayapura. On the same day Lele was also evacuated to Jayapura for an operation to remove bullets but they were not removed. The reason given by the doctor was that the injured men didn't have enough money for the costs of the treatment. It is not clear where the two patients are located today...

Later Iterina had an operation to repair damaged muscle tissue and was given medical treatment at the public hospital in Mulia for one month. During this time she was under tight police security day and night. After she was released she was picked up at the hospital by a member of the police and immediately taken to the police station for the process of investigation...she was detained at Polres Puncak Jaya for more than a month in late 2006. On December 8, she was taken to Paniai for investigation and a court hearing.<sup>110</sup>

### *Shootings in Waghete*

In Waghete, Paniai, on January 20, 2006, police shot and seriously injured two young men while undertaking a routine policing matter. The TNI also became involved and are believed responsible for the shooting death of a third victim, a 16-year-old child. While key facts in the case remain unclear, a soldier subsequently was convicted of shooting the 16-year-old but received a sentence of only eight months of imprisonment. As the account below indicates, the case warrants more thorough investigation.

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<sup>110</sup> Human Rights Watch interview (name and location withheld), 2006.

In this case, some local youths had established a roadblock and were demanding small sums of money from drivers of vehicles, ostensibly to fund repairs to that stretch of road. A police officer from Polsek Waghete demanded that they present to him the following day a letter from the village chief authorizing them to collect a toll. Early the following morning, two of the youths, [names withheld], obtained the letter from the village chief and departed for Waghete together with an unknown number of others to have it authorized by the military (Koramil) and police (Polsek) who shared adjoining compounds. Upon presenting the letter to the relevant officer, other police arrived and ripped the letter to pieces.

The youths then attempted to flee and the police pursued them. One of the youths was captured and beaten. Hearing the commotion, members of Koramil, Timsus 753 emerged from their barracks and joined the police in beating the youth.

Precisely what happened next is not clear. Eyewitnesses told Human Rights Watch that, shortly after the beating began, a police officer fell into a sewage ditch, got up, drew his pistol and shot two bullets, hitting one of the youths in the right side of the stomach, and another youth in the right foot, and that TNI members and other police also opened fire. Mozes Douw, a 16-year-old school student was shot and killed at the scene. From the accounts, it is unclear how many youth were present at the time and whether or to what extent they may have physically threatened police.

One eyewitness told Human Rights Watch:

On January 20 at 7:30 a.m., I was with some of my friends at the Waghete terminal to load things onto a truck to Nabire. At that time I saw a youth being beaten by police along with members of Timsus 753 [TNI] on the roof of the police station. When we saw police and TNI members beating another youth outside the Waghete police station, I said to my friends, 'Let's go and see who they're attacking. Let's see if he is one of us.' In the commotion, Danton Budi Arif Situmean [police officer], was hit and fell. He took out his pistol and fired two shots, the first straight in front of me and the other towards a person standing behind me. I didn't know who that person was, but the distance

between me and him was just around 50 centimetres. At the time of the second shot it was around 8 a.m. So I didn't know who had been shot because they were behind me.<sup>111</sup>

Danton Budi Arif Situmean chased but did not catch one of the youths who was a victim of the shooting and who fled the scene. The same witness to the initial shooting assisted this youth with shooting injuries.

Although [name withheld] suffered a bullet wound, he managed to get away from the area. [Name withheld] also suffered a bullet wound and ran soaked [in blood] onto the road to Wakai. We took him directly to the community health clinic in Waghete. After we had taken him, we saw members of the community throwing rocks and sticks in the direction of the Timsus 753 troops who had opened fire on the youths who were fleeing the police station. I returned to the police station and by standing on a bridge at the entry to the station could see through the window. I saw three people, one wearing a white T-shirt with the number 14 on it.

I turned to look at the road and saw a youth, Mozes Douw, walking along. Then I heard the sound of shooting coming from the police station. I heard Mozes Douw say 'I have been shot with bullets' and clasp his waist, bending down. Then I heard the sound of two more shots from the same direction, which hit him in the shoulder. Mozes Douw immediately fell, without calling out...this shooting occurred at 9 a.m.<sup>112</sup>

An independent autopsy upon the body of Mozes Douw confirmed that he was killed by gunshot wounds fired from a range of 10-75 meters.<sup>113</sup>

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<sup>111</sup> Human Rights Watch interview (name and location withheld), 2006.

<sup>112</sup> Human Rights Watch interview (name and location withheld), 2006.

<sup>113</sup> Autopsy Report of Mozes Douw by Dr. Jhon Manangsang, Enaroltali, January 25, 2006.

The killing of Mozes Douw and the shooting of the two other youths drew an angry response from local residents. On January 24, 2006, members of the community confronted a joint delegation of DPRD members, TNI officers, and the police at the Timsus TNI office in Enarotali.<sup>114</sup>

The response of the authorities was initially promising. The DPRD announced that two teams would be established to investigate the shootings, one to investigate the site, the other to liaise with TNI in Jakarta. The police and TNI conceded responsibility for the shooting incident, promising that action would be taken against those culpable. Statements from the head of Kapolres and Timsus 753 provided promises that the case would be investigated and responsible personnel charged.

The following day two officers believed responsible were named; TNI officer Second Lieutenant Situmeang, who was alleged to have shot two of the youths, and police officer Ronald Isac Tumena, at that time believed to be responsible for shooting Mozes Douw.

However, since then no police have been disciplined or charged in relation to the incident. Second Lieutenant Situmeang, subsequently identified as the officer responsible for the shooting of Mozes Douw, was sentenced by a military tribunal to eight months in prison.<sup>115</sup> Komnas HAM Papua also conducted an investigation into the incident and reported it to their central office. However, no further public actions have yet resulted.

### *Police Killing of Man in Wamena*

This case occurred in 2006 [exact date withheld], also in the Jayawijaya Region, in a village [name withheld] in Wamena. The victim had been drinking with two friends at his house for several hours. His wife asked him to buy something from a local shop. On the way back from the shop, the victim reportedly made a lewd and suggestive comment to three women returning to their houses, one of whom was the wife of a police officer. She called her husband and informed him of the victim's insulting

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<sup>114</sup> "Enraged Papuans Protest Shooting", *the Jakarta Post*, January 24, 2006.

<sup>115</sup> "Papua: Answers to Frequently Asked Questions" International Crisis Group Briefing Paper, 53, September 5, 2006, p. 9.

behavior. That police officer and two other officers immediately drove to the victim's house, broke down the door, and searched for him. The victim's wife recounts what she saw and heard:

I saw the police come to the house. I knew my husband was drunk and thought that was why they wanted to arrest him. I warned my husband and he went to another room. There were three police. Their names are [withheld]. They arrived by motorcycle. At the time there were three of us in the house; Robi, my husband, and me. One of the police wore police uniform and held a gun. The other two wore civilian clothing. Robi [a friend of the victim's present at the house] escaped from the house, leaving just myself and my husband. One of the police questioned 'Mrs. is your husband here?' I didn't respond. After that they broke the door to the house and began looking for my husband. They locked the door from the inside so I could not enter the house. In a state of uncontrolled anger they looked for my husband but they did not find him. They then searched from room to room. They found him underneath the bed. They yanked him out and punched and kicked him without control. The police officer holding the gun beat him on the left side of his chin using the rifle butt. They continued kicking his chin and face. Blood came out from his nose and mouth and wouldn't stop. From outside I heard him yelling out 'Please Mama.' His left jaw was broken and he died right there at the house.

After the torture that caused his death, the three police came out of the house and their words to me were, 'We will take him to the police station and detain him in a cell.' One member of the police went to the police station in Jayawijaya to rouse a mobile patrol and the other two members of the police guarded the victim. They saw that [my husband] had died and his body was taken to the hospital for certification.<sup>116</sup>

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<sup>116</sup> Human Rights Watch interview (name and location withheld), 2006.

### *Police Beating of Man in Apalapsili*

In 2006 [exact date withheld] in a village located in Apalapsili District, Jayawijaya, [exact location withheld] police officers sought to enforce a civil debt of two pigs owed by a farmer, to another man. The farmer received a summons from the police to appear at the police station. On August 22, 2006, he went to the police station, as did the other party. A police officer, named Mufti [name changed to protect the victim] ordered him to bring two pigs to pay the other man the following day. The farmer complained that he did not have two pigs to pay, but his protest was not accepted. The following day the farmer went to the police station with some close family members, but without the pigs. Negotiations with the police and the other party were proceeding when Mufti arrived in civilian clothing with a number of other police and asked where the pigs were. When it was apparent that the farmer had not brought the pigs, Mufti assaulted him and threatened his family at gunpoint. The farmer told Human Rights Watch:

He said three times, ‘Do you want to pay now or not?’ He pointed his gun at my family again. He ordered me to put my hands on the table. He used a rubber baton to beat my hands repeatedly until they were all broken. I did not have strong bones, and all my fingers were broken. All were smashed. I was immediately dizzy. After that my family took me to the medical clinic for treatment, but they could not handle my serious case and so I went to Wamena for treatment. There they had to amputate some of my fingers. Now I only have three fingers left on my left hand that still function. My right hand is useless. I can no longer work in the garden. I am confused about what will become of me now.<sup>117</sup>

The farmer reported his mistreatment to the police in Apalapsili. Human Rights Watch has not been able to confirm whether the authorities had taken any action on his complaint at the time of this writing.

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<sup>117</sup> Human Rights Watch interview (name and location withheld), 2006.

## TNI Abuses

Human Rights Watch's research in the Central Highlands also uncovered several cases of abuses by TNI forces, some in their official capacity, and others in their private capacity but with reason to believe that their status as TNI members would protect them and give them immunity. The cases suggest that brutality is still all too common among soldiers in the Central Highlands and that soldiers who abuse civilians continue to feel confident that they are above the law and will suffer no adverse consequences for their actions.

### *TNI Beating of Two Men*

A man in Wamena was involved in a private dispute with two drivers concerning payment for the delivery of rice to him. After earlier threatening to report him to the police if he did not pay, in 2005 [date withheld], the two drivers went to a house in Wamena where the man was visiting a friend, bringing some intelligence officers to "assist" them in enforcing the debt. The intelligence officers reportedly hit both the victim and his friend with an iron bar, despite the fact that the friend was not party to the dispute.

The victim told Human Rights Watch:

I opened the door and before I had a chance to say anything, immediately the Intel Kodim [military intelligence] member threatened me with a weapon. I said 'Sit first please sir and let us talk and resolve this problem well.' However, he continued threatening me with the weapon and then hit me with an iron bar which was approximately one meter long. Then the other Intel police officer wearing civilian clothes joined in. I was against the wall and they kicked me with their boots all over my face until I could not get up. They continued threatening and insulting me calling me words such as 'pig' and 'idiot.' I couldn't count the number of hits. I tried to call the Jayawijaya police station but my mobile phone was confiscated by a member of the military intelligence. I was continually beaten on my back with the bar. Finally we were

taken to the police station. There we were not beaten and were able to resolve the matter by paying Rp500, 000 [US\$57].<sup>118</sup>

The two men were released from police custody at around 12p.m. The friend, who was attacked by the police only because he was present, required 18 stitches to his head. He told Human Rights Watch:

I was sitting there and the military intelligence officer asked, ‘you are friends with him [pointing at victim], no?’ I said this was true. After hearing that, six people immediately started kicking me, two members of Jayawijaya police intelligence, one member of the military intelligence from battalion 1702, and the two drivers. That occurred on Friday, [date withheld] at night. The one with the pistol kicked me in the face everywhere until my eyes were damaged. Blood was flowing from my face...the ground was covered in blood. They did not want to stop. They continued punching my ears and nose until they bled. From this beating I became dizzy. While I was still dizzy they continued to stomp on me. After that I was taken outside to the garage. There I was beaten again. They beat me so many times that I could not count the number of blows. We were taken to the police station. In the police cell I was still dizzy from the beatings...I was beaten around my eyes until I needed stitches, 18 in total, nine on the inside and nine on the outside.<sup>119</sup>

### *TNI beating of uncle of rape victim*

In May 2005 a soldier raped a 16-year-old girl in Jayawijaya. (The case is described in detail in the subsection: “Violence against women and other violations of women’s rights,” below). The victim’s teacher then told the victim’s uncle about the attack and he traveled from Wamena to assess the incident and take action against the reported perpetrator. For his efforts, he too was beaten by the same perpetrator.

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<sup>118</sup> Human Rights Watch interview (name and location withheld), 2006.

<sup>119</sup> Human Rights Watch interview (name and location withheld), 2006.



The uncle told Human Rights Watch:

[Rape victim's name withheld] is my niece. I was very angry when I heard the story. I wanted to raise the case with the head of the village in [location withheld] but I was scared that later the soldier [rape suspect] would hear, so I remained silent...at the time I was on leave and departed for the village. I caught a plane there...the problem had occurred in May and I went there in August. When I got to [location withheld] I asked the teacher for information. Evidently the information I had heard was true and that night I met with the village chief. The suspect and the village chief were close friends. After hearing that I wanted to raise the case the village chief reported this to the suspect. Very early, at around 5 a.m. the next day, I was sleeping when I heard kicking at the door and a voice ordering me out of the house. I was initially confused and wanted to run, but couldn't. The suspect pulled me by the arm outside. He kicked me. He punched me. He put his gun to my ear and eyes. He said, 'If you're so brave, then you can deal with me!' I was bleeding heavily and the people whose house I was staying in came out...but they were scared too, so they all disappeared.

Two friends of the soldier stood on the road near the yard of the house. They had heard the news and wanted to support their army friend. No other people came to the house. He beat me until I was almost dead. After I was beaten, the suspect repeated his threat, saying 'If you are brave enough to take me on, then I will murder you.' I was sick for more than one week...I did not want to tell my story because I was afraid I would be murdered there. In [location withheld] people can't blame the military even if they are wrong. If they accuse them they come and beat them. ....I was scared to report him to his commander in case he killed members of my family. I left my family there and remained silent.<sup>120</sup>

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<sup>120</sup> Human Rights Watch interview (name and location withheld), 2006.

### *TNI Assault in Jayawijaya*

In 2005 [date withheld] in a village in Jayawijaya, a man was hurrying to the medical clinic to get eye medication for his newly born child when he met with a uniformed TNI member [name withheld to protect victim's identity] he was already acquainted with, based at the Koramil. The soldier immediately asked the victim to contribute a pig to help pay for his upcoming wedding ceremony. The victim told Human Rights Watch:

I responded 'Why marry so fast? Try to be patient.' Immediately upon hearing these words, the TNI slapped me five times across the face. I was angry and responded 'Brother, why did you hit me?' and he responded 'I am a member of TNI. I do what I like.' He then picked up a heavy rock and threw it at my arm. I then said 'Yes, you're right, if brother is part of the army then I don't want to prepare for war with you.'<sup>121</sup>

The officer then threw another heavy rock at the victim, knocking him to the ground. The officer then yanked him up again and then threw him back down on the ground before hitting his head with a rock three to four times.

Blood was gushing out of my head. He stood me up and again hit me in the face with the rock. I could not count the times he hit me. My bleeding face made a pool of blood. He then threatened, 'I will kill you and I will report to Kostrad that I have evidence you go to Wamena to receive information from TPN/OPM and provide it to LSM [NGOs]. So, this day I can kill you here. You will report to Kostrad and they will kill you there and take away your body this afternoon.'<sup>122</sup>

A friend of the victim arrived at the scene and wanted to take him to the local police station, but he was not confident of his ability to help and so returned to his home. That night at around 8 p.m. the victim was given a letter summoning him to go to the

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<sup>121</sup> Human Rights Watch interview (name and location withheld), 2006.

<sup>122</sup> Human Rights Watch interview (name and location withheld), 2006.

local Koramil. He went that evening, not wanting to risk having an unresolved problem with a member of the military, but left after he was further threatened by the officer that if he disclosed what had occurred he would be killed. The victim continues to live in fear but did report the incident to several human rights organizations in the area.

### *TNI Beating of Youths in Piramid*

Yet another case occurred in Piramid, Asologaima district, in 2005. A group of youths had repaired a road and were collecting a toll from drivers of passing vehicles. A disgruntled taxi driver reported this to the military checkpoint, Infantry Battalion Kostrad 411. Fourteen armed and uniformed members of Kostrad set out to accost the youths. When Kostrad arrived approximately five youths were collecting the toll. When they saw the Kostrad members approaching they ran. Some of the Kostrad members opened fire but did not hit or succeed in capturing any of the young men. They then turned on two men who happened to be passing by the scene at that moment. They were walking back from buying groceries in town. One of them told Human Rights Watch:

At the time Kostrad members arrived, the five youths who had been collecting money for the repair of the road had already seen the military and fled towards the jungle. Army members did not catch a single one. I do not know why. I was only going down that road when I saw army members start shooting in the direction of [name withheld], but they did not hit him. When they weren't successful in arresting those young people, suddenly they had their weapons pointed at us and arrested us. Then Kostrad members immediately started kicking me in the face and assaulting me with their rifle butts. My face began to bleed and I could not see. I had an injury close to my eye which was bleeding. At that time I had community members working in my garden and had taken the chance to go to Piramid to buy salt and cooking oil, and as I was walking on the road to the village. I was arrested by Kostrad. At that time I was with my friend and we were smoking. We were confused as to why Kostrad had turned up and then confronted us with their guns. We could not move at all. We stayed silent because

we couldn't understand what was happening or why we were attacked.<sup>123</sup>

After being badly beaten, the pair, under tight guard, was forced to march about one kilometer to the Piramid bus terminal. En route they claim they were threatened and beaten. Upon arrival they were forced to board a vehicle which took them to the Kostrad Kimbim headquarters, all the while being beaten. Upon arrival they were ordered to crawl on the ground. They claim they were then stomped on and beaten with a piece of wood. The two were separated and detained under guard in separate cells and interrogated about whether they were members of OPM. One of them explained:

During these questions they beat my face with their gun butts until it was covered in blood. If I did not answer their question, they quickly beat me...they put cooking oil on my head and set my hair alight with matches. One TNI member took a bite of my right arm, tearing my skin. I do not know his name. Then the soldier drank my blood from this torn piece of flesh. I do not understand the purpose of this. They threatened me with a knife to my neck and a razor blade to my ears, left and right. They said, 'If you don't confess we will cut your ears off with this razor blade.' Then they beat me with a piece of wood on my back until my shoulder was badly injured...they took us both into the yard and submerged us in a pool of water.<sup>124</sup>

While they were in the yard, the two men attempted to escape. One of them succeeded, but one was recaptured and tortured again.

They beat me, stripped me naked, and tied my hands and feet with raffia cord. Then they ordered me to lie down facing up. The cord tied to my left hand was tied to a piece of wood and that tied to my right tied to another piece of wood...then they assaulted me behind until I

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<sup>123</sup> Human Rights Watch interview (name and location withheld), 2006.

<sup>124</sup> Human Rights Watch interview (name and location withheld), 2006.

bled. A number of Kostrad members burnt my back with a torch of flaming long grass.<sup>125</sup>

Perhaps responding to an alert from the escaped friend, at around 6 p.m. a police mobile patrol vehicle arrived containing police and the head of the village. The victim, still tied and naked, was thrown by military and police into the vehicle and transported to Wamena police station, where he arrived at around 7:30 p.m. Later that night, due to the absence of any evidence of any wrongdoing, he was released.<sup>126</sup>

## **Violence Against Women and Girls and Other Violations of Women's Rights**

While entire communities suffer the consequences of conflict, Papuan women and girls are particularly at risk of certain human rights abuses, including sexual violence. The rationalization for their abuse varies from discrimination, limited mobility, and restricted access to resources, decision making power, and information.<sup>127</sup>

The risks of living in highly militarized areas are compounded by women's low status in indigenous culture, and marginality within contemporary political movements, including the nationalist movement. All of these factors affect the ability of women and girls to assert their rights and participate in society as full and equal citizens.

Rape, sexual slavery, and other sexual violence against women and girls by the Indonesian security forces have previously been documented throughout the Central Highlands, with female victims ranging from 3 to 60 years old.<sup>128</sup> This situation is

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<sup>125</sup> Human Rights Watch interview (name and location withheld), 2006.

<sup>126</sup> Human Rights Watch interview (name and location withheld), 2006.

<sup>127</sup> B. Sorensen "Women and Post-Conflict Reconstruction: Issues and Sources." *WSP Occasional Paper*, no.3, June 1998, [http://wsp.dataweb.ch/wsp\\_publication/op3-09.htm](http://wsp.dataweb.ch/wsp_publication/op3-09.htm).

<sup>128</sup> "Incidents of Military Violence Against Indigenous Women in Irian Jaya (West Papua) Indonesia," Robert F. Kennedy Memorial Centre for Human Rights and the Institute for Human Rights Studies and Advocacy, May 1999, <http://stats.utwatch.org/corporations/freeportfiles/rfk-rape.html>.

exacerbated by the lack of training for police, judges, and medical personnel in responding to allegations of gender-based violence.<sup>129</sup>

In 1995, Amnesty International reported, “Non-governmental organisations complain that if a woman who is raped by members of the security forces does feel confident enough to report the incident, little action, if any, is taken against those believed to be responsible.”<sup>130</sup> In her 1999 report to the Commission on Human Rights, the UN Special Rapporteur on Violence Against Women stated:

Before May 1998, rape was used as an instrument of torture and intimidation by certain elements of the Indonesian army in Aceh, Irian Jaya and East Timor. Since May 1998 the policy appears to be different. The Army Commander of East Timor assured us that rape by soldiers will not be tolerated and that perpetrators will be prosecuted. Nevertheless, the rapes continue...torture of women detained by the Indonesian security forces was widespread...A thorough and impartial investigation into the use of rape as a method of torture and intimidation by the military in Irian Jaya is imperative.<sup>131</sup>

She also concluded that no perpetrators had been brought to trial and no victims had been compensated, stating that “human rights abuses continue to occur even under the new regime.”<sup>132</sup>

Violence against women by police and TNI forces is a continuing problem today. Rapes and other forms of gender-based violence have continued to occur during military or police operations and when women or girls are en route to or from

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<sup>129</sup> In November 1998 the UN Special Rapporteur on Violence Against Women planned to visit Papua but was denied access by the government, which cited a lack of time. See Radhika Coomaraswamy, UN Special Rapporteur on Violence Against Women, including its causes and consequences, “Integration of the Human Rights of Women and the Gender Perspective: Violence Against Women,” no.4, December 1998; UN Commission on Human Rights 55th session, E/CN.4/1999/68/Add.3, January 21, 1999, <http://www.icescolombo.org/unvaw/facts.htm>.

<sup>130</sup> “Women in Indonesia and East Timor: Standing Against Repression” (London, Amnesty International, 1995), p. 15.

<sup>131</sup> Radhika Coomaraswamy, UN Special Rapporteur on Violence Against Women, “Integration of the Human Rights of Women and the Gender Perspective: Violence against women,” no.4, December 1998, UN Commission on Human Rights 55th session, E/CN.4/1999/68/Add.3, January, 21, 1999, <http://www.icescolombo.org/unvaw/facts.htm>.

<sup>132</sup> Ibid.

gardens, schools, markets, or wells, or when soldiers' demands for payment in livestock or in kind cannot be met.

The opportunistic and arbitrariness of these attacks has fuelled an overall atmosphere of insecurity that has restricted women and girls' freedom of movement as they modify or abstain from daily activities to reduce the risk of rape and other forms of violence. This can in turn reduce their access to livelihoods and basic services such as education and health. Victims are punished not only by the attack itself and subsequent restrictions upon freedom of movement, but also by the ongoing stigma of having being raped and the suspicion that they in fact consented, both of which can restrict future opportunities such as marriage and reduce their value in the eyes of some community members. Survivors of attacks may also have to contend with unwanted pregnancies, sexually transmitted diseases, depression, and other health consequences.

Aside from cases involving allegations against security forces, ordinary law enforcement can be patchy and based on dubious notions of when and how traditional justice should apply. Measures to improve government response to sexual violence implemented in other parts of Indonesia have not yet been comprehensively introduced in Papua, such as improved training for police and judges, and the introduction of one-stop crisis centers and hotlines. Indonesia has introduced Special Service Units (RPK) at police precincts that help deal with sexual violence cases. However, according to Government records there is only one of these for both Papua and West Papua.<sup>133</sup>

As detailed below, women and girls may be forced to provide sex to members of the security forces upon demand. Refusal to comply can bring about fatal consequences. Security forces in some cases have alleged that women and girls have connections with the OPM and perpetrate acts of sexual violence against them as retaliation and intimidation. Perpetrators have also threatened rape survivors and their families with reprisals if they try to report the assault, and commit further acts of violence, as in

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<sup>133</sup> "The Elimination of Trafficking in Persons in Indonesia," Co-ordinating Ministry for Peoples Welfare, Government of Indonesia, Criminal Investigation Body of the National Police Headquarter, Jakarta, 2005, [http://www.menkokesra.go.id/pdf/deputi3/human\\_trafficking\\_eng.pdf](http://www.menkokesra.go.id/pdf/deputi3/human_trafficking_eng.pdf) (accessed June 4, 2007).

the case of the uncle of a rape victim discussed earlier. The absence of confidential and accessible complaints mechanisms for sexual assault cases, appropriate protocol to collect forensic evidence, and the overall atmosphere of impunity make it almost impossible for victims to seek redress.

### *TNI Rape of 16-year-old girl*

In one clear case of opportunistic rape, a 16-year-old girl who lived far from her school boarded with a female teacher in a village in Jayawijaya district, returning to her own village only on Saturdays. One Saturday in May 2005, on her way home to the village, she was confronted by a member of the TNI from the local barracks. He offered her a packet of instant noodles and then dragged her into the jungle and raped her. The soldier threatened to kill her, her family members, and to tell her teacher (the perpetrator is related to the teacher) that she had consented to sex if she refused or disclosed the perpetrator's identity. The girl told Human Rights Watch:

Close to the TNI post I met a member of the Indonesian army. He was returning to the barracks after showering. As I was going, he said hello. I wasn't suspicious. But straight after passing by the mountain, I heard a voice from behind me. He was wearing his army uniform and carrying a gun. He said, 'Here, take this packet of Super Mi.' I was pleased to receive the noodles so I stopped. After that he said, 'I want to know you better.' He said, 'Don't talk on the road as many people will be coming past on their way to the jungle.' I became scared because he was big and strong. I wanted to run but he grabbed my arm. Then he pulled me into the jungle. He wanted me to touch him but I refused. I resisted but he was angry. Then he threatened to assault me. He threatened me with various things, threatened to assault my parents and tell my teacher so that she would expel me from school. I believed him because my teacher is related to him. I wanted to scream but he had his hand over my mouth and then he forced me. I resisted but he still forced me. Then he carried out the act on me. I couldn't walk. I was in so much pain.



After that he ordered me that if I told anyone what had happened he would come and kill me. I was very scared. After I left I cried. I felt too ashamed to go to my house or to my teacher's house. I very slowly went to her place later that night. I couldn't walk and so the following day my teacher asked me why I couldn't walk. I was scared so I told her that the day before I had fallen on my way to the village. She demanded that I show her my injury but I didn't show her. She was suspicious of me and took me to the clinic. I refused but she forced me there. The nurse asked me where I was injured. I told her, my foot. They couldn't see any injury and so questioned me slowly about what happened. I just cried because I felt so ashamed. When we got back to the house I told my teacher what had happened. She and her husband went to the head of the village to discuss what should be done. But the village chief advised not to make a problem with the military or they would come and assault community members. So there was no process to address the problem. From that time I did not go outside the house. I only stayed inside.<sup>134</sup>

### *Rape as retaliation for alleged links to the OPM*

Women and girls can also be at heightened risk of sexual or gender-based violence if they are suspected of being members, supporters, or related to members of the OPM. This was the experience of a woman displaced by a sweeping operation by security forces in Puncak Jaya at the end of 2005. She was returning to her refugee camp after collecting vegetables from a garden with a few other women. She told Human Rights Watch:

At around 10 a.m. we left the garden to return to our camp. We met five members of Brimob on the road who immediately stopped us and detained us there for two hours. They all wore uniforms and carried guns. When they arrested us, they immediately threatened us at gunpoint. They threatened that they would rape us and that if we resisted then, 'We will shoot you also,' were their words. We did not

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<sup>134</sup> Human Rights Watch interview (name and location withheld), 2006.

answer them but started crying. We do not know the soldiers' names. We were asked many times, 'Where are you from?' I said that we were coming from the garden. Two of my friends [names withheld] could not speak Indonesian. The soldiers accused us of being wives of OPM members. 'So you're looking for food for OPM?' We did not answer. They demanded that we tell them the location of OPM members but we did not answer because we didn't know where they were. They said 'If you do not answer, we will shoot or rape you here.' In fear, we cried. To try to stop them raping us I opened my shirt and showed them the milk that I had for my child, pleading with them not to rape me because I had a child who still drinks milk and was still small, only 3 years. And I pleaded that they not rape us in view on the road.

They took all of the food we had collected at the garden such as sweet potatoes, red fruits, bananas, and vegetables. Our blouses and skirts were torn and we were left by the soldiers in a state of emptiness [indicating that the rape took place]...afterwards we returned to the refugee camp on the edge of [location withheld]. But after this incident, for four months we did not come looking for food in the garden again until the end of December 2005. We were refugees and never felt safe but always lived in fear.<sup>135</sup>

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<sup>135</sup> Human Rights Watch interview (name and location withheld), 2006.

## **VI. Impunity and Lack of Accountability for Abuses**

The experiences of the victims and their families involved in the cases documented in this report strongly suggest that the Indonesian government is not yet serious about addressing human rights violations by its security forces, at least in regions such as the Central Highlands of Papua, where there is little if any press coverage of alleged abuses.

Until it starts investigating all allegations of serious human rights violations and criminally prosecuting the perpetrators, the government will continue to be seen as tolerant of, and complicit in the human rights violations committed by its security forces. Until victims and their families see concrete and positive developments in accountability, they will, understandably, continue to be reluctant to report abuses and demand justice through the established institutions, and may be tempted to act unlawfully by taking justice into their own hands.

Of the 14 incidents detailed in this report, in only seven did victims or their families report the abuses to either the authorities or human rights organizations. In the remaining eight cases, victims or their families explained that either they had been specifically threatened by perpetrators not to make reports, or that they were too scared of reprisals by members of the security forces to do so. Others expressed deep disillusionment, believing that there was no utility in complaining because nothing could be changed. Neither of the two rape victims whose cases we documented reported the incident to the authorities, fearing reprisals from the perpetrators and stigmatization from the local community.

Victims will have much greater confidence to report abuse when they see credible processes of investigation and prosecution in place, and feel secure that, if they are threatened, authorities will provide effective protection. To better address cases of sexual violence, authorities need to institute confidential complaints mechanisms to help avoid social stigma, provide increased training to officers, and create referral systems to ensure that victims receive appropriate and timely health care.

Investigation and prosecution of human rights violations, of course, should not need to rely upon victim-initiated complaints. In almost all of the cases we investigated, police were aware of the existence of the alleged violations but did not initiate any investigation or process to ensure perpetrators were held to account. “Ignore it and it will go away,” appears to be the dominant strategy of the police in dealing with security force violations. While cases certainly seem to disappear (or rather, have nowhere to go), the impact of impunity crushes individuals, accumulate in communities, and reverberates more broadly, exacerbating the anger and sense of injustice that fuels the regions continuing conflict.

### **Impunity for security forces in Papua: Prominent cases**

There has been little sustained effort by post-Soeharto governments to address past or contemporary human rights violations in the Central Highlands or anywhere else in Papua and West Papua. This neglect has had a significant impact on public sentiment towards Jakarta, as many abuses remain fixed in the public consciousness.

The official response to the assassination of prominent Papuan independence leader Theys Eluay in 2001 has greatly deepened cynicism. In 2003 seven low-level special forces (Kopassus) soldiers were found guilty, not of murder, but of mistreatment and battery leading to Eluay's death. The stiffest sentence was only three-and-a-half years. The chief of staff of the army, General Ryamizard Ryacudu, called the men heroes for the killing of a “rebel.”<sup>136</sup> No further investigations have been undertaken into who ordered or financed the killing in the first place.

The September 2005 acquittal of two senior police officers accused of command responsibility for the killing of three Papuan University students and torture of many others in Abepura in December 2000 by the human rights court in Makassar, Southern Sulawesi,<sup>137</sup> also drew condemnation from victims and human rights organizations. To many, the verdict highlighted the continuing ineffectiveness of measures to combat the impunity enjoyed by members of the security forces.

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<sup>136</sup> M. Rizai Maslan “The Theys Murder Verdict: The TNI View,” [www.detik.com](http://www.detik.com) (accessed April 23, 2003).

<sup>137</sup> Four regional Human Rights Courts were created under Law 26/2000. The Makassar Southern Sulawesi Human Rights Court has jurisdiction over Papua.

On December 7, 2000, unknown persons attacked a local police station in Abepura. The attack left a police officer and a security guard dead. Following the killings, the police, assisted by Brimob, raided three student dormitories in Abepura. During the raids one student was shot dead, and more than 100 others taken into custody and subjected to ill-treatment, including torture. Two students died while in police custody and another died later as a result of injuries he sustained while in custody. Another student suffered permanent paralysis as a result of injuries inflicted by police officers.<sup>138</sup> There was no evidence that any of the more than 100 students taken into custody were involved in the attack on the police station and they were all later released.<sup>139</sup>

Pursuant to its role under Law 26/2000 on Human Rights Courts, Komnas HAM investigated the violations and 25 suspects were named.<sup>140</sup> However, Indonesia's Attorney General's office only proceeded with charges against two of the suspects.<sup>141</sup> Rather than being charged under ordinary Indonesian law, Brimob commander Brig-Gen Johny Waismal Usman and Jayapura police commander Superintendent Daud Sihombing were charged with command responsibility for crimes against humanity under Law 26/2000 which, in addition to other elements, requires proof of the violation occurring as part of a "systematic and widespread" attack on the civilian population.<sup>142</sup> Despite finding evidence of Brimob abuse and torture, the court was not satisfied that it was systematic or ordered by the defendants. The court declared, "We found that the defendant's [Brig-Gen. Johny Waismal Usman] actions at the time were his response as a superior. His action was in accordance with standard operational procedures thus we have decided to set him free of [sic] all charges."<sup>143</sup>

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<sup>138</sup> "V The Abepura Case and its Aftermath," (New York, Human Rights Watch, 2001), <http://www.hrw.org/reports/2001/papua/PAPUA0701-05.htm>.

<sup>139</sup> L. Withers "To end impunity: How Indonesia responds to human rights abuses in Papua is a measure of reform elsewhere," (Inside Indonesia, July-September 2001), <http://insideindonesia.org/edit67/lucia1.htm>.

<sup>140</sup> "Human Rights Watch World Report," *Indonesia*, (New York, Human Rights Watch, 2002), <http://hrw.org/wr2k2/asia7.html>.

<sup>141</sup> TAPOL, Indonesian Campaign for Human Rights, Bulletin, 180, October 2005.

<sup>142</sup> TAPOL, Indonesian Campaign for Human Rights, Bulletin, 180, October 2005.

<sup>143</sup> "Cop cleared of rights abuse charges," *The Jakarta Post*, September 7, 2005.

We are unable to judge whether this ruling was legally sound; however, the verdict caused dismay amongst Papuans and victims groups. Other concerns were raised regarding the legal process, such as lengthy delays in conducting the trial and the promotion and continued active duty service of both defendants while they were on trial.<sup>144</sup> The police also refused to cooperate with the Komnas HAM investigation and some of the investigation team members were intimidated and threatened by the police.<sup>145</sup> Furthermore, no new investigations were initiated, or new charges filed, resulting in no judicial accountability for the Abepura incident.

Another significant case involved students in Abepura in March 2006. Protesting students had blocked a road, demanding the closure of the Freeport mine and withdrawal of Indonesian security forces from the vicinity. They refused to negotiate with several delegations from the local parliament and ultimately refused police orders to disperse. After several hours of failed negotiations the police used force against the protestors, commencing with tear gas and then opening fire, reportedly after students bombarded them with rocks and bottles.<sup>146</sup> In the ensuing melee, protesters stabbed and beat to death three Brimob officers and an air force intelligence officer. Another police officer later died from injuries sustained at the protest. Twenty five people were treated for injuries including five with gunshot wounds. Videotape broadcast of police officers being beaten to death with pieces of concrete caused outrage around Indonesia.

In the aftermath, police from the same unit as those killed were among those who conducted raids on student dormitories, first firing warning shots and then beating students. One student died as a result of injuries sustained while in custody.<sup>147</sup> Twenty three men, including many university students, were arrested for the attacks on the police. Twenty were charged and prosecuted. In August 2006 two were sentenced to fifteen years each for murder, while 11 others were sentenced to

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<sup>144</sup> "Acquittal of Senior Officers Condemned," *The Jakarta Post*, September 10, 2005.

<sup>145</sup> "Indonesia: Killing and torture acquittals demonstrate failure of justice system," Amnesty International, (AI Index: ASA 21/018/2005, September 8, 2005), <http://web.amnesty.org/library/Index/ENGASA210182005?open&of=ENG-253>.

<sup>146</sup> SKP report quoted in TAPOL Bulletin, 183, July 2006, "Executive Summary of the Preliminary Report of the Abepura Case 16 March 2006," Jayapura, September 29, 2006, No. : 002/PGGP/06/2.1; "Papua: Answers to Frequently Asked Questions," (International Crisis Group, Asia Briefing 3, Brussels, September 5, 2006), p.10.

<sup>147</sup> Letter from TAPOL to British Minister for Trade, Investment and Foreign Affairs, August 31, 2006.

between five and six years for lesser offences.<sup>148</sup> By the end of 2007 at least eight of the other defendants had been sentenced to between 4 and 15 years' imprisonment.<sup>149</sup>

While Indonesian authorities have an obligation to prosecute those believed responsible for murder, credible allegations were made that the suspects were tortured in custody to extract confessions and mistreated before and after court appearances.<sup>150</sup> One of the defendants reported that a senior police officer threatened to shoot him if he did not disclose certain information. The defendants also reported that, two hours before their trial in May, they were kicked by police officers, who also beat them around the head and body with rifle butts and rubber batons in order to compel them to admit their guilt in court. Those who refused to do so were allegedly beaten and kicked by police when they returned to detention.<sup>151</sup>

One suspect, Nelson Rumbiak, after complaining in court in late August that he had been tortured, was severely beaten by police upon his return to the prison. Nelson Rumbiak told the court that statements he had made earlier against three of the accused were false, and that the police had coerced him into making these statements. On return to Abepura prison, three other accused men and Nelson Rumbiak were confronted by dozens of police officers outside the front gate. The police reportedly started beating Nelson Rumbiak's head with a rattan stick. When he fell to the ground, several police officers kicked him in the ribs and stomped on his body. Several police officers then chased the three accused men into the prison, and threatened to beat prison officers who were trying to keep the police officers out of the prison. Nelson Rumbiak was taken by prison officers to Abepura hospital for treatment for the injuries he had sustained in the attack. But as police and

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<sup>148</sup> "Indonesia: Fear of torture or ill-treatment/Unfair trial," Amnesty International, AI Index: ASA 21/013/2006, August 31, 2006.

<sup>149</sup> Human Rights Watch email correspondence with Amnesty International campaigner, May 31, 2007.

<sup>150</sup> Ecumenical Council of Churches in Papua, "Executive Summary of the Preliminary Report of the Abepura Case 16 March 2006," Ecumenical Council of Churches in Papua, 002/PGGP/06/2.1, para. 2, p.5, Jayapura, September 29 2006; "Indonesia: Further information on Fear of torture or ill-treatment/Unfair trial," Amnesty International, AI Index: ASA 21/015/2006, September 5, 2006.

<sup>151</sup> "Indonesia: Fear of torture or ill-treatment/Unfair trial," Amnesty International, AI Index: ASA 21/013/2006, August 31, 2006.

intelligence officers, as well as military personnel entered the hospital, they took him back to prison and doctors reportedly were unable to examine him fully.<sup>152</sup>

Defendants also complained that they had no access to their defense counsel before the commencement of the trial in May 2006. Court monitors also reported that the presumption of innocence was compromised by the trial judges who denied defendants the opportunity to examine hostile witnesses.<sup>153</sup> In September 2006, seven lawyers and human rights defenders involved in defending the accused reported that they had received death threats from unknown persons. In response to a submission made by them to the court that the police had initiated the violence against the suspects at the demonstration, some members of the defense team were then charged with insulting the state.<sup>154</sup> No investigations or prosecutions have been launched into the allegations of death threats against the lawyers.

### **Mechanisms for Accountability**

In Indonesia there are three fora where prosecution of human rights violations can take place. The first is in the courts of general jurisdiction, which apply the KUHP (Criminal Procedure Code) and the KUHP (the Penal Code). The second is in the human rights courts created under Law 26/2000 to prosecute cases of genocide and crimes against humanity. The third is in the military courts for cases leveled against members of the military, which apply the KUHP and the Military Penal Code.

While in theory there are provisions in Indonesian law which allow for members of the military to be tried in civilian courts where there are civilian co-defendants,<sup>155</sup> in practice almost all cases involving members of the military are prosecuted in a military court. The exception is where a member of the military is charged with

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<sup>152</sup> "Report of the Maltreatment of a Person Convicted in the Abepura Case of 16 March 2006," by Team of Lawyers for March 16, 2006 case; Justice and Peace Commission, Jayapura, ELSHAM Papua, GKI Synod LP3A3 Papua, PBHI Jakarta, August 28, 2006, [http://infid.be/papua\\_maltreatment.htm](http://infid.be/papua_maltreatment.htm).

<sup>153</sup> "Indonesia: Fear of torture or ill-treatment/Unfair trial," Amnesty International, AI Index: ASA 21/013/2006, August 31 2006.

<sup>154</sup> *Ibid*; Indonesian Criminal Code (KUHP), sections 311 and 335.

<sup>155</sup> See Indonesian Criminal Code (KUHP), Chapter XI, the 'koneksitas' procedures.



crimes against humanity or genocide, in which case they can be tried in the civilian human rights courts.

As some of the cases investigated in this report reveal, it is not uncommon for members of the military to intimidate and threaten victims and witnesses to prevent them from lodging complaints or pressuring them to withdraw existing complaints.<sup>156</sup>

## **Prosecuting members of the police**

Since the fall of Soeharto and the partition of the military and police (until 1999 they were united under a single command structure), the police are no longer afforded special legal protection and can be tried under civilian law in courts of general jurisdiction.<sup>157</sup> When police conduct amounts to a crime, it becomes a case for the Police Bareskrim (Badan Reserse Kriminal, Criminal Investigation Bureau). However, in the course of our research we failed to learn of even one recent case in the ordinary civil courts where police had been indicted or prosecuted for human rights violations under any theory.

There are, however, several new developments that may improve the overall accountability of the police. One is that Indonesia's office of the inspector general, IRWASUM (Inspektur Pengawasan Umum), is undergoing changes aimed at strengthening its oversight capabilities, in particular with regards to the police. There is an ongoing effort to assume PROPAM (Profesi dan Pengamanan, Professionalism and Security) into their division, which would then consolidate the entire inspection and internal investigation component under their command. Under Indonesia law PROPAM is responsible for the internal investigation of police who violate internal policies and who are involved in corrupt activities that are not a violation of the Indonesian Penal Code.<sup>158</sup>

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<sup>156</sup> The rape case of the 16-year-old girl and the beating of her uncle (detailed at p.61) is an example.

<sup>157</sup> People's Consultative Assembly (MPR) Decree VII/MPR/2000, 2000, clause 3.4.a and 7.4 provides that the police should be subject to the civilian courts. The decree was implemented by Law Number 2 of 2002 on the National Police of the Republic of Indonesia (POLRI).

<sup>158</sup> Human Rights Watch email correspondence with foreign diplomat in Jakarta, June 8, 2007.

The new KOMPOLNAS (National Police Commission), just over a year in existence, has an office within PROPAM. This new office has a twofold responsibility; to assist the President in determining policy directions for the police and to provide input to the President with regard to the appointment and dismissal of the national police chief. The office has the authority to collect and analyze information for making recommendations to the President on matters of budgeting, human resources development and equipment and infrastructure development of the police force. They may also provide information and recommendations to the President with the aim to improve the professionalism of the police, and are responsible for receiving recommendations and complaints from the public concerning police performance and conveying them to the President.<sup>159</sup>

Neither of these developments, however, will compensate if political will is not mustered to investigate and indict police officers in the regular civilian court system when they commit human rights abuses that constitute common crimes such as murder and assault.

### **Impact of the Human Rights Courts**

The establishment of human rights courts in Indonesia gave rise to hopes that at last Indonesia would make significant progress in combating entrenched impunity for human rights violations in Indonesia. However, these hopes have faded in the six years since the first human rights court was established. The record of the courts to date includes a string of acquittals which has left victims without remedy and human rights advocates thoroughly disillusioned.

As already explained, in September 2005 the Makassar Human Rights Court acquitted two senior police officials who faced command responsibility charges for the killing of three Papuan students and the torture of around 100 others. This has meant that no one has been held to account for the killing and ill-treatment of the students in Abepura.

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<sup>159</sup> Human Rights Watch email correspondence with foreign diplomat in Jakarta, June 8, 2007.

In July 2005 the convictions of 14 serving and former members of the military for the 1984 massacre of demonstrators in Jakarta (the “Tanjung Priok” case), were overturned on appeal and to date, no one has been held accountable. The ad hoc Human Rights Court for East Timor (set up by Presidential decree in 2000), acquitted all but one of the defendants, a Timorese civilian.<sup>160</sup>

While it is beyond the scope of this report to examine in detail the reasons for the ineffectiveness of the human rights courts, the causes are legislative, procedural, and political. Some of the key legislative weaknesses include deficiencies in the definitions of the elements of crimes which, while similar in many respects to those contained in the Rome Statute, have been significantly narrowed.<sup>161</sup> This substantially raises the bar needed to secure convictions. One of the most glaring deficiencies is that only the crimes of genocide and crimes against humanity fall within the court’s jurisdiction,<sup>162</sup> excluding other very serious human rights violations, such as singular cases of extrajudicial killing, torture, or enforced disappearances. The burden of proving the elements for crimes against humanity is extremely steep, especially the requirement that the violation occurred as part of a “widespread or systematic attack directed against a civilian population.”

Finally, under the procedures of the human rights court, Komnas HAM conducts a preliminary investigation and makes recommendations to the Attorney General’s office regarding who should be indicted. The Chair and Commissioners of Komnas HAM are appointed by Indonesia’s parliament and are ordinarily experts in law, human rights, or other relevant professions. A notable pattern has developed of the Attorney General’s office rejecting recommendations by Komnas HAM to indict particularly senior military members,<sup>163</sup> with no apparent reasons for the decisions.

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<sup>160</sup> *Indonesia- Justice Denied for East Timor: Indonesia's Sham Prosecutions, the Need to Strengthen the Trial Process in East Timor, and the Imperative of U.N. Action*, Human Rights Watch, December 20, 2002, <http://www.hrw.org/background/asia/timor/etimor1202bg.htm>.

<sup>161</sup> For example, war crimes are not included, a general “catch-all” provision to cover “acts of a similar character intentionally causing great suffering, or serious injury to body or to mental or physical health” is notably absent, command responsibility provisions have been watered down, and ancillary crimes of complicity, attempt, and incitement are not included.

<sup>162</sup> Special Autonomy for Papua Province, Peoples Representative Assembly and the President of the Republic of Indonesia, Law no. 26, 2000, art. 4 and 7, <http://www.indonesiamission-ny.org/issuebaru/HumanRight/uud26.htm>

<sup>163</sup> For example Komnas HAM recommended the indictment of General Wiranto, chief of Indonesia’s armed forces at the time of the violence, in the East Timor trials, but the Attorney General declined to indict him. Similarly, Komnas HAM recommended

The greatest impediment to the effectiveness of the human rights court and other accountability mechanisms in Indonesia remains the lack of political will to confront high level police and military culpability for human rights violations. Despite some reform efforts,<sup>164</sup> in important respects the military continues to resist the supremacy of civilians. The police, with its historical orientation towards cooperation with the military and focus on internal security operations, also occupy a privileged position and wield substantial influence. Reform of both institutions will remain slow and difficult as many entrenched personal and institutional interests conflict with reform agendas and, critically, the public interest.

### **Conclusion: Impunity Persists**

In the cases documented in this report, only one member of the security forces to date has faced prosecution, and that was before a military court (a TNI member was sentenced to eight months in prison for killing 16-year-old Mozes Douw). To our knowledge, no Brimob or regular police officers have been prosecuted for their role in the remaining killings by police that we researched. No officers have been charged in the two rape cases described above. No officers have been charged in connection with the approximately 218 cases of alleged police ill treatment we documented. This is a snapshot of what appears to be the near total absence of accountability for members of the security forces who commit abuses in the Central Highlands.

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the indictment of Try Sutrisno, then-Jakarta military commander (and later vice-president), and Benny Moerdani, then-armed forces commander, however they were not indicted.

<sup>164</sup> For example, the military no longer enjoys separate representation in Parliament. In 2004 a law was passed obliging the military to relinquish its commercial interests within five years, however little progress has been made in implementing the law and the Indonesian military continues to raise money outside the government budget through corruption and a sprawling network of legal and illegal businesses. See, Human Rights Watch, *Indonesia-Too High a Price: The Human Rights Cost of the Indonesian Military's Economic Activities*, vol. 18, no. 5(C), June 21, 2006, <http://hrw.org/reports/2006/indonesia0606/>.

## **VII. Recommendations**

### **To the Government of the Indonesian Republic:**

- End the impunity enjoyed by members of the security forces by prosecuting and/or dismissing individuals who are found to commit human rights abuses.
- Ensure that all credible allegations of criminal misconduct by security forces are investigated in an independent and professional manner.
- Ensure all human rights violations committed by the military are dealt with in civilian courts and not in military courts.
- Prosecute all criminal acts rather than allowing some to be dealt with through disciplinary procedures.
- Suspend all active service members of security forces who are subject to credible allegations of human rights violations, pending final determination of internal investigations or legal proceedings. Dismiss such individuals if they are found responsible for a human rights violation.
- Discontinue sweeping operations that target civilians for abuse in the course of hunting OPM members and adopt more targeted approaches that do not collectively punish communities.
- Release all persons arrested or imprisoned for the peaceful expression of their political views.
- Ensure inclusion of the international definition of torture as a crime in the KUHP. Develop mechanisms to ensure that torture victims have effective means of redress.
- Require the Attorney General's office to provide written and public reasons for decisions rejecting Komnas HAM recommendations to indict members of the security forces for criminal human rights abuses.
- Grant unfettered access to diplomats, journalists, and human rights organizations to all parts of the two Papuan provinces to improve the balance and accuracy of reporting.
- Provide victims of sexual violence with appropriate and timely health services. These services should include counseling, emergency contraception, post-

exposure prophylaxis (PEP) to prevent HIV-transmission, voluntary testing, and treatment for those affected with HIV/AIDS.

- Cooperate with donors in their efforts to provide coordinated and professional medical and psychological assistance to victims of sexual violence.
- Train police, prosecutorial, and judicial staff in handling sexual violence complaints and gathering and analyzing evidence, including forensic evidence. Ensure personnel have adequate funds to carry out their duties effectively.
- Increase the number of Special Service Units (RPK) in both Papua and West Papua provinces and provide adequate training for the staffs of those units.
- Implement the Memorandum of Understanding between the State Minister of Women's Empowerment, other government ministries, and the Chief of Police to create and manage one-stop crisis centers for victims of gender-based violence. Introduce a hotline and other mechanisms for victims to seek help confidentially.

### **To the Government and the National Police of the Republic of Indonesia (POLRI):**

- Investigate all cases involving allegations of abuses by the police. Where there is sufficient evidence, prosecute relevant individuals in the Courts of General Jurisdiction, and subject them to disciplinary procedures.
- To improve community relations, recruit and deploy more indigenous Papuan police officers to the Central Highlands area and promote appropriately qualified Papuan police officers into senior leadership positions in the two Papuan provinces.
- Require police officers to file reports of police misconduct where they become aware of human rights violations committed by police or security forces instead of waiting for complainants to come forward.
- Prosecute all police behavior which constitutes criminal conduct before the Courts of General Jurisdiction under the criminal code (KUHP)--and not as disciplinary offences.
- Dismiss police officers found responsible for human rights violations.

- Routinely inform victims of the status of investigations into their complaints and notify them of final court or disciplinary decisions. Make public and available all decisions concerning allegations of misconduct against members of the security forces.
- Provide a written explanation to a complainant for a decision not to prosecute a police officer. Provide a process for that decision to be independently reviewed.
- Provide all police regular training on ethical conduct and implementation of use of force policies, including practical scenario-based exercises to assist in formulating judgments about the proportionate and reasonable use of force.

**To Papuan community leaders:**

- Work with the police and security forces to provide security at public demonstrations and gatherings.
- Encourage Papuans to develop legal strategies for holding their elected representatives accountable to strengthen civil society's capacity to peacefully demand for improved governance.

## Appendix I: Glossary of Indonesian Terms

**“Act of Free Choice:”** 1969 United Nations sponsored plebiscite resulting in Papua’s integration into the Indonesian Republic

**BIN:** *Badan Inteligen Negara*, Indonesian State Intelligence Body

**Bintang 14:** *Fourteen Stars*, pro-independence group that advocates for Papua to become “West Melanesia”

**Brimob:** *Brigade Mobil*, Mobile Brigade, paramilitary elite corps for emergencies

**Bupati:** District Head

**Dewan Adat Papua:** Papuan Customary Council

**DPRD:** Provincial Legislative Assembly

**ELSHAM Papua:** *Lembaga Studi, Advokasi dan Hak Asasi Manusia*, Institute for Human Rights Studies and Advocacy in Papua

**FORERI:** Forum for Reconciliation for the People of Irian Jaya

**Front Pepera Papua Barat:** United Front for the West Papuan People’s Struggle, radical pro-independence student network

**Kejora Flag:** “Morning Star” Flag: Papuan nationalist symbol

**Kodam:** *Komando Daerah Militer*, Regional Military Command

**Kodim:** *Komando Distrik Militer*, District Military Command

**Komnas HAM:** National Human Rights Commission

**Kopassus:** *Komando Pasukan Khusus*, Special Forces

**Koramil:** *Komando Rayon Militer*, subdistrict military command

**Korem:** *Komando Resort Militer*, sub-regional military command

**Kostrad:** *Komando Strategis Angkatan Darat*, army strategic reserve command

**KUHAP:** *Kitab Undang-undang Hukum Acara Pidana*, Indonesian Criminal Procedure Code

**MRP:** *Majelis Rakyat Papua*, Papuan People’s Council. Institution mandated under Special Autonomy Law to protect and defend Papuan values, culture and human rights

**OPM:** *Organisasi Papua Merdeka*, Free Papua Movement

**Otonomi khusus/Otsus:** Special Autonomy

**Otoritas Nasional Papua Barat:** West Papuan National Authority. Umbrella group established to advocate for Papuan independence through peaceful means



**PBHI:** *Perhimpunan Bantuan Hukum dan Hak Asasi Manusia*, Indonesian Legal Aid and Human Rights Association

**Pemekaran:** Administrative decentralization process

**Polda:** *Polisi Daerah*, provincial level police

**Polres:** *Polisi Resort*, district level police

**Polri:** Indonesian National Police

**Polsek:** *Polisi Sektor*, subdistrict level police

**SKP:** *Sekretariat Keadilan dan Perdamaian*, Catholic Peace and Justice Office

**TPN:** *Tentara Pembebasan Nasional*, National Liberation Army, armed wing of the OPM

**TNI:** *Tentara Nasional Indonesia*, the Indonesian military

**Wenda, Matius:** Commander in Chief of OPM

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## Out of Sight

### Endemic Abuse and Impunity in Papua's Central Highlands

For years the Central Highlands region in Indonesia's Papua province has been the site of tense confrontations between Indonesian police, military units, and small cells of Organisasi Papua Merdeka guerrillas. Access to Papua, however, is severely limited for journalists and human rights observers, making reliable information hard to come by. This report is one of the few detailed accounts of human rights conditions in the region.

*Out of Sight: Endemic Abuse and Impunity in Papua's Central Highlands* shines a light on Indonesia's security force abuses in the region, raising serious questions about how those forces act when hidden from public view. It documents a series of rights violations—including murders, rape, forced displacement, and looting—committed by security forces during operations to arrest members of the OPM. There is also compelling evidence suggesting that even during routine policing, officers often use excessive force.

Underlying these violent abuses is a culture of impunity. Members of the security forces continue to act as if they are above the law because, in fact, they rarely are prosecuted even when they commit the most serious crimes.

*Police stand guard over Papuans in the central town of Timika during demonstrations over the government's move to split the province into three new provinces in August 2003.*

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