

# POLITICAL ARRESTS IN WEST PAPUA, 2012–2014

BRIEFING PAPER

**PAPUANS**  
**BEHIND BARS** 

## Executive Summary

This briefing paper provides an analytical overview of data on political arrests<sup>1</sup> in West Papua from 2012 to 2014. It includes analysis of emerging trends in human rights violations associated with these political arrests.

Our analysis shows that during the three-year period of this report, the majority of those detained were arrested because of their participation in demonstrations or other types of peaceful political activity. 2013 was a particularly bad year, with a record high of 548 arrests. The data also showed that most of those detained were male (95%).

Charges of treason (Article 106 of the Indonesian Criminal Code) and conspiracy to commit treason (Articles 106 and 110) were the most frequently used charges against political detainees.

While the use of Emergency Law 12/1951, which punishes the possession of sharp weapons, firearms and ammunition, has decreased, there appears to be a substitution of this charge with other politically motivated charges of criminal violence, such as Articles 187 or 170.

The number of cases of torture and denial of access to lawyers has increased over the three-year period. Of particular concern is the sharp five-fold increase in 2014 of the number of detainees tortured for participating in demonstrations.

### Papua or West Papua?

West Papua is the western half of the island of New Guinea. It borders independent Papua New Guinea and became part of Indonesia following a discredited process known as the 'Act of Free Choice' in 1969.

West Papua has previously been known as West New Guinea, West Irian and Irian Jaya. In 2003, the territory was separated into two provinces, Papua and West Papua, by the Indonesian government.

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



<sup>1</sup> *Papuans Behind Bars* defines political arrests as arrests which appear to be politically motivated, and can include arrests which happen in political contexts such as demonstrations or places used by politically active organisations and people; arrests of politically active people or their relatives; arrests of people because of their alleged political affiliations; arrests for political activities such as raising a flag or engaging in civil resistance activities, mass arrests, and politically-motivated arrests under manipulated criminal charges.

## Methodology

This report is based on research and information received from human rights organisations, church groups, independent lawyers, independent researchers, *adat* groups, student groups and individuals in West Papua. Much of the information received in the form of investigative reports, testimonies, photographs, videos, articles and press statements was from groups such as the Democracy Alliance for Papua (*Aliansi Demokrasi untuk Papua*, AIDP), KontraS Papua (*Komisi untuk Orang Hilang dan Korban Tindak Kekerasan Papua*), the Advocacy Network for Upholding Law and Human Rights (*Jaringan Advokasi Penegakan Hukum dan HAM Pegunungan Tengah Papua*, JAPH&HAM), the Office for Justice, Peace and Integrity of Creation of Franciscans of Papua (*Sekretariat Keadilan Perdamaian dan Keutuhan Ciptaan Fransiskan Papua*, SKPKC Jayapura), Justice, Peace and Integrity of Creation Desk (*Keadilan, Perdamaian dan Keutuhan Ciptaan*, KPKC) of the Evangelical Christian Church (*Gereja Kristen Injili*, GKI) and United for Truth (Bersatu Untuk Kebenaran, BUK). We also received reports from independent human rights lawyers, researchers, investigators and activist groups such as the West Papua National Committee (*Komite Nasional Papua Barat*, KNPB). Reports were analysed and then verified via phone and email communication to clarify information on specific cases to ensure they are accurately reported.

Information from human rights lawyers allowed us to understand the trial process in greater detail. Data obtained from reports, police and court documents allowed us to follow up with human rights lawyers on specific concerns surrounding the trial process, including issues of denied access and challenges faced by lawyers.

Data was also collected by monitoring Papuan and Indonesian news sources such as *Tabloid Jubi*, *Suara Papua*, *Majalah Selangkah*, *Cenderawasih Pos*, *Antara News*, *Jakarta Globe*, *Jakarta Post*, and *Tempo*, among others. Information was also collected from other online news sources, including local and international blogs and social media feeds run by local human rights researchers, which provide access to very localised information that is often hard to come by.

During the early stages of *Papuans Behind Bars* in 2012, access to in-depth reports from Papuan human rights organisations was limited. Much of the information collected on cases in 2012 was derived from monitoring media sources. As *Papuans Behind Bars* expanded its reach from the beginning of 2013, more detailed information was received from Papuan human rights organisations and other civil society groups and individuals. This allowed us to record more cases and to understand them in greater detail.

Data gathered on political arrests and human rights concerns was recorded annually in databases which allowed for cases to be analysed quantitatively. In this briefing paper, cases were also analysed according to qualitative factors including case types, charges and specific human rights concerns.

Primary source material was prioritised where available, such as witness statements and in-depth investigations. Sources in Indonesian were primarily referred to, although at times sources translated into English were used. In cases with more than one source of information, *Papuans Behind Bars* analyses multiple secondary sources to verify information as accurately as possible. All information

recorded by *Papuans Behind Bars* is publically available or on file and is available on request.

## Policy on Political Prisoners

The release of Papuan political prisoners is a crucial issue for Indonesia's policy on Papua, as well as its international standing as a democratic country. Papuan civil society groups and human rights activists regard the release of political prisoners as a fundamental step towards improved human rights in Papua, and a key part of any peace process. However, even for progressive elements in the government, prisoner release is not as straightforward as it may seem. There are several routes available. Clemency is a state 'pardon' that requires an admission of guilt, and can be initiated by the President. On the other hand, amnesty or abolition do not require such an admission, but require approval from the national parliament. Amnesties may be given to those who have already been sentenced or are still on trial, while abolitions may be given to those who have not yet been sentenced.

Since 2012, the position taken by the Indonesian government on political prisoners in Papua has undergone dramatic changes. Throughout 2012, the government maintained that there were no political prisoners in Papua. The then Minister of Law and Human Rights, Amir Syamsyuddin insisted that Papuan political prisoners did not exist, stating in June 2012: "In Papua, there are no political prisoners. Those who have been tried in Papuan courts were purely due to criminal reasons."<sup>2</sup> However, in May 2013, then President Susilo Bambang Yudhoyono clearly recognized their existence by expressing a willingness to offer Papuan political prisoners clemency as part of the government's 'Special Autonomy Plus' (*Otonomi Khusus Plus*, Otsus Plus) programme.<sup>3</sup> The election of current President Joko Widodo the following year brought about more unexpected change, when in May 2015, five Papuan political prisoners who were serving long-term prison sentences were released after being granted presidential clemencies.

However, statements made by others in President Jokowi's administration since the releases have been openly contradictory and even challenging of the President's position. While the President has declared his intention to release more prisoners, it seems unlikely that they will be granted amnesties given that such a decision will require the approval of Indonesia's House of Representatives. Opposition from members of the House of Representatives has been voiced, claiming that any further releases of Papuan political prisoners "will flame separatism",<sup>4</sup> indicating that the question of amnesties or abolitions is likely to remain blocked. While it is clear that Jokowi has taken a keen interest in Papua, there is weak support at parliamentary level.

While President Jokowi is empowered to grant clemencies, some Papuan political prisoners have already voiced their opposition to such a route of release. For

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<sup>2</sup> "Menhuk dan HAM: Tidak Ada Tapol di Papua," Kompas, 13 June 2012, <http://nasional.kompas.com/read/2012/06/13/17005040/menhuk.dan.ham.tidak.ada.tapol.di.papua>

<sup>3</sup> "SBY Pledges Freedom for Papuan Political Prisoners: Lawmaker," Jakarta Globe, 24 May 2013, <http://jakartaglobe.beritasatu.com/news/sby-pledges-freedom-for-papuan-political-prisoners-lawmaker/>

<sup>4</sup> "House rebuffs plan to pardon Papuans," Jakarta Post, 23 June 2015, <http://www.thejakartapost.com/news/2015/06/23/house-rebuffs-plan-pardon-papuans.html>

detainees who have undergone torture, ill treatment and years of detention for exercising their right to free expression, having to receive a 'pardon' from the State in order to regain their freedom is controversial and highly political. Following the release of the five political prisoners in December 2014, four long-term political prisoners, Filep Karma, Meki Elosak, Wiki Meaga and Yusanur Wenda allegedly voiced their rejection of any offers of clemency, instead stating that only unconditional release is acceptable. Even if such rejections are purely symbolic, it is clear that Papuan political prisoners reject the view that they are criminals that need to be pardoned.

Despite President Jokowi's efforts, political prisoners continue to be stigmatized as criminals and are not acknowledged as people who have been detained unlawfully. A statement made by Ambassador Triyono Wibowo, the Head of the Indonesian Delegation to the UN in Geneva seemed to backtrack on the issue of political prisoners. Addressing the release of the five political prisoners in May 2015, he stated: "the President of Indonesia was not releasing 'political prisoners' ... [but was instead granting] clemency to five convicted criminals."<sup>5</sup> He added, "...that in a Democratic Indonesia, there will be no person detained or jailed because of his/her political opinion or in exercising freedom of expression or assembly unless the person acts against the laws." Such a statement denies the existence of at least 51 political prisoners<sup>6</sup> currently behind bars for exercising their right to free speech.

Most recently, in August 2015, the Minister for Political, Legal and Security Affairs, Luhut Panjaitan, stated that he did not believe that Filep Karma, Papua's most well-known political prisoner, was guilty of treason, despite the fact that Karma is currently serving a 15-year prison sentence under charges of treason. Panjaitan stated that "treason means the use of weapons [*Makar kan harus bersenjata*]," which by definition makes Karma's 'crime' of raising the Morning Star flag one that was not 'treasonous.' The confusion even among government officials surrounding what constitutes 'treason' precisely demonstrates the arbitrary nature of such a political charge. It seems unlikely that the conversation on political prisoners and arbitrary arrests will make significant progress without broad parliamentary acknowledgement that such laws are flawed and real political will to expedite legislative reform.

## Political arrests

The number of political arrests recorded by *Papuans Behind Bars* over the three-year period of this briefing paper showed that 2013 was an especially active year for arrests, with the majority of detainees arrested for participating in demonstrations. The overwhelming majority of political detainees in the three-year period were male. In 2012, 6% (13 detainees) of the total number of political detainees were women. This percentage decreased to 5% in 2013 (26 detainees) and 2014 (20 detainees).

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<sup>5</sup> This statement was made at the 29<sup>th</sup> session of UN Human Rights Council in June 2015 in response to the Opening Statement of the UN High Commissioner on Human Rights Mr Zeid Ra'ad Al Hussein.

<sup>6</sup> Number of Papuan political prisoners recorded by *Papuans Behind Bars* as of the end of July 2015.

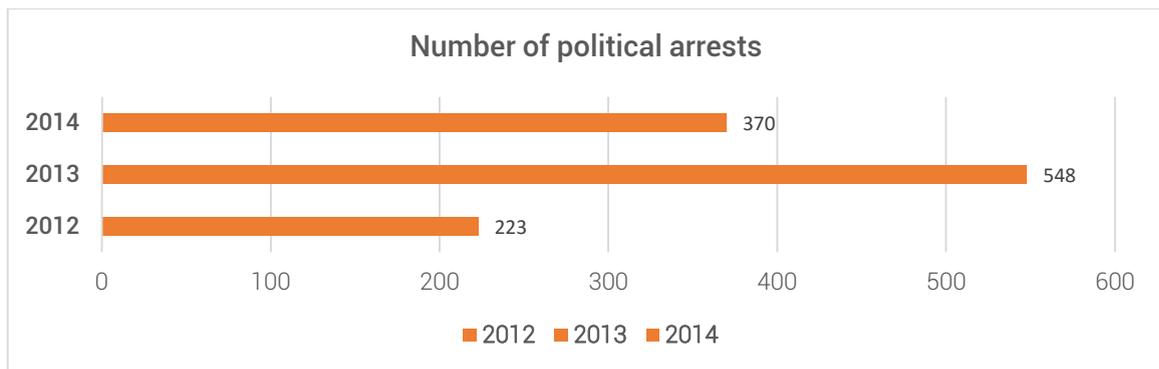


Table 1: Number of political arrests

In 2013, at least 472 people, or 86% of political detainees were arrested for participating in peaceful demonstrations, marches or gatherings. Recorded data shows that the majority of political detainees in 2012 and 2014 were also arrested for their involvement in peaceful demonstrations (See Table 2).

| Case type                  | 2012       | %          | 2013       | %          | 2014       | %          |
|----------------------------|------------|------------|------------|------------|------------|------------|
| Demonstrations             | 113        | 51         | 472        | 86         | 184        | 50         |
| Political Activity         | 25         | 11         | 32         | 6          | 62         | 17         |
| Affiliation to OPM         | 3          | 1          | 17         | 3          | 72         | 19         |
| Journalistic investigation | -          | -          | 4          | 1          | -          | -          |
| Weapons related            | 47         | 21         | 2          | 0.003      | 8          | 2          |
| Other                      | 26         | 12         | 14         | 3          | 44         | 12         |
| Unknown                    | 9          | 4          | 7          | 1          | -          |            |
| <b>Total arrests</b>       | <b>223</b> | <b>100</b> | <b>548</b> | <b>100</b> | <b>370</b> | <b>100</b> |

Table 2: Number of political arrests according to case type

While the overall number of political arrests has fluctuated in the three-year period, the number of people arrested for demonstrations and other types of peaceful activity has been steadily increasing (from 25 in 2012, to 32 in 2013 and 62 in 2014). Political activity included involvement in Papuan civil society groups or institutions such as the People's Local Parliament (*Parlemen Rakyat Daerah*, PRD)<sup>7</sup> or the KNPB, conducting human rights work<sup>8</sup> or for expressing dissenting political opinions. In 2014 alone, *Papuans Behind Bars* recorded the arbitrary arrest of at least 101 members of the pro-independence activist movement, the KNPB, or those suspected affiliation, making it the most heavily targeted Papuan civil society group for political arrest.

While in 2012 and 2013, arrests under suspicion of affiliation with the Free Papua Movement (*Organisasi Papua Merdeka*, OPM) remained low (1% of political arrests in 2012 and 3% in 2013), this increased to 19% of total arrests in 2014. Papuans arrested for being allegedly affiliated with the OPM are often villagers who live in

<sup>7</sup> Three PRD members were arrested in October 2013 during a police raid of PRD offices in Kaimana.

<sup>8</sup> In December 2012, Andinus Karoba was shot on arrest and sentenced to 22 months' imprisonment under bogus charges of theft. Reports from local human rights sources strongly suggest that he was targeted due to his work as a human rights investigator with the Koteka Council of Indigenous Peoples (*Dewan Masyarakat Adat Koteka*, Demmak).

remote areas where armed pro-independence groups are thought to be active.<sup>9</sup> Others who are arrested under allegations of OPM affiliation include activists belonging to groups such as the KNPB or Papuans who are suspected of being sympathetic to pro-independence groups.<sup>10</sup>

The sharp increase of the number of Papuans arrested for their alleged affiliation with the OPM in 2014 is worrying. Many of these arrests took place during raids by joint military and police task forces in remote conflict areas such as Puncak Jaya, Lanny Jaya and Yapen Island, where it is often extremely difficult to obtain timely information on human rights abuses. In retaliation to the alleged armed activities of OPM-affiliated groups, security forces often inflict collective punishment against whole communities. Reports on such arrests commonly document accounts of torture, ill treatment and excessive use of force, often leading to mass displacement of communities.

The number of people arrested for the possession of weapons (including sharp weapons, ammunition and/or explosives) has decreased since 2012. From 47 arrests in 2012, this decreased to two arrests in 2013 and eight arrests in 2014. The significant number of weapons-related arrests in 2012 may be explained by the security approach taken that year towards groups like the KNPB. The appointment of the ex-head of Special Detachment 88 (Indonesia's anti-terror unit), Tito Karnavian, as the Papua Police Chief (*Kepala Kepolisian Daerah Papua*, Kapolda Papua) in September 2012 saw a change to the policing in Papua.<sup>11</sup> Following his appointment, Karnavian oversaw 46 of the 47 weapons-related arrests that took place that year, primarily targeting members of the KNPB. He was replaced by Yotje Mende in July 2013, and the number of weapons-related arrests declined.

Arrests categorised under 'Other' include a broad range of case types including arrests during sweeping operations,<sup>12</sup> arrests of civilians in retaliation to attacks by armed groups,<sup>13</sup> collective punishment for various types of alleged criminal acts,<sup>14</sup> arrests in a bid to intimidate<sup>15</sup> and arbitrary attacks against indigenous Papuans<sup>16</sup>.

<sup>9</sup> In the Sasawa case of February 2014, seven detainees were tortured on arrest and forced to confess to involvement with armed group TNPB (*Tentera Nasional Papua Barat*, West Papuan National Army). In November 2014, they were sentenced to 3.5 years' imprisonment.

<sup>10</sup> Papuans accused of supporting or being sympathetic to armed pro-independence groups often face such accusations without any evidence. In one such case, in December 2012, a farmer in Timika was detained and tortured overnight for allegedly growing food for the OPM.

<sup>11</sup> "No Political Prisoners? The suppression of political protest in West Papua," TAPOL, p.16, <http://tapol.org/reports/no-political-prisoners-suppression-political-protest-west-papua>

<sup>12</sup> Indonesian security forces routinely conduct sweeping operations or stop-and-searches that randomly target indigenous Papuans. In March 2013, army and police officers arrested four men in Paniai, allegedly to fill arrest quotas as part of crackdowns against civilians thought to be harbouring pro-independent activists.

<sup>13</sup> In March 2013, five men were tortured in detention on Yapen island, reportedly in retaliation for the murder of a police officer by an armed group.

<sup>14</sup> In July 2014, in what is now known as the 'Bloody Yotefa' case, at least 40 men were tortured on arrest and in detention as a form of collective punishment against the theft of a firearm.

<sup>15</sup> In August 2014, Abner Bastian Wanma was detained overnight in a bid to intimidate him into making sure that a traditional dance he was leading the next day (with former President Susilo Bambang Yudhoyono in attendance) would not contain any controversial pro-independence elements.

<sup>16</sup> In March 2014, two men were tortured on arrest for their roles in attempting to defend a Papuan man from being beaten by Brimob officers.

## Charges

From 2012 to 2014, treason laws continued to be used to repress free expression in Papua. Throughout the three-year period, charges of treason (Article 106) or conspiracy to commit treason (Articles 106 and 110) were the charges most frequently used against political detainees. In 2012, there were 27 cases of treason, decreasing slightly to 25 cases in 2013 and increasing to 31 cases in 2014.

In 2012, there were 18 cases of political detainees charged under Emergency Law 12/1951, which punishes the possession of sharp weapons, firearms and ammunition. This increased to 25 cases in 2013, and sharply decreased to 10 cases in 2014. While this is an improvement, there appears to be a substitution of this law with charges of Article 187 of the Criminal Code, which punishes the deliberate intention to set fire, cause an explosion or a flood. Given that the maximum sentence under Emergency Law 12/1951 is the death sentence, whereas it is 20 years under Article 187, this is a somewhat positive development.

|  | 2012 | 2013 | 2014 |
|--|------|------|------|
| Number of people arrested under accusations of possession of weapons | 47   | 2    | 8    |
| Number of people charged under Emergency Law 12/1951                 | 18   | 25   | 10   |
| Number of people charged under Article 187                           | 0    | 0    | 5    |

**Table 3: Detainees accused vs. detainees charged (with possession of weapons)**

In 2013 and 2014, many of those who were charged with Emergency Law 12/1951 were instead initially detained due to their involvement in demonstrations or peaceful political activity. Data collected showed that Emergency Law 12/1951 was sometimes added to charges of treason to secure convictions against those involved in demonstrations and peaceful political activity. The data also showed that Emergency Law 12/1951 was also used to criminalise indigenous Papuans who carried machetes and knives for their personal use for farming and daily activities.<sup>17</sup> While data from 2014 shows a decrease in the use of this law, it remains to be seen whether authorities will cease to use Emergency Law 12/1951.

The following charges have also been used against political detainees: Article 170 on committing violence against persons or property, Article 160 on incitement, Article 155 on dissemination of feelings of hostility, hatred or contempt against the Government of Indonesia, Article 187 on deliberate intent to cause an explosion or a flood, and Article 335 on battery.

<sup>17</sup> In its 1999 visit to Indonesia, the UN Working Group on Arbitrary Detention highlighted that Emergency Law 12/1951 was outdated and should be abrogated.

| Charges   | 2012 | 2013 | 2014 |
|---|------|------|------|
| 106   | 27   | 25   | 31   |
| 110   | 2    | 31   | 7    |
| Emergency Law 12/1951   | 18   | 25   | 10   |
| 170   | 1    | 18   | -    |
| 160   | -    | 1    | 11   |
| 155   | 2    | -    | -    |
| 187   | -    | -    | 5    |
| 251   | -    | 1    | -    |
| 335   | -    | 5    | -    |
| 338   | -    | 1    | -    |
| 340   | -    | 1    | -    |
| 351   | 1    | 1    | -    |
| 365   | 1    | -    | -    |
| 406   | 1    | -    | -    |
| Articles 24 and 66 of Law 24/2009 on the Flag, Language, Symbols of the State and the National Anthem | -    | 1    | -    |
| Law 8/1981 on Criminal Law  | 2    | -    | -    |
| 55  | 6    | -    | 11   |
| 53  | -    | -    | 12   |
| 56  | -    | -    | 1    |
| 87  | -    | -    | 12   |
|   |      |      |      |
| <b>Total number of detainees charged</b>  | 42   | 59   | 30   |

**Table 4: Number of times charges were used against political detainees**

According to Papuan human rights lawyers, the vast majority of cases where political detainees faced charges of violent crime were either built on false allegations, politically motivated or both. For example, in November 2013, 12 men were charged with Article 170 for their alleged involvement in a demonstration where protestors and security officers clashed, resulting in the death of at least one protestor. According to credible reports from human rights investigators, the 12 men were not even involved in the demonstration. In another case in July 2014, five men from Pisugi village in Wamena were charged under Article 187 for allegedly making Molotov cocktail bombs in attempts to boycott the Presidential Elections. According to information from human rights lawyers, the charges remain unsubstantiated given the complete lack of evidence produced by the Prosecution.

In 2012, 23 people were arrested for either raising or being in possession of the Morning Star flag, symbols or attributes. In 2013, this increased to 26 cases of Morning Star-related arrests. In 2014, 25 people were arrested for participating in a demonstration in Timika that featured the use and display of the Morning Star flag and attributes.

Indonesian authorities have also begun clamping down on other symbols and attributes recently adopted by Papuan civil society groups.<sup>18</sup> This includes the use of Melanesian-related symbols and KNPB flags. Given the recent focus of the Melanesian Spearhead Group in West Papua, it is likely that authorities will continue to target the use of other attributes related to Melanesian identity.

<sup>18</sup> In December 2013, two men were arrested in Sarmi in relation to the possession of a 16-star Melanesian flag. Edison Werimon and Soleman Fonataba have since been bailed but they continue to be monitored by having to report to the police every week.

## Patterns of violations

Since the beginning of January 2012, *Papuans Behind Bars* began recording cases of human rights concerns in cases of political detention in Papua. In particular, we looked at cases of ill-treatment, torture, legal access for detainees, healthcare, intimidation of lawyers and other concerns related to the detention and trial process.

| Concerns                        | 2012      | 2013      | 2014      |
|---------------------------------|-----------|-----------|-----------|
| Arbitrary detention             | 216       | 548       | 370       |
| Denied access to healthcare     | 2         | 8         | 2         |
| <b>Denied access to lawyers</b> | <b>11</b> | <b>34</b> | <b>42</b> |
| Forced confession               | 7         | 16        | 15        |
| Ill treatment in detention      | 3         | 59        | 20        |
| Ill treatment on arrest         | 15        | 100       | 128       |
| Intimidation of lawyers         | -         | 7         | 1         |
| <b>Torture in detention</b>     | <b>5</b>  | <b>19</b> | <b>25</b> |
| <b>Torture on arrest</b>        | <b>14</b> | <b>11</b> | <b>41</b> |
| Unfair trial                    | 7         | 16        | 12        |

**Table 5: Number of cases recorded of specific concerns**

Despite the limitations on data gathering as discussed in the Methodology, two patterns can nevertheless be observed from the recorded data. Firstly, the number of cases of torture has significantly increased during the three-year period. Secondly, the number of cases of political detainees being denied access to lawyers has also risen. These two developments are further analysed in the following sections.

## Torture, cruel and degrading treatment

The methods of torture and cruel and degrading treatment endured by political detainees within the three-year period of this report included being shocked with electric stun batons, doused with scalding water, force-fed fish bones, shot with firearms, beaten using a hammer, slashed with bayonets, burned with cigarette butts, beaten on the genitals, chained together and forced to crawl on their hands and knees, and forced nudity.

The data also shows that torture in Papua is widespread, occurring across different cities, including cities such as Jayapura and Manokwari as well as remote districts such as Sasawa in Yapen island and Pisugi in Wamena. Reports of torture, cruel and degrading treatment in public spaces, especially in hospitals is particularly worrying. In the three-year period of this report, at least five detainees suffered torture, ill-treatment or were kept in appalling conditions at Bhayangkara Police Hospital in Jayapura.

Within the three-year period of this report, the number of cases of torture has increased. In 2013, the number of cases of torture on arrest and in detention

increased by 57% as compared with the previous year (from 19 cases in 2012 to 30 cases in 2013). The situation worsened in 2014, with the figure more than doubling from 30 to 66 cases (see Table 5a).

| Concern                              | 2012      | 2013      | 2014      |
|--------------------------------------|-----------|-----------|-----------|
| Torture in detention                 | 5         | 19        | 25        |
| Torture on arrest                    | 14        | 11        | 41        |
| <b>Total number of torture cases</b> | <b>19</b> | <b>30</b> | <b>66</b> |

**Table 5a: Number of recorded cases of torture<sup>19</sup>**

Our analysis showed that in 2014, more detainees were tortured for their involvement in peaceful activity or demonstrations (see Table 6). In 2012, 12 detainees were tortured for their involvement in peaceful political activity and/or demonstrations. In 2013, this number halved to 6 detainees, but sharply increased fivefold in 2014 to 30. While frequent mass arrests were conducted to intimidate activists in 2013, in the following year security forces escalated the use of more brutal methods. The more frequent use of torture indicated a greater willingness of security forces to silence political protest at all costs.

| Case type                                 | 2012      | 2013      | 2014      |
|---|-----------|-----------|-----------|
| Affiliation with OPM                      | 0         | 9         | 9         |
| Political Activity / Demonstration        | 12        | 6         | 30        |
| Other                                     | 4         | 8         | 6         |
| <b>Total number of detainees tortured</b> | <b>16</b> | <b>23</b> | <b>45</b> |

**Table 6: Number of detainees tortured according to case type**

The data showed that the number of detainees forced to confess under torture sharply increased in 2014. In 2012, four detainees were forced to confess under torture, decreasing to two detainees in 2013 but spiking to 12 detainees in 2014.

## Denied access to lawyers

There was a continued increase of cases of denied access to lawyers from 11 cases in 2012 to 34 cases in 2013 and 42 cases in 2014.<sup>20</sup>

Lawyers face several hurdles when trying to gain access to clients in West Papua. The first challenge is getting into contact with the clients themselves. Once in police custody, it is typical for detainees to be denied the right to legal representation. Additionally, the majority of detainees are often unaware of their right to a lawyer. Thus, it is common for lawyers to find out about the detention of an individual only

<sup>19</sup> In cases where a detainee was tortured on arrest and then tortured again in detention, this is recorded as two separate cases of torture.

<sup>20</sup> It should be noted that these figures are likely to represent only a proportion of actual violations, as they reflect data only from those cases where the detainee finally succeeded in receiving legal accompaniment.

through family members or members from his/her local community. Following this, lawyers will seek to gain access to the detainee in police custody.

According to lawyers from AIDP, police sometimes deny lawyers access via an arbitrary measure of requesting a letter of agreement (*surat persetujuan*) signed by family members of detainees before allowing a meeting with the lawyers. In the three-year period of this report, there were at least three such cases.

Indonesian law requires detainees to sign a *surat kuasa* or letter of authorization giving lawyers the right to legally represent them. Lawyers from AIDP, KontraS Papua, the Institute of Research, Analysis and Development for Legal Aid (LP3BH) and other independent lawyers have reported

instances where they have had to negotiate with police, or have had to ask permission from senior police officials before being given access to clients.<sup>21</sup> Only after access is permitted, can lawyers get the required letter of authorization signed.

In at least two cases in 2012, and two more cases in 2013, lawyers were hindered from performing their professional duties while representing detainees. In the case of the arrest of two KNPB members in July 2012, police invoked Article 117 of the Indonesian Criminal Procedure Code, which allowed lawyers to visually observe but not to listen to interrogations, claiming that the case was one against national security. Similarly, in the Aimas 1 May case of May 2013, lawyers from LP3BH were told that they could view interrogations with detainees from an observation room, but were not allowed to listen in.

Without legal accompaniment, detainees are at risk of being pressured to sign Police Investigations Reports (*Berita Acara Pemeriksaan*, BAP) containing false information or extracted confessions. Piethen Manggaprouw, who was arrested on 19 October 2013, was tried without a lawyer and sentenced to two years' imprisonment for leading a demonstration in Biak. While in detention, he was pressured by Biak police to sign a falsified BAP and an official statement (*surat pernyataan*) confessing to organising a demonstration.

In many reported cases, particularly where the arrest takes place in a remote area, police simply do not inform lawyers about detainees who are in need of legal representation. Papuan human rights lawyers are typically based in Jayapura, Manokwari or Biak, making it difficult for detainees or families of detainees in remote regions to secure legal representation.

### Threats, harassment and intimidation faced by human rights lawyers

In recent years, human rights lawyers in Papua have been subjected to threats, harassment and intimidation.

In 2012, Ms Olga Hamadi was physically threatened when representing five torture victims in Wamena.

In August 2014, criminal proceedings were lodged against Mr Gustaf Kawer, a prominent Papuan human rights lawyer, in an attempt to hinder his human rights work.

In September 2014, Ms Anum Siregar was attacked by an unidentified person carrying a knife, while she was working on a pretrial hearing for a highly politicised case.

<sup>21</sup> In November 2013, lawyers from KontraS Papua were denied access to 31 students who were arrested for taking part in demonstrations. They were asked by Jayapura police to ask for permission from senior investigators before they could meet with the detainees. When finally given access to Yason Ngelia, a student leader who led the demonstrations, lawyers were only allowed five minutes and so could not properly provide legal advice to him.

## Tactics of control

Many political detainees remain vulnerable to re-arrest once they are released due to various police tactics. These tactics, involving monitoring and intimidation, are designed to extend control over ex-detainees.

If a detainee is released pending appeal (*bebas demi hukum*), they continue to face criminal charges even though they have been released from prison or police detention. As appeals are rarely processed due to a huge backlog, ex-detainees released in this manner are left in a state of legal limbo and leaves them in a vulnerable position as they may be rearrested or retried at any time.

Another tactic used by police to control ex-detainees is to require them to report to the police station regularly (*wajib lapor*). This enables police to monitor their movements, hindering them from moving to different cities.

The data showed that the majority of those who were arbitrarily arrested, especially during demonstrations, released within 24 hours. According to human rights lawyers, this 24-hour period of detention is used as a method of 'terrorising' activists. While in detention, activists are interrogated, often tortured, identified and their details recorded before being released. If the same individuals are re-arrested, police may use information from their previous arrest as a basis of extending their detention period or to press charges against them.

## Recommendations

### To the Government of Indonesia:

- Order the unconditional release of all Papuan political prisoners as part of a comprehensive policy to end the punishment of free expression and association, and expunge any associated criminal records.
- Repeal or amend the articles of the Indonesian Criminal Code that have been used to criminalize freedom of expression, particularly Articles 106 and 110.
- Expedite the deliberation on the Bill of Amendment on the Criminal Code and the Bill on the Crime of Torture to strengthen the legal framework around torture. The Bill of Amendment on the Criminal Code must include provisions requiring effective punishment of perpetrators, while the Bill on the Crime of Torture should include comprehensive protection and prevention of torture and redress for victims
- Revoke Article 6 of Government Regulation 77/2007 on Regional Symbols which prohibits the display of separatist flags or logos, or amend it in accordance to international human rights standards.
- Repeal Emergency Law 12/1951, as recommended by the UN Working Group on Arbitrary Detention after its 1999 visit to Indonesia.
- Evaluate and review operational security management in Papua, including reviewing structures within the security forces to ensure greater accountability and protection of human rights.
- Revise the Law 39/1999 on Human Rights to strengthen the mandate of the National Human Rights Commission to investigate and prosecute perpetrations of human rights violations in Papua, and integrate a special provision on the recognition and protection of Human Rights Defenders.
- Strengthen the mandate and authority of the Representative Office of the National Human Rights Commission in Papua, in particular its powers to respond and investigate in a more robust and effective manner.
- Provide access for foreign journalists, international humanitarian and human rights organisations to conduct their work, without fear of restriction, harassment or arrest and in accordance with international human rights standards.
- Allow free and unrestricted access for all UN Special Rapporteurs wishing to visit and report on Papua. In particular, the Government of Indonesia should issue an invitation to Mr David Kaye, the current UN Special Rapporteur on Freedom of Opinion and Expression, as was pledged during the Universal Periodic Review of the UN Human Rights Council in Geneva in 2012.

**To the International Community:**

- Continue engagement with the Government of Indonesia on the issues of political prisoners, freedom of expression and assembly, and encourage the Government to review and repeal laws that criminalise free speech, as well as convictions secured under those laws.
- Support efforts to promote the protection and recognition of Human Rights Defenders in Papua.
- Encourage the Government of Indonesia to support Komnas HAM and other independent human rights bodies to conduct impartial, thorough and transparent investigations into allegations of human rights violations in Papua.
- Urge the Government of Indonesia to issue an invitation to the UN Special Rapporteur on Freedom of Opinion and Expression to visit and report on Papua.
- Support diplomatic representatives, including UN Special Rapporteurs, to make regular visits to Papua and encourage the Government of Indonesia to provide free and open access to West Papua for foreign journalists and international human rights and humanitarian organisations without fear of intimidation or arrest, particularly providing access to remote areas where affected communities have little recourse to seek redress.

# **PAPUANS BEHIND BARS**



Papuans Behind Bars aims to provide accurate and transparent data, published in English and Indonesian, to facilitate direct support for prisoners and promote wider debate and campaigning in support of free expression in West Papua.

Papuans Behind Bars is a collective effort initiated by Papuan civil society groups working together as the Civil Society Coalition to Uphold Law and Human Rights in Papua. It is a grassroots initiative and represents a broad collaboration between lawyers, human rights groups, adat groups, activists, journalists and individuals in West Papua, as well as Jakarta-based NGOs and international solidarity groups.

Questions, comments and corrections are welcomed, and you can write to us at [info@papuansbehindbars.org](mailto:info@papuansbehindbars.org).