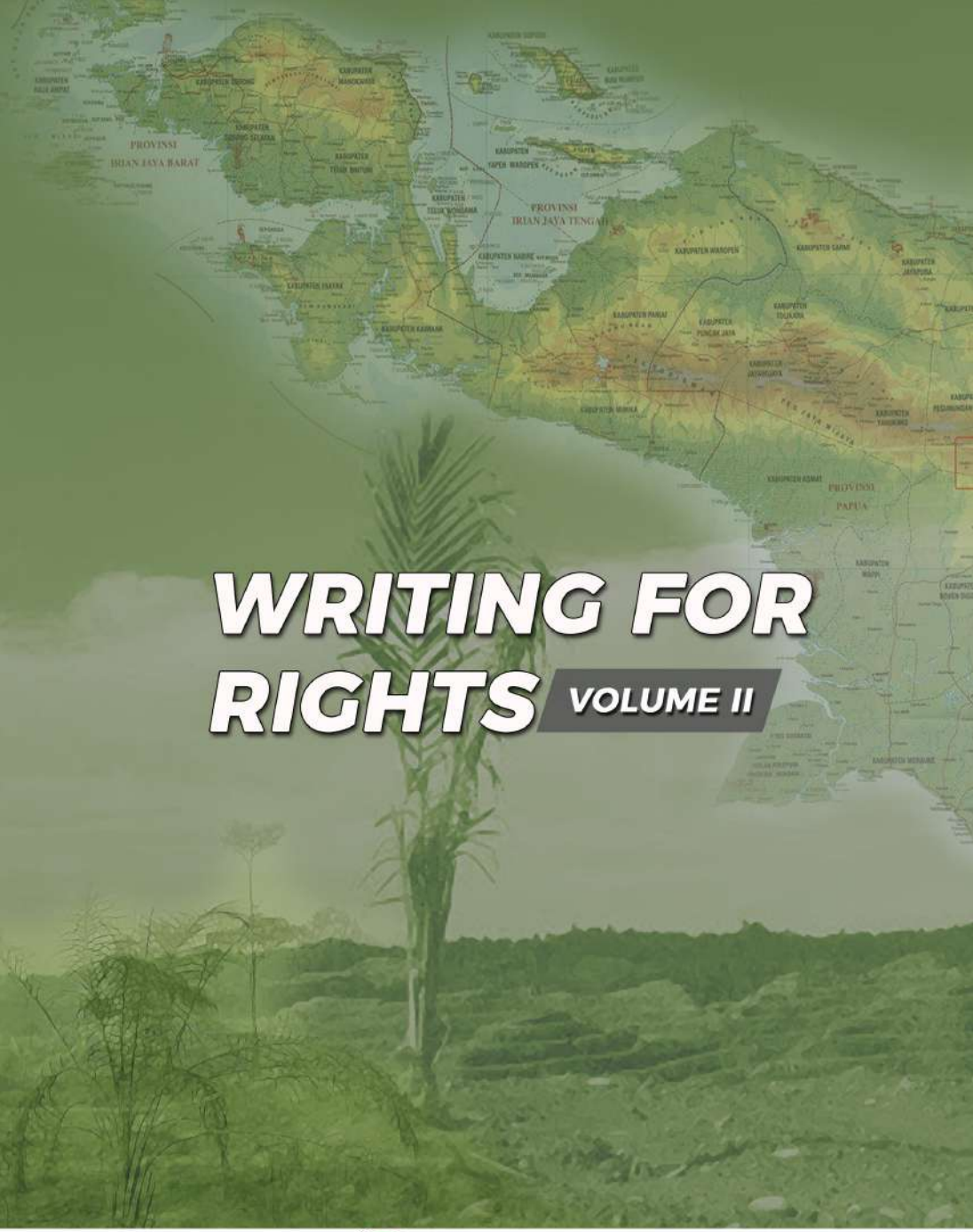
WRITING FOR RIGHTS VOLUME II



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Volume II

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Writing for Rights
Volume II

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All ELSAM publications are dedicated to the victims of human rights violations, in addition to being part of the effort to promote and protect human rights in Indonesia.

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Preface

Since 2015, ELSAM has been collaborating with Peace Brigades International (PBI) to strengthen the capacity of human rights defenders working in remote or conflict areas of Indonesia through extended trainings. The program, involving approximately fifty human rights defenders from seven provinces, focuses on their ability to safely document and research human rights abuses in their regions. This book is a compilation of research texts by five alumni who actively document, investigate, and advocate on human rights issues in Papua.

Since the 1999 *Reformasi*, Indonesia has improved and strengthened public policies, to the extent that Indonesia is now often referred to as one of the leading democracies in Asia and the world. On the other hand, amidst the state's responsibility to govern in accordance to human rights principles, we witness numerous problems in our society. People in many remote areas are still struggling to have their rights acknowledged, let alone fulfilled.

This situation suggests a vicious cycle in the current society. The lack of information regarding the situation at the grassroots has often led to poor public policies, which in effect perpetuate the problems faced by the people. In order to quell this unwanted domino effect, we seek to strengthen the capacity of human rights defenders to gather facts, organize research, and produce an accurate portrayal of the public sphere, especially for minorities and other marginalized groups. We hope, through fact-based approaches, to encourage better processes of decision-making to address larger social problems.

The five research articles published in this book are products of direct engagements with communities. For some, writing for this book is

their first opportunity to conduct a thorough research and present the social problems in their area to wider audiences. The participants were free to choose which issues they wished to investigate, in accordance with the concerns they seek to address in their daily struggle as human rights defenders.

There might never be easy solutions for our society's problems, including the ones explored in this book. Yet we believe in process. We hope this book could serve as the cornerstone for more thorough and sustainable efforts to improve the lives of people in vulnerable places such as Papua. The facts and observations presented in this book hold valuable insights, which we hope could contribute to better policies regarding human rights issues in remote and isolated areas.

This program is a collective effort involving various networks of civil groups, academic institutions, state institutions, and concerned individuals. Each contributed within their capacity, from organizing the courses, providing key speakers and facilities, to guiding and mentoring the participants in their process.

There are too many parties involved that we are not able to give all of them their proper credit. That being said, we would like to especially thank SKPKC Fransiskan Papua, YADUPA, KPKC GKI Nabire, PUSAKA, and the Anthropology Department of the University of Papua for encouraging and giving recommendations to all participants to engage in this program. We also want to extend our gratitude to the German Civil Peace Service (Ziviler Friedensdienst/ZFD) and the European Union Mechanism for Human Rights Defenders (ProtectDefenders.EU). And the biggest thanks go to all the human rights defenders who have participated in this program for the past four years. We at ELSAM and PBI will never be able to repay you for all you have given us through your stories, passion, and commitment to human rights.

Basic Course for Human Rights Defenders Program Team

Introduction

Papua is a vast land, yet its people are scattered and isolated. Such situations on one hand make Papua an ideal target for myriad investors; on the other hand suggest Papua is an underdeveloped region.

According to Population and Civil Registry Agency, in 2017 Papua Province was home to 4,247,758 people and West Papua Province 937,500 people. The combined area of Papua and West Papua is around 420,540 square kilometers. The data suggests that Papua has a very low population density, hardly more than 10 people per square kilometer. Most Papuans work in agriculture as traditional farmers, along with several communities who live as hunters and gatherers. This means that the majority of people in Papua and West Papua rely a lot on their land to sustain their social-economic life.

Consequently, the government's actions toward Papua are often paradoxical. In order to attract investment in Papua, the government has initiated several ambitious development projects, such as large plantations or giant mineral mines, that alienate the Papuans from their own land. The state's conceptualization of progress contradicts the reality of life in Papua.

Land has been a common theme of the social problems in Papua. Who owns it? Let's again look at the current situation. Most of the people in Papua are still very dependent on their land, be it for farming or for communal activities—often referred as customary land. With such conditions, the biggest threat to the people of Papua is the loss of their land rights. Land occupies a strategic place in Papuan society. Once removed, the socio-economic balance will be shaken.

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1) http://industri.bisnis.com/read/20181009/12/847192/papua-setop-izin-baru-untuk-pertambangan-dan-perkebunan

Based on EcoNusa Foundation data, Papua has up to 33.71 million hectares of forested area, consisting of 25.03 million hectares in Papua Province and 8.67 million hectares in West Papua Province.[1] In 2005-2009 Papua's forest area was approximately 42.22 million hectares. But, in 2011, it decreased to 30.07 million hectares. The average rate of deforestation in Papua is around 143,680 hectares per year and in West Papua 293,000 hectares per year.[2] Based on these facts, Greenpeace concluded that Papua lost 8.19 million hectares from 2000 to 2009 – that's an average of 910,000 hectares per year.

The question is: why is the deforestation so rampant? We can look back on the state's policy. As the policy maker, the government seems to be impatient with the slow pace of Papua's development. Thus, they opened up the region for any capital penetration. It should be noted that deforestation mostly happened due to oil palm plantations and commercial forestry. In November 2018, Kompas published a report on the blooming palm oil business in Papua. Of the 14.3 million hectares of oil palm plantations in the region, 5.61 million hectares (40%) were managed by small-scale farmers, 0.71 hectares (5%) by state companies, and 7.7 million hectares (55%) by the private sector.[3]

Indonesia now is now considered one of the leading players in global oil palm business. In 2017, Indonesia produced 42.04 million tons of crude palm oil and derivatives. A year earlier, Indonesia managed to produce 35.05 million tons which equaled to US$ 22.9 billion or Rp. 321 trillion. The rapid rise of palm oil business has been seen as a good opportunity for massive absorption of workforce, poverty reduction, and improvement of regional income. This mindset formed the foundation of numerous policies that lead to large-scale land expansion by palm oil businesses, including in Papua.

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2) http://sawitwatch.or.id/2013/05/sawit-kian-menggusur-hutan-papua/

3) Kelapa Sawit: Keberlanjutan Industri (Kompas, 5 November 2018). For further information, see Suhardi Suryadi, *Menunggu Moratorium Sawit* (Kompas, 25 Agustus 2018).

The general assumption is that local communities will benefit from the blooming palm oil business and other investments in Papua. Rampant capitalism is promoted to be the magic wand to transform Papua into a prosperous land with exciting possibilities. The result: massive infrastructure development in the region.

Progress always comes with a price. If only the policymakers set aside some time to read *Collapse*, a book by Jared Diamond, they would've seen the flaws in their thinking. Diamond focuses on the recent rise of China in the global economy. Behind the impressive numbers of its fiscal growth, China hid some terrible truth about environmental damage due to rapid industrialization. Diamond warns that "China's strengths and achievements are tainted by environmental problems which are among the most severe of the major countries, and are getting worse. The long list starts from air pollution, the decline of biodiversity, the loss of agricultural land, desertification, the disappearance of wetlands, damage to grasslands, and the increasing scale and frequency of human-caused natural disasters." [4]

We should heed Diamond's warning in our plans to develop Papua. By saying so, I'm not arguing against the effort to develop and improve the quality of life in Papua. What I want to emphasize is that we need to be more sensitive. We should not apply the development patterns of Java and Sumatra to Papua. Each region has its own way of life. Before we impose any of our plans on Papua, we need to understand the social, cultural, and environmental aspects of the region. Eco-tourism and culture-tourism, for instance, perhaps have more merit to be further developed in Papua. By understanding the region, we could develop the region through more socially-accountable ways. The violation of indigenous rights and the massive loss of indigenous lands could be avoided in the first place.

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4) Jared Diamond. Collapse. KPG, Jakarta, 2014, pp. 477-478.

The paradoxical reality in Papua makes the region an interesting subject for research and advocacy. To gain sympathy and empathy from the public outside Papua, we must present the many sides of life in Papua through more interesting angles. From the angle of human rights issues, there are so many things that we could focus on for advocacy.

If we read closely, the articles in this book dissect problems of human rights issues through the viewpoint of civil-political rights and economic, social, and cultural rights. In the academic world, these two clusters of rights are inseparable, because in reality they often intertwine. Civil-political rights are individual rights that limit the use of the authority of the state apparatus, especially its repressive apparatus. When the repressive state apparatus acts excessively or without a clear legal basis, then the rights of the civilians are under threat. One article in this book seeks to portray that reality, especially the right to freedom of expression in Papua.

Other articles illustrate problems regarding economic, social, and cultural rights. Fulfillment of such rights relies on the political will of the state apparatus. The more active the state is, the more possible it is for civilians to have their rights fulfilled. The state's will to act dictates its level of commitment to enact policies and manage resources for the benefit of its people.

This book presents interesting narratives on five subjects, from the daily laborer in Jayapura Port to the ownership of sago forests in South Sorong. In between, there is a story about investors' favorite tree—oil palm trees—on the customary lands of the Yeresiam Tribe in Nabire. Of course, the narrative about the relation of "Papuan people" to "land" is a narrative that stretches across the island of Papua. Very often changes in land tenure also influence the fate of Papuan people.

The issue of public services also stands out in Papua. Often we hear news about the poor public service there, from inadequate health services and facilities to empty schools and lack of teachers. In this book, the spotlight belongs to the issue of clean water, one issue that rarely gets any attention in Papua. The focus in question is the Central Fakfak

District, where the state water company built its network of pipe that connects water sources to settlements. Initially the local community hoped that the pipeline would make their life easier in obtaining clean water. Reality however suggests otherwise, since the water company had been prioritizing the city dwellers over the people in rural areas, which ironically is situated closer to the water sources.

The book also discusses about the tenuous relation between politics and the rights to freedom of expression. The issue begins to gain attention in Papua since the 1999 *Reformasi*. Unfortunately, progressive changes on national level do not necessarily translate into the local political constellation in Papua. It seems that the government, both local and national, still consider political expression as part of political subversion. Consequently, acts of political expression by the Papuans are almost always followed by acts of violence by the authorities. In line with that, the state also monitors any media and journalist that seek to write about the condition in Papua.

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The five narratives published in this book are products of direct engagement with the people. Indeed ELSAM seeks to forge a new step in organizing training and education programs on human rights issues. ELSAM encourages trainees to apply their knowledge in the field.

This book is also written from the perspective of insiders. All of the writers are young Papuans. It is fair to say that the narratives in this book represent the thoughts and feelings of the next generation of Papuans in making sense of the developments and the roles they play in their homeland.

This book is not limited to what is written on its pages, but also the critical situation illustrated between the lines. The book invites not to just read the words of the young Papuans, but also to delve deep into their thoughts and feelings. Throughout the book, there is a growing

sense of crisis, a feeling of the young Papuans being threatened and marginalized due to developments that can rarely be rationalized.

In reading this book, may you also experience the thoughts and feelings of these young Papuans!

Amiruddin al-Rahab

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A Portrait of Papuan Laborers in Port Numbay, Jayapura

Pilipus Robaha

Preface

For many years, Port Numbay has been the biggest contributor of tax income for the Jayapura municipality. Besides being used as terminal for passenger ships by PT Pelayaran Nasional Indonesia (PELNI), the port is also used as a distribution point for shipping containers by PT Pelabuhan Indonesia Persero (PELINDO) IV. To serve this dual function, the port located on Jalan Koti 2 no. 21 Mandala, North Jayapura requires thousands of workers. Papuans have been dominating the workforce.

Most of the Papuans working in Port Numbay are manual laborers. Their tasks are grouped into two categories, namely 'inner worker' (*buruh dalam*) and 'outer worker' (*buruh luar*), as defined by their working areas. The inner workers—also known as dock workers—are responsible for transporting containers between ships and ports. The number of inner workers in Port Numbay is estimated to be 685 people.[5] The outer workers—also known as container workers—are in charge of the cargos of incoming and outgoing containers. For this category, the number of the Papuan laborers fluctuates day by day. According to one source interviewed by the author, who claimed to be the longest-serving outer worker, the number of the outer workers ranges from 50 to 150 people daily. Most of them are indigenous Papuans. [6]

5) Author's interview with the respondent on July 16, 2016 in Port Numbay, Jayapura.

6) Author's interview with the respondent on July 16, 2016 in Port Numbay, Jayapura.

Not all laborers are registered as full-time employees of PT Pelindo, PT Pelni, and other shipping services operating in Port Numbay. This article focuses on the indigenous Papuan laborers in Port Numbay. In spite of their valuable contribution to Jayapura's economy, the Papuan laborers are vulnerable to underpayment and discriminatory acts.

This article is based on observations and interviews in Port Numbay from June to November 2016. The laborers themselves have provided valuable insights, along with several reference texts, about the subject. Due to several considerations, the actual names of those interviewed will not be mentioned throughout the article.

Work Areas and Labor Division

The inner and outer workers occupy different working spaces. The inner workers or dock workers operate in the port. They are in charge of unloading the cargo from ships to ports and loading the cargo from ports onto ships. The ships transport goods between regencies in Papua, mainly Sarmi, Mamberamo Raya and Mamberamo Atas, and several islands in Sarmi, such as Liki, Manus and Wakde.

Unlike the laborers in ports outside Papua, the dock workers in Port Numbay are not assigned to work shifts. However, they are allowed to rest in between jobs and not forced to work endlessly like slaves.

There are approximately 685 dock workers in Port Numbay. They are divided into sixteen groups though each group varies in terms of manpower, ranging from thirty to fifty people. The groups work in turns, depending on the number of ships anchored for loading or unloading. If there is only one ship, then only one group is needed, while others wait for another ship to come. If one ship requires three days of work, then the same group must finish the job until it's finished—no substitutions. The groups who are not on duty usually help the outer workers or container workers for side income.[7]

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7) Author's interview with the respondent on July 16, 2016 in Port Numbay, Jayapura.

The dock workers are not allowed to load empty containers and goods that will be shipped outside Papua aboard the cargo ships. Those are the domain of PT PELINDO employees. This has become a problem, because initially all loading and unloading were handled by the dock workers. They need the income, as they don't always have jobs, especially if there is only one ship in the port. Only one group can work, while others must wait to get a job which sometimes can take weeks. Off-duty, they don't receive any income since they are not employees of PT PELINDO and PT PELNI.

Years of working are not enough for the dock workers to be employed on a full-time basis. Unlike their foremen, the dock workers remain freelancers throughout their working life. That being said, the foremen do not necessarily have better working conditions than the dock workers. Not all of their rights as workers, as stipulated in the 2003 Labor Law, are fulfilled.

As one laborer explained to the author:[8]

> *"We who work as laborers in the port, both the dock workers and container workers, are mostly Papuans. There are around 685 dock workers and we are divided into 16 teams. Each team contains 30 to 50 workers and each team is headed by a foreman. The foremen's work is only to monitor our work. But their life is more prosperous than ours. Because they have the company's attention in terms of their normative rights. Whereas we do not.*
>
> *"We work in turns, one group per ship. So, if there was a ship with a thousand containers, and the group in charge only had 30 workers, then those 30 workers must finish the job even though it's hard. We don't work in shifts. A group works on a ship as long as they have to. It could take up to a week. It depends on the workload.*

8) Author's interview with the respondent on July 19, 2016 in Port Numbay, Jayapura.

"A group could wait for their turn up to a month, even more. We don't have a fixed income. It depends on the number of containers and the types of cargo. I've been working as a dock worker for more than twenty years, yet I'm still a freelance laborer for PT PELINDO and PT EMKL PELNI. Only two of my rights as a worker have been realized: health insurance and the right to organize.

"We dock workers own a cooperative and it's been very helpful. From the cooperative, I could access educational support for my children, while the company I've been working for all these years ves me nothing. Every member of the cooperative must provide a monthly contribution of Rp. 75,000 towards a savings fund for the dock workers."

Table 1 – List of dock workers' groups [9]

Group	Foreman	Number of Workers
1	Ronald Sampara	44
2	Alang HS	39
3	Demi Woru	48
4	Djitro Woru	46
5	H Sampara	48
6	H Macora	41
7	Abbas HM	43
8	Dolfinus Y Kekri, SH	40
9	Yoseph Woru	40

9) Author's field research data in Port Numbay, July 2016.

10	Dahlan	39
11	Telfius Fonataba	50
12	Rahmat	41
13	Roni Rahim	40
14	ABD Kardi	42
15	Azaria Maniani P	43
16	Oktovianus Azaribab	50

The outer or container workers operate in the warehouses outside the port. They number approximately 200 people. They are picked up from their homes by the shippers, then transported to work in warehouses owned by shippers and entrepreneurs. This is the usual case with PT EMKL Serakoy Raya, one of the oldest and biggest shipping services in Port Numbay. They not only provide their workers with daily transportation from home to work and vice versa, but also lunch.

Other shippers are not as generous as most of them do not cover meals and transportation. At the port, the workers and their own groups must compete with each other to secure jobs, meals, and transportation on their own. Naturally, such competition ignores the safety of the workers. One group could contain around 7 to 15 container workers. They all ride together on container trucks, along with the containers they must work on, toward the warehouses that are more than three kilometers away from the port—sometimes beyond the Jayapura city limits. The route is not always easy, often including several steep slopes.

Not all containers are transported directly to warehouses. There are some cargos that need to be unloaded first at the port, then transported by trucks to the warehouses. The unloading is carried out by the

container workers. This method of working is done by shippers that don't own container trucks. Container workers in Port Numbay described this situation to the author:[10]

> *"I have been working as a container worker in PT EMKL Kartika since 2003. PT EMKL Kartika is one of the oldest and biggest shippers in Jayapura, along with PT EMKL Serakoy Raya.*
>
> *"There were around 300 of us container workers, although the number fluctuates day by day, excluding our peers that work for PT Serakoy Raya. Our pay depends on the number of containers we manage to unload. For small cargos, the rate is Rp. 420,000 per container. For large cargos, Rp. 600,000 per container. That's Kartika's rates. Other shippers such as Serakoy Raya have different rates.*
>
> *"Each worker has different pay per day. One person could earn up to Rp. 200,000 or Rp. 250,000, but others could earn only Rp. 120,000. There is no fixed pay; it depends on how fast the containers are transported to the warehouses.*
>
> *"If we demand a raise, we will get scolded. They say there are others who still look for jobs. They could also bring their people from outside Papua to replace my friends and me. In the end, we can do nothing. We need the jobs to pay for our daily meals. And those with families need it to pay for their children's tuition fee.*
>
> *"We are paid as much as we work. There are no other benefits. Not all of our rights as workers have been realized. Their reason: we are freelancers, we are under no contract. The fact is, we have been working for them for years.*
>
> *"We survive through others. Any incident in the workplace becomes our*

10) Author's interview with the respondent on July 22, 2016 in Port Numbay, Jayapura.

responsibility. If one cargo is dented or broken, then our pay is reduced as compensation. That's another risk in our work as freelance labor."

Shipping Services in Port Numbay

There are ten shipping or sea freight services operating in Port Numbay. Not all have reliable operational vehicles. Some own container trucks for transporting goods between the port and the warehouses, and other types of trucks as alternatives. Some only own regular pick-up trucks.

Table 2 – List of shipping services in Port Numbay [11]

No	Shipping Service	Number of Freelance Laborers	Rates (per container)
1	PT PELNI	685	Rp. 420,000 and Rp. 600,000
2	PT Kartika	15-50 (fluctuating)	Rp. 415,000 and Rp. 515,000
3	PT Serakoy Raya	15-30 (fluctuating)	No information
4	PT Irian Bayu Mas	10-15 (fluctuating)	No information
5	PT Amimra	10-15 (fluctuating)	No information
6	PT Puskopad	10-15 (fluctuating)	No information
7	PT Serewin Indah Perkasa	10-15 (fluctuating)	No information

11) Data from the author's research in Port Numbay, Jayapura, July 2016.

8	PT Tepil	10-15 (fluctuating)	No information
9	PT Mitra Agung Nusantara	10-15 (fluctuating)	No information
10	PT Wira Usaha Tama	10-15 (fluctuating)	No information
11	PT Karya Buana Raya	10-15 (fluctuating)	No information
12	PT Arumbai	10-15 (fluctuating)	No information
13	PT Valuna Pura	10-15 (fluctuating)	No information
14	PT Fajar Lintar	10-15 (fluctuating)	No information
15	PT PELINDO	Full-time employees only	No information

Legal Protection

The port workers, both inner and outer workers, rely on their jobs in order to make ends meet. Ideally, they should benefit from some form of legal protection, since they have been vulnerable to underpayment and discriminatory acts.

Every citizen, without exception, has the right to work and adequate standard of living as stipulated by the Constitution of the Republic of Indonesia. The 1945 Constitution guarantees a series of human rights that must be fulfilled without any discrimination, including the right to work and decent livelihood as stated in the second paragraph of Article 27 and the first paragraph of Article 28E. The state is obliged to fulfill and protect its citizens' efforts to attain decent livelihoods. The principle of non-discrimination contained in the Constitution is the basis for its

implementation. In the Article 1 Number 3 in the 1999 Human Rights Law, it is stated that:

> *Discrimination means all limitations, affronts or ostracism, both direct and indirect, on grounds of differences in religion, ethnicity, race, group, faction, social status, economic status, sex, language, or political belief, that results in the degradation, aberration, or eradication of recognition, execution, or application of human rights and basic freedoms in political, economic, legal, social, cultural, or any other aspects of life.*[12]

In the world of labor in Indonesia, there is a term TK-LHK (*Tenaga Kerja Luar Hubungan Kerja*)[13] for informal laborers. Specifically, the term applies to laborers who provide services or produce goods but operate outside the formal sector or employer-employee relationships. The 2003 Labor Law has no regulation for the informal laborers, even though the 1992 Social Security Law has mandated the state to provide protective measures for such workers. In fact, at the time of the writing, there is no regulation at the national level that covers the rights of the informal laborers.[14]

The dock workers are considered as TK-LHK. As a profession, the dock worker is considered to be in a form of a legal relationship or work agreement related to a series of tasks that are not an employment relationship, thus it is not regulated by the Labor Law.[15] The only regulation with any mention of the dock workers (or its legal term TKBM, "*tenaga kerja bongkar muat*" or "workers for loading and unloading") is the Decree of Ministry of Transportation Number 14 of 2012 on the Implementation and Operation of Loading and Unloading of Goods from and to Ships. The decree, serving as the operational reference for the Government Regulation Number 61 of 2009 on Ports, acknowledges

12) Law Number 39 of 1999 on Human Rights.

13) Roughly translated as "workers outside an employment relationship".

14) Op. Cit., 1999 Human Rights Law.

15) Ibid.

that dock workers or TKBM are the designated workforce responsible for loading and unloading in ports.

The only legal institution that has been providing some sort of legal standing for the dock workers is their cooperative. Its establishment is a result of a joint decree signed by the Director General of Sea Transportation, the Director General of Labor Relations Development and Supervision of Labor Norms, and the Director General of the Development of Cooperative Institutions on 1989.[16] The decree itself is an implementation of Presidential Instruction Number 4 of 1985 on the Policy of Goods Distribution to Support Economic Activities.[17]

Closing Notes

This research admittedly fails to present sufficient evidence regarding the discrimination of Papuan laborers in Port Numbay. Details on violations of the workers' rights however are abundant, ranging from the lack of training or workshops, health insurance, holiday allowances to career progress. Many respondents also confessed that the salary on offer was still too low, and the shipping companies (except PT EMKL Serakoy Raya) failed or were unwilling to support the workers in terms of meals, transport money, and work safety.

Referring to the information gathered from the respondents in Port Numbay, there was discrimination against the Papuan laborers. Though, in the context of work, they don't receive different treatment compared to their fellow workers from outside Papua.

Therefore, through this short article, the author recommends that the workers continue to be empowered to organize. It is vital to form a

16) The full name of the decree is: *Keputusan Bersama Direktur Jenderal Perhubungan Laut, Direktur Jenderal Bina Hubungan Ketenagakerjaan dan Pengawasan Norma Kerja, dan Direktur Jenderal Bina Lembaga Koperasi Nomor: UM 52/1/9-89, KEP.103/BW/89, 17/SKD/BLK/VI/1989 tentang Pembentukan dan Pembinaan Koperasi Tenaga Kerja Bongkar Muat*. The decree is often referred to by its short title, "*SKB-1989*".

17) Op. Cit., 1999 Human Rights Law.

trade union organization, especially for the outer or container workers. Strengthening the cooperative is equally vital. The cooperative gives a chance for the dock workers to be more independent financially. The companies and the regional government should also take notice of the workers' conditions and be responsive to their needs.

Finally, the government should improve efforts to provide legal protection for the Papuan laborers and guarantee their rights are fulfilled. Despite their years of service and their contribution to the local economy, the lives of the Papuan laborers in Port Numbay, Jayapura, are still far from prosperous.

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The Fight for Freedom of Expression in the Struggle for Papua's Independence [18]

Yohanis Mambrasar, S.H.

Preface

For years, Papua has been associated with a host of social-political conflicts in Indonesia. The most talked about are the conflicts between the people of Papua with the TNI (Tentara Nasional Indonesia/ Indonesian National Armed Forces) and POLRI *(Kepolisian Negara Republik Indonesia/Indonesian National Police)*. Horizontal conflicts have also been brewing between the people of Papua, which has often led to acts of violence and human rights violations.

Over time, there have been no solutions to the problems in Papua; if anything, the problems have gotten worse. At first, the disputes between the military and pro-independence movements mostly took place in villages or rainforests, which had been serving as hiding grounds for OPM (Organisasi Papua Merdeka/Free Papua Movement) groups. Now, it is getting more and more common to see the conflict in the urban spaces of Papua.

This article is a product of research on the state's repression of Papuans' aspiration for independence, which had been publicly known through a series of demonstration. The research specifically focuses on the repressive acts of the police and the military in various cities in Papua in 2016 through the perspective of legal justice and human rights.

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18) This article was originally published in www.elsam.or.id in December 2017.

The situation in Papua demands thorough scrutiny. At the very least, we need to understand the motives and key players behind the repression, the forms of repression, the number of victims, law enforcement against perpetrators, and legal protection of Papuans' civil rights and freedom of expression. Such findings would be vital for the public knowledge, both national and international, of what actually has been going on in Papua. On the other hand, detailed studies of the Papua situation would be vital to support the myriad of public movements that demand an end to state repression against Papuans.[19] This research is meant to be a preliminary step, especially for parties interested in human rights issues in Papua, toward more detailed and comprehensive research in the future.

Rise and Fall of Civil Movements in Papua

The momentum began with the 1998 *Reformasi* (Reform) era. The fall of the Suharto's authoritarian regime weakened the military's hold on public life and paved the way for a more democratic form of governance. Direct public participation had become the requirement for all matters concerning public life and welfare. New opportunities arose, so did possibilities for grassroot political struggles. *Reformasi* rejuvenated the discourse of Papua's independence and inspired the rise of civil movements in various cities in Papua.[20] They consolidated their collective strength and publicly declared their aspiration for independence.

Some old challenges remained. The military still retained their presence in Papua, along with the blood-stained path it had left in its wake, though they changed their tactics after *Reformasi*. During the '70s until the '90s, the military often raided villages in coastal areas, such as Manokwari, Sorong, Jayapura, and Biak. After 1998, their target shifted to villages in mountain areas, such as Wamena, Jayawijaya, Lani Jaya, Enduga, Intan Jaya, and the surrounding areas of Paniyai. The violence is still going on until now.

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19) The demand has come from various parties, from human rights activists, law practitioners, NGOs, to churches.

20) https://fnmpp.wordpress.com/about/

The rise of civil movements in Papua in early 2000s was marked by guerrilla armed resistance in the rainforests with similar political aspirations to what OPM had been doing for decades since the beginning of their fight. For many Papuans, armed resistance was a new method in their struggle for independence, but it managed to mobilize broader involvement from the people.[21]

Despite the political changes on national scale, the state's response—especially the military and the police—to Papuan civil movements remained the same. Authoritarian methods, such as frontal deployment of police, were still used. This has involved methods of violence such as riot control, forced detainment, kidnapping, torture, even murder.

Many leading figures of the Papuan civil movements were arrested, even though they only carried out peaceful protests. Some of those were Filep Karma, Yusak Pakage, Benny Wenda, Selfius Bobi, Buktar Tabuni, Victor Yeimo, Edison Waromi, Forkorus Yaboisembut, and several others. Some were murdered, including Theys Eluay, Kelly Kwalik, Mako Tabuni, Hubertus Mabel, Danny Kogoya, Yawan Wayeni, and many more Papuan activists and civilians.

In Indonesia, the freedom of expression is guaranteed by the 1945 Constitution as well as other legal instruments, such as the 1999 Human Rights Law, the 2005 Ratification of the International Covenant on Civil and Political Rights Law, and the 1998 Public Opinion Law. Papuans are not exempt from these laws and their rights should be protected by the state in any condition. In practice, they have been repressed and their rights suppressed.

We could look back at several events which violated justice and human rights, and in turn inspired the birth of a myriad of civil movements in Papua. Many remain unclear in terms of legal resolution until now. Some of those events are as follows:[22]

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21) Muridan S Widjoyo, Di Antara Kebutuhan Demokrasi dan Kemenangan Politik Kekerasan (Konflik Papua Pasca Orde Baru), Lembaga Ilmu Pengetahuan Indonesia (accessed on February 2017)

22) See (a) I Ngurah Suryawan, Dari Memoria Passionis ke Foreri: Sejarah Politik Papua 1999 -2000; (b) I Ngurah Suryawan, Jiwa yang Patah: Ingatan Kekerasan dan Penderitaan di Tanah Papua, 29 Desember 2011; (c) http://etnohistori.org/jiwa-yang-patah-ingatan-kekerasan-dan-penderitaan-di-tanah-papua-i-ngurah-suryawan.html; Hak Asasi Manusia di Papua 2015, the fourth report by the International Coalition for Papua.

> The Abepura Tragedy, 7 December 2000

The Abepura Tragedy is a case of human rights violations in Papua not long after the formation of the human rights court institution through the 2000 Human Rights Court Law. The tragedy originated from an attack on the Abepura police headquarters by an unknown group on the afternoon of 7 December 2000. The group numbered around 15 people, and they attacked the police headquarters using axes and machetes. During the same incident, a shop and a clothing store nearby were also burned down. A policeman and a security officer were killed, while several others were injured.[23]

As a response, the Abepura police chief Daud Sihombing along with hundreds of the police force and the mobile brigade conducted sweepings, arrests, and persecutions indiscriminately. The first target was student dormitories, namely Ninmin and Yapen Waropen, where the police arrested 27 students. Most of the students were tortured by being kicked and battered by rifle butts. Some were spat on and mocked. One was shot in the head.

Before the arrests, the police opened fire at the dormitories and destroyed many doors, windows, and lights in the process. The arrested students were then brought to the Jayapura police headquarter and detained without any legal assistance. The sweepings resumed to residential areas on Abepura coasts, which mostly houses the Ilaga tribes. A number of citizens were injured due to police actions.

Until now, legal resolution of the Abepura case remains unclear. Due to pressure from domestic and international parties, the state did organize several trials but eventually failed to punish the perpetrators. The Abepura police chief Daud Sihombing and his second-in-command, along with the Former Commander of Papua Mobile Brigade Unit Johny Wainal Usman, were acquitted by the Ad Hoc Human Rights Court in Makassar in 2006. Former Regional Police Chief Moersoetidarno Moehardi until now has not been touched by the legal process.

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23) http://lama.elsam.or.id/article.php?id=1341&lang=in#.WbeR2c1LewU

> The UNCEN Tragedy, 16 March 2006

The UNCEN tragedy involved a dispute between groups of student activists, along with several groups of youth, and the Jayapura police force in front of Cenderawasih University (UNCEN). Initially, the students and youth were conducting peaceful rallies for four consecutive days under the United Front of West Papua People's Struggle (Front PEPERA), demanding the Freeport mine to be shut down immediately and the military withdrawn from Papua.

Chaos ensued when hundreds of fully armed police arrived on the scene to force the masses to disperse. The students and youth, numbering around 300 people, did not budge. Instead, they blocked the entire Abepura-Sentani road just in front of the university. At around 12:00 local time, the police began to attack the crowd with tear gas and beatings. The masses retaliated by throwing stones at the police. Two police officers, Daud Soleman and Syamsudin, died on the scene. Arisona Horota died after being taken to the hospital.

As a response to the casualties they suffered, the police conducted sweepings on all student dormitories in Jayapura. Thousands were forced to leave their dorms and seek refuge elsewhere. Hundreds were tortured. The police continued the sweepings until late afternoon, when police fired several shots into the air. Three residents, two of them children, were injured. In total, 73 people were arrested during the sweepings.

> The Detainment of 300 Participants of the Papuan People Congress, 19 October 2011

The Third Papuan People's Congress (Kongres Rakyat Papua III) was monumental. It managed to consolidate pro-independence movements in Papua, from civil movements to military factions. The event took place in Lapangan Sakeus, Jayapura, on 17-19 October 2011.[24]

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24) https://www.tempo.co/read/fokus/2011/10/20/2127/tragedi-di-papua-2-orang-dikabarkan-tewas

On the last day of the Congress, just before the closing, the police and the military entered the venue and opened fire at the participants. Mass panic ensued. Participants fled, trampling each other. Many were kicked or battered by rifle butts. Six people died due to wounds from sharp objects. Several cars were destroyed in the process.

In total, 295 Congress participants were taken into police custody for a night in the Papua regional police headquarters. Five of them, including Forkorus Yaboisembut and Edison Waromi that were elected as president and vice-president during the Congress, were deemed guilty and sentenced up to three years in prison. The police who perpetrated the violence were never legally processed.

> Mass Detainment of Pro-Independence Demonstrators, May 2016

The police force arrested more than 1,800 people who participated in pro-independence demonstrations that were simultaneously organized in various cities in Papua and outside Papua. The demonstrations were led by the West Papua National Committee (KNPB/Komite Nasional Papua Barat) and the Regional People's Parliament (PRD/ Parlemen Rakyat Daerah). The aim was to support the United Liberation Movement for West Papua (ULMWP) acceptance as a member of Melanesian Spearhead Group (MSG).

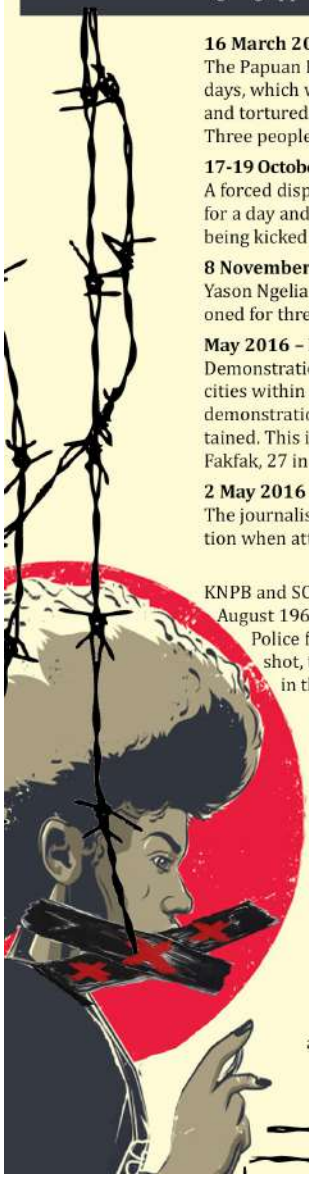
According to the Jakarta Legal Aid Institute (LBH/Lembaga Bantuan Hukum), the arrests took place from April to May 2016. The most arrests occurred on 2 May 2016, which included 1,449 people in Jayapura, 118 in Merauke, 45 in Semarang, 42 in Makassar, 40 in Fakfak, 27 in Sorong, and 14 in Wamena. During the arrests, the police employed usual acts of violence, such as threats and physical intimidation, along with restrictions on journalists covering the events.

The following infographic summarizes repression against public expressions of support for Papuan independence:[25]

25) Data gathered from the author's research. Infographic designed by ELSAM.

Repression of Freedom of Expression in Papua

The '98 Reformasi opened democratic space for the Papuan people to consolidate their political struggle, openly and directly advocating for independence. The government's response to Papuan civil society movements in the 2000's has not changed, even if the authoritarian government was replaced with a democratic one after the fall of Soeharto. This was underlined with the Bloody Abepura tragedy in 2000, and since then the ongoing oppression of civil society movements.



16 March 2006 – Bloody UNCEN

The Papuan People's Struggle Front (FPPP) held a peaceful demonstration for four days, which was forcefully dispersed. Hundreds of students were detained, ill-treated and tortured. Thousands of students fled the dormitories in fear and went into hiding. Three people were injured, two of them children.

17-19 October 2011 – Arrests of Delegates to the Third Papuan People's Congress

A forced dispersal by the security forces resulted in 300 people detained; 295 of them for a day and five sentenced to 1-3 years of prison. Hundreds were wounded from being kicked and hit with rifle butts, 11 died.

8 November 2013 – Detention of GempaR activist

Yason Ngelia was detained for a protest rejecting Special Autonomy. He was imprisoned for three months, during which he was subject to violence.

May 2016 – Mass Arrests of Papuan Pro-Independence Demonstrators

Demonstrations were organized by KNPB and the Papuan Students Alliance (AMP) in cities within and outside of Papua to support ULMWP membership in the MSG. The demonstrations were forcibly broken up by security forces, with 1,724 activists detained. This included 1,449 detained in Jayapura, 118 in Merauke, 14 in Wamena, 29 in Fakfak, 27 in Sorong, 45 in Semarang and 42 in Makassar.

2 May 2016 – Repression of Journalist

The journalist Ardiles Bayage of suarapapua.com was detained and faced legal prosecution when attempting to cover news events.

15 May 2016 – Arrests of Papuan Independence Activists

KNPB and SONAMAPA organized a long march rejecting the New York Agreement of 15 August 1962. It was forcibly dispersed by joint forces of police and military.

Police fired into the crowd and chased a number of activists. Four protestors were shot, three were beaten, 22 detained (including three children) and released later in the afternoon.

1 July 2016 – Discriminative Policies

Papuan Police Statement on the Freedom of Expression in Public Spaces forbids independence groups, such as KNPB, Regional People's Parliament (PRD), NFPB, PNWP, TNP, OPM and United Liberation Movement for West Papua, from expressing their opinions through public actions.

November 2016 – Silencing Freedom of the Press

Blocking media critical of human rights issues – in this case, the Ministry of Communication and Information blocking the online media suarapapua.com.

19 December 2016 – Arrest of Human Rights Defenders during the Trikora Day Remembrance

The action was forcibly dispersed, with 10 people detained, some sub ject to violence. A human rights defender from ELSHAM monitoring the action was wounded, his camera was seized and photographs were deleted by security forces.

Methods of Repression

The more intense the pro-independence efforts, the more repressive the police and the military has become. That was basically the general situation in Papua throughout 2016. The repression not only impacted activists and civil movements, but also the Papuan people in general. State violence most often occurred during pro-independence demonstrations, which were organized by KNPB and student movements in Cenderawasih University (Jayapura), Science and Technology University (Jayapura), and Papua State University (Manokwari), along with several other youth organizations.

The strengthening of the pro-independence movements was caused by two things. First, the political factions supporting Papua's independence formalized their solidarity under an umbrella organization, the United Liberation Movement for West Papua (ULMWP), which was established in 2014 in Port Vila, Vanuatu. Secondly, the Melanesian Spearhead Group (MSG) provided support and welcomed ULMWP as a member. These encouraged acts of public resistance in many cities in Papua. Many shared the same desire for Papuans to take control of their own destiny and to be accepted among the nations in the Pacific region.[26]

As a response, the Indonesian government employed various methods of repression to put pressure on the pro-independence movements all across Papua. The government's stance legitimized the military and the police to commit various acts of violence, often in the public spaces where demonstrations took place. On the international front, as a countermeasure against the support from the Pacific nations, Indonesia forged bilateral relations with and provided support to Fiji and Papua New Guinea. The aim is to get the agenda of Papua's independence off the discussion table at MSG forums.

State violence against Papuans is not limited to within Papua. There were several cases in other cities outside Papua, such as Jakarta, Yogyakarta, Semarang, Makassar, and Manado. We can see this from

26) http://www.tapol.org/sites/default/files/sites/default/files/pdfs/2015 Aksi Protes makin meninggi.ID_.screen.pdf

the events of 2 May 2016, the largest mass arrest of Papuan activists in the history of Papua's resistance movement. In total, 1,724 people were arrested—1,449 in Jayapura, 118 in Merauke, 14 in Wamena, 29 in Fakfak, 27 in Sorong, 45 in Semarang, and 42 in Makassar.

The activists arrested in Jayapura were detained in the city's Mobile Brigade Command Headquarters. Seven were led to a special room then tortured by members of the mobile brigade. Warpo Watipu, the first chief of KNPB Pusat, was among those seven people. In his testimony, he said that the police beat him senselessly, especially on his chest and his back, and repeatedly hit him on the head with rifle butts. "The seven of us were treated inhumanely. They treated us like animals," said Watipu.

Another notable case is the arrest of activists during peaceful rallies organized by KNPB and SONAMAPA (Solidaritas Nasional Mahasiswa Papua/National Papuan Student Solidarity) on 15 August 2016 at SPG Perumnas 1 Waena and Dok Sembilan, Jayapura.[27] The rally's aim was to reject the New York Agreement that was signed on 15 August 1962. The KNPB marched from Perumnas 3 Waena heading to the Papua Provincial Parliament building, but were stopped at Perumnas 1 Waena by security forces. The demonstrators were subjected to brutal acts of violence. The police chased after them and opened fire. Four people were shot, while three others were physically intimidated. 22 people were arrested—three of them were still children. They were put into custody and released in the afternoon. In Dok Sembilan, the police arrested 25 demonstrators.

Acts of repression have not been limited to public events, but also proceedings in private spaces such as internal meetings of pro-independence organizations and worship services with political agendas. One notable case is the intimidation of the worship service organized by KNPB Manokwari in Kompkes Amban on 1 May 2016.[28] The police confiscated all KNPB flags and banners on the premises.

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27) http://www.kabarmapegaa.com/2016/08/ini-laporan-resmi-aksi-knpb-15-agsutus.html

28) Author's personal documentation.

Another case is the arrest of Steven Itlay, the chief of KNPB Timika, along with 14 other KNPB activists in Timika in 2015. Before their arrest, they were praying for ULMWP to be the member of MSG. Steven was sentenced to one year in prison.

The sorry state of the freedom of expression in Papua is widespread all across the social spectrum. The repression is not limited to the people's political expressions, but the civil liberties of Papuans in general, for there exist cases of violence against people, both adult and children, who are not related to or involved in any political activity.

For example, the intimidation of four citizens in Tempat Garam Sorong, namely Marinus Msen (30), Daniel Wanma (22), Ismael Msen (21), and Buan (34), on 1 January 2016. The perpetrators were members of the Sorong mobile brigade. Six members of the mobile brigade—who happened to pass by the area—got off their ride and began beating Manrinus Msen, Daniel Wanma, and Buan without any provocation. The three of them were pushing a taxi car on the side of the road. Later on, the mobile brigade members got to Ismael Msen near his house. Manrinus Msen suffered brain damage while his friends got bruises on their faces. This case was reported to the police, but the police did not follow up on the victim's report.

There was also the shooting of four middle school children in Abepura Pante on 3 January 2016. The four victims—Marten Pase, Yanes Giban, Epinus Giban, and Zeth Giban—were riding on their motorcycles, when a soldier suddenly appeared and nudged one of them. A fight broke out. The soldier called his friends, then began beating the students and shot one of them in the thigh.

Freedom of the Press

There is no freedom for the press in Papua. Foreign journalists who seek to enter Papua must go through a strict vetting process organized by twelve ministries, including the Ministry of Defense. This policy had been communicated to the public in several instances; one of them was by the Director of Information and Media of the Ministry of Foreign Affairs in a discussion in the Press Legal Aid Foundation. The restriction

was put in place to control the flow of public information regarding Papua.[29]

Viktor Mambor, a senior journalist in Papua, said that the foreign journalists are closely monitored by the authorities and prone to intimidation, even though they have the required accreditation. "Johnny Blades and Koroi Hawkins, journalists from Radio New Zealand, had acquired permission to enter Papua. Johnny admitted waiting for two years to get a visa, because the Indonesian embassy in New Zealand always rejected his requests. While doing their work in Papua, both were safe. But when they tried to interview the police or the military, both were rejected. They needed additional permission from the central headquarters. They were also closely monitored by the authorities," said Victor.[30]

The security forces restrict journalists covering demonstration, and they are not shy of using violence to ensure their policy. Ardiles Bayage, journalist of suarapapua.com, became the victim of the authorities on 2 May 2016—the police confiscated and erased all of his recordings. The government can go as far as closing down media critical of the human rights situation in Papua. On early November 2016, the Ministry of Information closed public access to suarapapua.com.

The Jakarta Legal Aid Institute reported that there were approximately 122 arrests of pro-independence activists in Jayapura and Jakarta from 13 August to 16 September 2016. The Jakarta Legal Aid Institute concluded that the arrests, along with various acts of violence, are clear indications of the government's indifference toward human rights in Papua.

The repression of the freedom of expression in Papua is not merely a legal violation, but also a betrayal of the public's civil rights.

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29) Asep Komarudin, *Tentang Kebebasan Pers di Papua*, 3 March 2017, in http://www.imparsial.org/publikasi/opini/tentang-kebebasan-pers-di-papua/

30) Tabloid Jubi, *Menlu klaim akses jurnalis asing ke Papua meningkat*, Mambor: http://tabloidjubi.com/artikel-6006-menlu-klaim-akses-jurnalis-asing-ke-papua-meningkat-mambor-%E2%80%9Csebut-namanya-lihat-liputannya%E2%80%9D.html (accessed on 24 July 2017, 15:50)

The state-condoned violence in Papua, especially those committed by the police and the military, deviates from the nation's values as stipulated in the 1945 Constitution.

The troubling state of the freedom of expression in Papua is due to deliberate and systemic actions of the authorities. On 1 July 2016, the Papuan regional police released a statement on the freedom of expression in public spaces. Its content explicitly forbids any pro-independence organization to express their aspirations in public spaces. They even named specific organizations: KNPB, PRD, OPM, ULMWP, Federal State of West Papua (NFPB/Negara Federal Papua Barat), West Papua National Parliament (PNWP/Parlemen Nasional West Papua), and National Papuan Army (TNP/Tentara Nasional Papua).

The authorities are guilty of violating two laws that regulate public activities: the 1998 Freedom of Expression Law and the 2012 Police Regulation on Procedures for Implementing Services and Security Measures for Acts of Public Expressions. If we contextualize the aspiration for Papua's independence within the national legal system, then expressing such aspirations should be considered valid within the applicable laws. Thus, the authorities should not restrict any act of public expression related to Papua's independence, especially if such acts have acquired the necessary legal permissions. Peaceful rallies that have been notified to the police should be allowed to take place as intended.[31]

Sanctions against the Perpetrators of Violence

To date, there have not been any legal sanctions against members of the military and the police force involved in acts of violence. It is as if the state had been sanctioning the violent methods used to disperse demonstrations and the arrests of pro-independence activists. Such impunity only worsens the violence in Papua. [32]

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31) Asfinawati, *Kebebasan Berekspresi di Papua*, 11 March 2017 at www.imparsial.org

32) Beni Sukadis, Evaluasi Sektor Keamanan dan Perdamaian di Papua, 10 February 2017 at www.imparsial.org

To date, the perpetrators of violence had been exempted from any legal proceedings, even though they have operated outside the legal means. The police and the military did not consider their actions as breaching the laws. Instead, they protect and defend the perpetrators.

Every citizen must follow the law. The police and the military have their own code of conduct, and within those codes there are sanctions against violation of conducts. But, in the cases of Papua-related violence, no sanctions had been given even though the victims or their families have reported the incidents to the authorities, such as the national police's internal affairs division or the military police.[33]

Brigadier Suherman (32) and Brigadier Jarisman Triyono Damanik (27), for example, have never been brought to trial. They are guilty of torturing three residents of Pasir Dua Base G, Jayapura—Yafe Awon (19), Elieser Awon (26), and Seleman Yon (24)—on 27 August 2015. The victims' families reported it to the police. At the time, the Papua regional police chief promised that the two brigadiers would be fired from the force if they were found guilty by the court. Indeed, the court deemed the two brigadiers guilty but the promised sanctions were never enacted.

As long as the police and the military still enjoy impunity, the law enforcement in Papua will always be weak. So, even though the authorities violate the laws and their own code of conduct, the cycle of violence in Papua will never stop.

Victims of Security Forces' Repression

Authorities' repression against Papuans' freedom to express aspirations for independence makes the Papuans victims at multiple levels. Papuans are subjected to physical and psychological abuse, frequently during forced dispersals of demonstrations, but also to the general public. The abuse takes the form of persecution, shootings, arrests, threats, and terror. As a result, the community becomes distrustful and resentful of the police and the military.

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33) Ibid.

Authorities' repression also violates the social and political rights of the victims. The rights include the right to freedom of expression, the right to freely associate and assemble, the right to political beliefs, the right to remain free from torture, the right to be treated fairly, and other human rights.

The state's treatment of victims is very unfair, and the state fails to fulfill victims' rights. Police use excessive force during dispersals of major demonstrations and injure demonstrators. In such cases, the government does not provide medical services to the victims. Rescue efforts must be carried out by the victims themselves or their families. Worse, if the victims are imprisoned, they will not get health services from the government. In fact, the authorities deliberately limit medical services.

This situation can be seen in the arrests of Edi Yalak (22) and Jek Mote (22). Both were victims of police abuse at a demonstration against Tri Kora Day on 19 December 2016 in Jayapura. Edi Yalak suffered a large head wound and a broken arm while Jek Mote suffered a large wound in the head due to police abuse during the forced dispersal of the demonstration.

After being tortured, the police did not bring the two victims to the hospital to be treated. The police arrested the two victims along with 37 other activists who were also detained in prison for a full day with broken bones and other injuries. The police let the two victims suffer from the pain of their untreated injuries.

Pro-independence activists get arrested without proper procedures and without evidence of the violations they allegedly commit. In most arrests, the police do not give arrest warrants, arrest notifications to the families after the victims are arrested, notifications of prolonged detention, information as to whether the victims are detained at the military or mobile brigade headquarters, and even incomplete case files are forced to be put on trial. The police cooperate with prosecutors and judges to manipulate a case and then put victims on trial. There have been several trials without sufficient evidence, for example, the

arrests of Steven Itlay on 16 April 2016 and Alex Nekenem on 20 May 2015.

In Steven's case, he was a victim of a repressive authority born from poor law enforcement and police unprofessionalism. Steven and dozens of his friends were arrested when they were leading a thanksgiving service in the city of Timika to support ULWMP (United Liberation Movement for West Papua) as a member of MSG (Melanesian Spearhead Group). The police arrested him and detained him at the Timika Mobile Brigade Command Center for more than 120 days. Even without sufficient evidence, Steven was still tried at the Timika District Court.[34]

Legal Framework for Security Forces' Repression

Freedom to express ideas and opinions is a right that every citizen has. Every citizen has the right to express their feelings or opinions about what they believe in, feel, or want which they can express in written and oral forms so it can be known, heard, and seen by others or the government. The Constitution gives citizens the right to be able to express their opinions both individually and collectively in places that can be visited or seen by everyone.

The right to freedom of expression according to Indonesian national law is a citizen's constitutional right. This right is regulated in the 1945 Constitution stated in Article 28, the second and third paragraph of Article 28E and Article 28F:[35]

> Article 28: *"The freedom to associate and to assemble, to express written and oral opinions, etc., shall be regulated by law."*

34) http://suarapapua.com/2016/11/02/steven-itlay-dituduh-dengan-barang-bukti-dan-keterangan-saksi-yang-jauh-dari-substansi-masalah/

35) The 1945 Constitution of the Republic of Indonesia

Article 28E:

(2) *"Every person shall have the right to the freedom to believe his/her faith, and to express his/her views and thoughts, in accordance with his/her conscience."*

(3) *"Every person shall have the right to the freedom to associate, to assemble and to express opinions."*

Article 28F: "*Every person shall have the right to communicate and to obtain information for the purpose of the development of his/her self and social environment, and shall have the right to seek, obtain, possess, store, process and convey information by employing all available types of channels."*

Furthermore, as an implementation of the 1945 Constitution above, the government issued Law No. 9 of 1998 on Freedom of Expression in Public as a technical implementation that can function to exercise the freedom of expression for every citizen. In this law, the government details the procedures for the use and implementation of the right to express opinion in public freely, and requires the state to regulate and protect the process of the implementation.[36]

Article 1 states: "*Freedom of expression is the right of every citizen to express their thoughts either orally, in writing, etc., freely and responsibly in accordance with the provisions of applicable laws and regulations*.

This right is also protected by Law No. 39 of 1999 on Human Rights in Article 23, 25 and 44 which gives every person the right to express

36) Law Number 9 of 1998 on Freedom of Expression in Public

opinions in written and oral forms, individually or collectively, as a part of human rights which is equivalent to a number of other human rights.[37]

The right to express opinions in public is also protected by various international human rights instruments, namely the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights. The Covenant has been ratified by the Indonesian government through Act No. 12 Year 2005 Law on Ratification of International Covenant on Civil and Political Rights. Both of these international laws require every State party to the covenant to be obliged to protect its citizens' rights to express opinion.

Article 19 of the Universal Declaration of Human Rights states that "*Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers*."[38]

Article 19 of the Covenant states that everyone shall have the right to hold opinions without interference, the right to freedom of expression which includes freedom to seek, receive and impart information and ideas of all kinds, regard less of frontiers, either orally, in writing or in print, in the form of art, or through any other media of their choice.[39]

These various national legal instruments and international instruments constitutionally guarantee and protect every Indonesian citizen from Sabang to Merauke to express their opinions freely in public without being restricted by anyone, including by the government, the police, or the military. The rights regulated by various national and international instruments also apply to all Papuans in expressing their aspirations for independence because they are legally Indonesian citizens.

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37) Law Number 39 of 1999 on Human Rights

38) The Universal Declaration of Human Rights

39) International Covenant on Civil and Political Rights

The vigorous aspirations for Papuan independence delivered by pro-independence groups and their supporters are human rights protected by various laws mentioned above. Voicing this political aspiration is a human right that can be delivered individually or collectively in public freely, without being restricted by anyone.

Therefore, voicing aspirations for independence by Papuans has been in accordance with the law as stipulated in the 1945 Constitution, Law on Freedom of Expression in Public, and Law on Human Rights. The state should fulfill these rights by ensuring that the right to express opinion in public—in this case, the delivery of the aspirations for Papuan independence—can be carried out smoothly. The state must protect these rights by providing oversight when people express opinions in public so that there are no restrictions or actions of certain groups or persons that can hinder the expression of opinions in public.

On the contrary, acts of repression and restrictions the delivery of aspirations for Papuan independence and the arrests of pro-independence activists carried out by the police and military at peaceful demonstrations in Papua are not based on the law. These acts of repression contradict the government's commitments to advancing human rights as stipulated in the 1945 Constitution, Law on Freedom of Expression in Public, and Law on Human Rights, and the government's commitment to the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights which binds them.

Authorities' repression is also a violation of Papuans' rights to freedom of expression and to express opinions in public, the right to associate, the right to political beliefs that are required by national law and international human rights law to be protected by the state.

Repressive acts like arrests, killings, torture, persecutions, and shootings as well as terror and intimidation of pro-independence groups and their supporters violate human rights protected by 1945 Constitution, Law on Freedom of Expression in Public, Law on Human Rights, the Universal Declaration of Human Rights, and the International Covenant on Civil and Political Rights, which regulate the protection of the

right to express opinion in public. These acts also constitute violations of the Convention against Torture and Convention on the Rights of the Child which prohibit torture and violations of children's rights.

Authorities' arguments that aspirations of independence are treasonous actions and are a violation of Indonesian law are groundless. This reasoning is contrary to Article 28, 28E and 28F in the 1945 Constitution, and also contradicts Law on Freedom of Expression in Public and Law on Human Rights. Therefore, security forces should no longer use the argument to limit Papuans' freedom to express aspirations for independence and criminalize pro-independence groups and their supporters.

Heribertus Jaka Triyana in "Freedom of Expression: Its Recourses and Restrictions in the Study of Theory and Law" writes that the state (through its devices) guarantees that everyone must have the same legal access to human rights protection without discrimination and segregation. [40]

In addition, the state is also obliged to eliminate existing obstacles. Effective transformation is based on the principle of availability, opportunity to obtain, principle of acceptance, and principle of adjustment based on actual state conditions and in accordance with applicable national legal provisions. The Professor of the Faculty of Law at the University of Gajah Mada continued, according to him, the theory is the main foundation for the need for regional and international human rights protection systems when there is already a national human rights protection system towards the implementation of the right to freedom of expression.

Closing Notes

This research finds that, from 2000 until now, Papuans' freedom of expression to publicly convey aspirations for independence through peaceful demonstrations has been restricted by repressive measures

40) Heribertus Jaka Triyana, *Freedom of Expression in Indonesia: Law, Dynamics, Problems, and Challenges*, 2016, ELSAM, pp. 25-26

by the police and the military.

The police and military have violated the law by not carrying out their duties when facing public dissemination activities in the form of demonstrations. The police and military carry out acts of violence such as forced dispersal of demonstrations, arrests of demonstrators, persecution, detentions, and shootings of Free Papua activists. Arrests and detentions or other enforcement efforts stipulated in the law, especially in the Criminal Procedure Code as an instrument for law enforcement, are not carried out according to their provisions.

This increase in repression coincides with the strengthening of Papuan independence aspirations, triggered by the unity of civil movement groups who support Papuan independence. Therefore, acts of repression are used by the police and the military as a method to block the aspirations of Papuans, even though the acts of violence are contrary to the principles of human rights protected by law.

Regarding the situation, and based on the finding of this research, the author recommends:

1. The President of the Republic of Indonesia or the ranks of his government to open political communication with pro-Papuan independence groups in order to find a solution to resolve conflicts in a democratic, just, and peaceful manner;

2. The Government of the Republic of Indonesia must change the security approach in Papua, using a dialogue approach;

3. The Government of the Republic of Indonesia must exercise strict control of the police and the military in carrying out their duties in Papua, as well as punish security forces who perpetrate violence/repression;

4. The Government of the Republic of Indonesia to open the widest possible access (without limitation/obstruction) to journalists and international human rights workers to freely cover and carry out investigations in Papua and not limit access to local Papuan online media sites;

5. Indonesian National Police to change security policy in Papua by taking a persuasive approach, reducing the number of officers deployed in Papua, and the positions of Regional Chief of Police and Police Chief Commissioner must be occupied by officers with a strong human rights perspective, an understanding of Papua, and have a good reputation in terms of law enforcement, human rights and justice;

6. Indonesian National Police to integrate human rights education into police education and training systems and carry out socializations of human rights regulations to Indonesian National Police officers in Papua;

7. The Papua and West Papua Regional Police to discipline their officers, firmly punish those officers who conduct violations, and ensure that police officers carry out their duties according to the law (Criminal Procedure Code, Law on Human Rights, Law on Freedom of Expression in Public, and National Police Regulations on the implementation of human rights);

8. The Papua and West Papua Regional Police to not involve mobile brigade units in securing peaceful demonstrations.

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Impacts of Oil Palm Plantationson the YeresiamTribe in Nabire

Maria B Kapitarauw

Preface

Plantations are a strategic economic development, which also have important ecological, social, and even cultural aspects. In Papua, the plantation sector is a target for both domestic and international investors. Business development in the plantation sector is considered capable of playing a role in improving people's welfare through the provision of employment, fulfillment of domestic consumption needs, and other raw material needs. In Indonesia, one plantation type with a strategic place in development planning is oil palm.

Oil palm is an industrial plant that produces cooking oil, industrial oil, and fuel. Indonesia is one of the largest oil palm producers in the world. Oil palm companies can be found all over the archipelago—from Aceh, Sumatra, Kalimantan, Sulawesi, and Papua. In Papua, the companies occupy hectares of lands in Merauke, Jayapura, Sorong, and Nabire.

Nabire is one of the regencies in Papua Province, with an area of 6,861.65 km^2. From 2010-2016, Nabire had 130,314 people with a density of 18.99 people/km^2. The area comprised of 10 districts, 147 villages, and nine urban villages (*kelurahan*). However, on 4 January 1998, there were administrative changes to the territorial division of Nabire.[41] Dogiyai, one of Nabire's districts, became its own regency.

41) https://id.wikipedia.org/wiki/Kabupaten_Nabire

The remaining area of Nabire was divided into 12 districts: Makimi, Nabire, Napan, Siriwo, Teluk Kimi, Teluk Umar, Uwapa, Wanggar, Yaur, Yaro, Nabire Barat, and Wapoga. Of the twelve districts, two were targeted for the development of oil palm plantations, Yaro and Wapoga.

The oil palm plantation in Yaro District is situated in Kampung Sima, which is also home to several sub-clans of the native Yeresiam Goa tribe. The Greater Yeresiam tribe, a legendary tribe in Nabire, is spread across the northern and southern areas of Papua, so that they are known as North Yeresiam and South Yeresiam. The North Yeresiam tribes occupy Kampung Sima of Yaur District and Nabire Regency, while the South Yeresiam tribes live on Kaimana Regency, which consists of Danau Yamor, Erega, Etahima, Mairasi, and Teluk Etna.

It is the Greater Yeresiam tribe who suffers most from the blooming industry of oil palm plantation in Nabire. Their rights as indigenous people have been violated by the two companies that manage the plantations in the area: PT Nabire Baru and PT Sariwana Adiperkasa. This article aims to map the social-political situation in Nabire, in order to identify the human rights violations at one of the strategic locations for the oil palm plantation industry. Field research was conducted from June to September 2016, but due to personal circumstances the data gathered has only been processed into this short article in the second semester of 2017.

A Brief History of the Oil Palm Plantation in Nabire

PT Nabire Baru and PT Sariwana Adiperkasa were originally established in Nabire as ventures for the logging of merbau trees. In 2018, their business changed—the rainforest areas they operated in were turned into oil palm plantations. The companies used their timber business permits to obtain plantation permits. However, during the process, they failed to involve the local tribes. The agreement was carried out unilaterally by one of the entrepreneur's relatives named Yunus Mouney. With the permits, PT Nabire Baru opened up 17,000 hectares of oil palm plantation in the Waoha sub-clan's territory, with natural borders agreed upon including the Sairera Sea in the north and Mount Bebi in the south.[42]

Figure 1. *The division of work areas in the oil palm plantation in Kampung Sima*[43]

In 2011, the oil palm plantations expanded toward the area inhabited by three other sub-clans. This led to horizontal conflicts between the local tribes in West Nabire. By the time the companies arrived in the area with polybags and oil palm seedlings, the people of the Greater Yeresiam Goa tribe knew nothing about the companies' plans in the villages of Sima, Yaro, and Wanggar.

Figure 2. *The oil palm plantation in Kampung Sima*[44]

The local communities asked the companies for a memorandum of understanding, to protect and accommodate the rights of the Yeresiam Goa tribe. The terms they demanded to be regulated in the memorandum: status of land ownership, the companies' scope of operation, land contract duration, and facilitation of health, education, and housing for the local communities.

PT Nabire Baru responded to the communities by deploying a 12-man squad of Mobile Brigade soldiers in 2011 to oversee their investment and kept the locals in check. When the communities disputed the company's action at the Jayapura Administrative Court, they discovered that their land had been registered as a site of foreign investment for Sri Lanka. Somehow, in the chaos surrounding the status of the land ownership, their land had been handed over.[45]

Figure 3. *A Mobile Brigade post in the oil palm plantation area.*[46]

42) Author's interviews with local community in June 2016.

43) Photo taken by the author, June 2016.

44) Photo taken by the author, June 2016.

45) Author's interview with local respondent in June 2016.

46) Photo taken by the author, June 2016.

The Impact of the Oil Palm Companies on the Greater Yeresiam Tribe

Over time, the presence of the oil palm companies changed the social landscape in Nabire. The communities lost their places of worship, as many of their holy sites were converted into commercial activities. Women lost their gardening areas.

The natural landscape in Nabire also suffered, since PT Nabire Baru neglected to conduct a thorough analysis of the environmental impacts of their business. Due to rampant deforestation and increased human activity on the coasts, many animals lost their natural habitat and migrated to other areas. This impacted the livelihoods of the tribes. The lack of trees also contributed to increased temperatures and scarcity of clean water in the area.

The communities have been living in poor conditions ever since. PT Nabire did not fulfill their responsibilities to support the livelihoods of the local tribes. A promised fund for health and education never made its way to the people, depriving access for children and senior citizens who urgently need healthcare. Consequently, the mortality rate in the area increased. The company also failed to offer tangible support for local housing—many of the existing houses are uninhabitable.

Figure 5. *Greater Yeresiam Tribe housing in the palm oil plantation area.* [47]

Several years after PT Nabire Baru began their operations, the Yeresiam people who worked as laborers for the company were suddenly laid off. The official reason given was that they did not have the required expertise for oil palm plantations. As long as the company exists, the local people are not allowed to work for them again. Furthermore, they were dismissed without severance payments. Naturally they protested, demanding their rights be fulfilled. The company responded by deploying Mobile Brigade members from Jayapura and stationed them in Nabire to keep the locals in check. According to RH, a local community member, violence was committed against one of the villagers on the oil palm plantation. His eardrum was ruptured and permanently damaged.

The massive layoff led to massive recruitment of workers from outside Papua, such as Ambon, Kupang, and Medan. The local people have very limited options for survival, since what they've been relying on for year now has vanished. The forests have been cut down and the coasts have lost their biodiversity due to the fertilizer used by the company.

Before, people settled into several hamlets and each hamlet would produce specific crops, depending on which area of the forest they settle on. Several hamlets were renowned for producing sago, such as the hamlet in Sima area and the one near the Waumi River. Several others were renowned for yielding fruits such as matoa and jackfruit. The communities also relied on the forest for rattan vines, which they used to tie the wooden structures of their houses. After the arrival of the oil palm companies, these practices went into extinction.

The companies are responsible for so much suffering. The Great Yeresiam Goa tribe have been deprived of their rights to their land, work, adequate wages, health, education, and clean water—rights guaranteed in human rights law. Yet, until now, the companies have never been held accountable.

Illustrating the grave violations suffered by the local tribes, "RH" told the author:

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47) Photo taken by the author, June 2016.

"Without meaning to compare, but investments by a foreign party in Nabire was not always detrimental for the community. Before, in 2000, there was a logging company that opened up its business here. They at least had the decency to contribute to the community through several development projects. They built churches, housing complexes. The also supported our education, from elementary to higher education. They also didn't completely tear down our forest, unlike what PT Nabire Baru had done.

PT Nabire Baru has destroyed the area. Nothing is left. The land is barren, like a plane runaway. Even worse, they neglected us. I barely see any improvement to our living conditions. Our villages are still dark, no electricity installed. For education, they only provided us with honorary teachers for a very short period of time. Even then, they didn't support the teachers with comfortable housing. I could say that PT Nabire Baru contributed very little to the Yeresiam people."[48]

In short, the arrival of the oil palm companies led to all sorts of environmental problems in Nabire. The local population only knew the companies' true purpose, opening up lands for oil palm plantations, in 2010. One year later, the company began razing down the forests without any analysis of the environmental damage it might have caused.

PT Nabire Baru published their environmental impact analysis five years after they began operating. It was far too late since by that time many sensitive areas, such as holy sites and river banks, had been severely damaged, while in fact the regulation mandated that trees in the radius of 500 meters from the river banks must be preserved. Very little of the forest remained, especially in the Kampung Sima area. Consequently, the area is subject to regular flooding during rainy seasons. There are no more tress left to contain and regulate water flow.

Kampung Sima is flanked by several sago hamlets that border on the Waumi River. To a certain extent, the sago hamlets served as the last

48) Author's interview with "RH" on June 2016.

line of defense for Kampung Sima, to withstand floods so the entire area would not drown. Nevertheless, the oil palm companies planned to expand their operations to the sago hamlets, to convert them into plasma farming areas. The companies sought to cut down the remaining sago forests in the area. Again, a protest ensued. The villagers brought their case to the public and managed to get the People's Representative Council to halt the project.

The 1945 Constitution, specifically in Article 33 Paragraph 3, guarantees the people's right to access natural resources for welfare. However, land conflicts involving the government or private legal entities rarely end well for the farmers and the people in general. The state, despite its mandate to work for the greater good, sacrifices its own people in the interests of investors.

Indonesia is considered one of the big players in the oil palm industry, yet has very little control over its own food and agriculture. The lack of food sovereignty complements various policy changes, such as the policy of transferring land from timber extraction to oil palm plantations. This resulted in as many as three million hectares of agricultural land shifting functions. Referring to Article 33 of the 1945 Constitution, oil palm plantations are clearly national assets that impact the livelihood of many people. It is necessary to take over these assets from the hands of corporations, to be managed for the benefit of the masses.

We must reflect upon the history of the nation. Since colonial times until now, our natural resources have been subjected to rampant exploitation by corporations and foreign parties. Our land has been providing many commodities for the global market yet very little for its own people. Instead of reversing the situation, our government only aggravated the problem by facilitating the corporations. The social, cultural, and economic development of our nation lies not in our hands, but at the whims of the corporations.[49]

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49) *Masyarakat Hukum Adat Adalah Penyandang Hak Subjek Hukum, dan Pemilik Wilayah Adatnya*, Fauzi Rachman dan Mia Siscawati, Yogyakarta, INSIST Press, 2014.

Legally speaking, the Great Yeresiam tribe is protected by indigenous land rights. As stipulated in the Decision of the Constitutional Court of the Republic of Indonesia on Case Number 35/PUU-X/2012, more popularly known as "Constitutional Court Decision 35", indigenous forest is defined as part of indigenous territories and belongs to the indigenous people, not the state. The Great Yeresiam tribe has full rights to their own land, to occupy and cultivate it as the means of their survival now and for future generations.

In the international sphere, a number of instruments have also guaranteed the rights of indigenous peoples, such as the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the Convention on the Elimination of All Forms of Racial Discrimination, the Convention against Torture, the Convention on the Elimination of Discrimination against Women, and the Convention on the Rights of the Child. There is also ILO Convention 169 (1989) that clearly and specifically contains the rights of indigenous peoples.

Conclusion

Based on observations and evidences presented throughout this article, it is fair to conclude that oil palm plantations provide very little benefit for the Great Yeresiam tribe. Instead, they suffer in all areas of their lives. They have lost their forests, both as their home and means of provision. They have also lost their jobs, culture, social life, and spiritual peace.

PT Nabire Baru and PT Sariwana Adiperkasa fail to carry out their social responsibilities to the indigenous people. Their memorandum of agreement is one-sided and pays very little concern to the local communities. The Yeresiam people, as the rightful owners of the land, live in very poor conditions. Many of their rights are unfulfilled, even oppressed.

As a closing note, the author would like to present three recommendations. **First**, the government—both central and regional—must be fair and considerate in dealing and negotiating with investors. In this case,

representatives of the indigenous people must be involved in the process, so the result would be beneficial for all parties involved.

Second, elders or tribal leaders should always discuss with their own people, to agree on a common stance and form a collective strategy in dealing with outside parties who have interest in investing in their area. Any decisions should be taken with consideration of the greater good. In this case, dealing with investors and corporations requires careful analysis of the terms and conditions, impacts, and scope of operations of their business.

Third, the government—both central and regional—must immediately conduct a thorough investigation of the situation in Nabire. The state must also carry out rehabilitation programs to mitigate the damage done by the oil palm companies to the Yeresiam tribes. The people have suffered great losses socially, culturally, and financially.

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The Water Crisis in Central Fakfak

Waldine Praxedes Meak (Vero)

Central Fakfak is considered a strategic district in the Fakfak Regency, for it houses Kali Air Besar—a big river that supplies clean water to Fakfak City.

Clean water is essential for life and thus central to the realization of human rights. Therefore, control of the water supply must belong to the public. Such privilege, however, is not enjoyed by the people of Central Fakfak. They are mere statistics in their own land, for they are treated as numbers but lack any power whatsoever over their own natural resources. They are denied access to their own water, which is directed away by the PDAM (Perusahaan Daerah Air Minum/Municipal Water Company) to city dwellers in the neighboring area.

Economic liberalization has transformed water from a public to a private good. What is supposed to be shared for the benefit of the masses is exploited as a commercial commodity for certain classes. Free market rules the management of almost every public resource, including clean water. The crisis is real and people are suffering. It is getting more and more urgent to redefine the public right to access water, to create a strategic plan to combat water privatization and urge the government to fulfill its obligations.

The right to clean water is the right of all citizens. The United Nations General Assembly declared it so in July 2010, with Indonesia among the participants that supported the motion. Moreover, according to Article 5 of the 2004 Water Resource Law, the government is obliged to "guarantee the right of

every citizen to access water for their basic needs, in order for the people to live healthy, clean, and productive lives."[50]

The people of Central Fakfak, both the indigenous and the migrants, haven't enjoyed one bit of that particular privilege. The government has been neglecting them in their daily struggle for clean water.

An Overview of the Central Fakfak District

Central Fakfak District is 4.8 kilometers, or approximately 8 minutes, from Fakfak City. The district is home to approximately 3,405 people. Most of the residents are subsistence farmers—they grow food crops to feed themselves and their families. Every harvest season, they forage the local forests for durian and nutmeg.

Forest dominates the natural landscape in Central Fakfak. More than 85% of the area is tropical rainforest that ranges from mangrove forests in coastal areas and limestone hill forests in mountain areas. There are also homogenous forests that specialize in nutmeg (*Myristika,* sp.) and durian (*Durio zibethinus,* sp.), along with generic weeds and bushes in some areas.

Administratively speaking, Central Fakfak is comprised of one urban village (*kelurahan*) and 13 villages (*kampung*):

Table 1. The Administrative Areas of the Central Fakfak District[51]

No	Administrative Areas	Population
1	Kelurahan Danaweria	1408
2	Kampung Kayu Merah	358
3	Kampung Katemba	270
4	Kampung Nemewi Karya	169

50) UU 7/2204, an English translation is available at http://www.sabo-int.org/law/WATERLAWNUMBER7OF2004.pdf

51) Data obtained from Central Fakfak District Government, 2015.

5	Kampung Unipopok	**84**
6	Kampung Raduria	90
7	Kampung Brongkendik	45
8	Kampung Hambriamkendik	74
9	Kampung Air Besar	70
10	Kampung Kanantare	38
11	Kampung Mendopma	86
12	Kampung Sakartemin	90
13	Kampung Pasir Putih	129
14	Kampung Pirma	138
	Total Population	**3,405**

The research for this article was carried out in seven villages in the Central Fakfak District. This map shows the area included in this research:

Water for the Mbaham Matta Indigenous People

"Like religion and ideology, water has the power to dictate the lives of millions. Since the dawn of time, people travel places so they can live near the water. Then they move again when the water is about to run out. People also move when the water is overwhelming. They travel by riding on the water itself. They write, sing, and dance about it. Everyone, everywhere, needs water." [52]

Water exists in many rituals of the Mbaham Matta indigenous people. They believe water to be their source of life. From its liquid state, water will freeze and solidify into the building blocks of life for the Mbaham Matta.

Seen from another perspective, water does serve as the cultural foundation of the Mbaham Matta people. Water, referred as *kra* in their local language, determines the distribution of residential area of the Mbaham Matta people—every area, inhabited by several clans, must have access to a water source. Water also is a common theme in many of their local stories, which they pass on from generation to generation as an act of tribute to their source of life. That is why they believe water shall never be exploited for personal gains and must be shared for the greater good.

According to Simon Hindom, a humanist and the chairman of the Council of Mbaham Matta Indigenous Culture, water is a symbol of purification. In many of Mbaham Matta rituals, water is used to wash away any sins committed from violating their tradition. Not only that, the Mbaham Matta people also use water to cure any illness that they suffer from.[53]

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52) Author's personal notes.

53) Author's interview with Simon Hindom in 2016.

The Problem of Water Distribution in Central Fakfak

We cannot deny the significance of water as the crux of nature. Mankind simply cannot live without it. Despite its life-giving role, water is rarely treated with respect. We try to control and even exploit it for our egoistical ambitions.

The 1945 Constitution clearly states in Article 18B the rights of the indigenous people to their water source. This further strengthens the legitimacy of indigenous villages in the 2014 Village Law, which states that "indigenous village is an entity of indigenous people within their territorial and genealogical principles."

Before being legalized by PDAM as the water supply for Fakfak City, Kali Air Besar served the social center for the local community. They rely on the river for drinking, cooking, washing, bathing, and other daily needs. The local people take great care of the forests around the river through a strict customary code of conduct. For instance, a menstruating woman is forbidden to be near sacred places, for it may bring bad omen to the local water source. Villagers use the river according to collective agreements—one stretch of the river is reserved specially for drinking water, while others are for washing and bathing. They also separate the bathing areas for men and women.

Considered as a solution for public needs, Kali Air Besar was targeted by the Fakfak regional government for a special pipeline installation. The river met several requirements needed for the pipeline project, for it is close to urban areas and has a large enough water discharge.

The project took place in many of the indigenous lands, yet it barely benefitted the local people. Now they must pay to access the water that once was freely available to them. The regional government did install a special pipe in several indigenous settlements, which they often refer to as *non-metered pipe*. It is free to use, but the quality and quantity of its water output is far from acceptable.

In terms of environmental impacts, the project required the river to be dredged. Concrete walls were also built along the riverside. PDAM stated that such modifications were required to prevent flooding. The truth is there are no settlements along the dredge area. The project actually damaged the beauty of the river and threatens the ecosystem in the bottom of the river.

Amidst the water crisis, the public fought back by punching holes on the PDAM pipes so they could get water for their needs. They also protested by barricading the project area, as told by Adrianus Gewab, a respected figure in Kampung Brongkendik:

"At the time, they invited some representatives of the locals and the indigenous clans in the village hall to discuss about the water project. We stated that we hope the project would allow us to access the water we need. I, along with some others, once barricaded the project area and soon we were confronted by security forces. We protested because they used an excavator to build the pipeline. It damaged my home and my nutmeg plants." [54]

The limited availability of water forces the villagers to limit their use severely. They can only afford to use the limited supply for cooking and drinking. Consequently, every morning children go to school without bathing. They can only wash their faces.

The people are in dire need of clean water and the government must be held accountable. This situation certainly calls for an urgent solution that involves collective effort. The people need to be informed of their rights and relevant strategic partners must be gathered, so that they can regain access to clean water and a healthy environment.

Water Management

For the people of Central Fakfak, water is being transformed from a social entity into a commercial commodity. In a particularly dry

54) Author's interview with Adrianus Gewab in 2016.

season, people must pay around Rp. 150,000 to Rp. 200,000 just to get water.

The PDAM built water management facilities in several areas. In Kampung Nemewikarya, the company built one with a water discharge capacity of 45 liters per second, along with two cisterns with a capacity of 100 and 150 cubic liters. PDAM also built cisterns in Kampung Kayu Merah and Kampung Katemba, though the facilities hardly functioned afterward. The pump engine often breaks down and cannot operate due to frequent blackouts. The high operational costs discourage the company to operate generators to power the facilities. Consequently, villagers must wait for three weeks to access any water. Even then, the water is only accessible for two hours. Afterward, the flow stops.

The sloppy water management is a hindrance to the public welfare of Central Fakfak. The right to access clean water is acknowledged and guaranteed in numerous legal and human rights instruments, both national and international. The right is further supported by the 1948 Universal Declaration of Human Rights. It is also recognized in the International Covenant on Economic, Social, and Cultural Rights and International Covenant on Civil and Political Rights. In 1977, the United Nations declared that every one without exception "has a right to access clean water according to one's basic needs". Similar acknowledgement could also be found in various pacts, such as the 1979 Convention on the Elimination of All Forms of Discrimination against Women, 1990 Convention on the Rights of the Child, and so forth.

Those legal and human rights instruments share two common motives. First: water is increasingly scarce. Second: in many places around the world, only people with sufficient economic levels can enjoy the scarce resource adequately.

Does the pipe installation project serve any public benefit? That is a question that is frequently asked in Central Fakfak, especially by the people of Kampung Brongkendik, Raduria, and Hambriamkendik. Among them are indigenous clans who have customary rights to the land and its natural resources, including the river than serves the urban dwellers of the Fakfak Regency.

Clean water fundamentally should be defined as one that is fit for drinking purposes. As stated in the 2005 Governmental Decree on the Development of Drinking Water Supply Systems, drinking water includes both treated and untreated liquid that meets health requirements and can be drunk directly. This definition is in accordance with the 2002 Decree of the Minister of Health on Drinking Water Requirements and Supervision.

People of Kampung Brongkendik, Raduria, and Hambriamkendik do not enjoy water with the regulated level of quality. They must drink, eat, bathe, and survive in general with dirty and smelly water. The water source is often polluted with animal carcasses or dirt and moss during the rainy season. The pollution leads to higher concentrations of minerals in the water, which is hazardous for health. The people suspect this unfair distribution of clean water as a deliberate act by the regional government, since the people don't pay for the water they access.
The following are complaints from people who live in villages impacted by PDAM's water management business, as stated in a focus group discussion:

Hendrikus Temongmere – Village Secretary, Kampung Hambriamkendik

"When the pipes were first installed, the government told us that the white pipe is for us villagers, while the black pipe is for the city people. If there is no water in the white pipe, there is no way other than punching a hole on the black pipe just so we can access water."

Eligius Wouw – Village Chief, Kampung Hambriamkendik

"I can see the discrimination. We get water from the white pipe. It's dirty. Often we find moss and pebbles. Sometimes it smells bad, smells of animal carcasses. What do they think we are? We are not animals. I wonder why the government didn't make a water storage facility so we could get clean water. At the moment the water is transported directly from the source through a special pipe to us."

Didimus Temongmere – Catholic Religious Leader

"The white pipe is installed just to silence the people. The white pipe is

non-metered, while the black one is metered. It's only for the city people who pay the regional government."

Abraham Gewab – Village Chief, Kampung Brongkendik
"The people of Kampung Brongkendik, including me, drink and eat using the rainwater. We have no clean water in the dry season, so we are forced to punch holes on the black pipe, the one used by the city people, so that we could have water for our daily needs."

Yohanis Woy – Member of Catholic Church Council
"The white pipe was installed in 2001. The people hoped that the installed pipe would help them in their daily search for water, so they don't have to travel far just to get water. But it turned out differently. The pipe hardly benefits the people. If any, it just makes things harder, because the pipe water is dirty and not suitable for drinking."

Table 2. The Number of Families with Access to PDAM's Water Service (Non-Metered Pipe) [55]

No	Area	Total Number of Families	Number of Families with Access to Water Service	Number of Families without Access to Water Service
1	Kampung Raduria	90	30	60
2	Kampung Brongkendik	45	20	25
3	Kampung Hambriamkendik	74	20	54
4	Kampung Air Besar	70	50	20
5	Kampung Kanantare	38	13	25

6	Kampung	38	13	25
7	Kampung Sakartemin	86	0	86
8	Kampung Pasir Putih	90	90	0
9	Kampung Hambriamkendik	129	0	129
10	Kampung Pirma	138	0	138
	Total	**760**	**223**	**537**

The data above shows that out of 760 families in the nine indigenous settlements, only 223 have access to the PDAM service. The other 537 struggle to get by with the little water they have. Only Kampung Sakartemin has one hundred percent access to water, because the village is situated near Sakartemin River, which supplies for the community's daily needs.

Those who live in Danaweria, Kampung Kayu Merah, Katemba, Nemewikarya, and Unipopok get their water from PDAM, but the quality of the water is not proportional to the high monthly fees they must pay. Locals described the situation as follows:

Burhak Sawek – Resident, Kampung Kayu Merah
"We struggle for water during the dry season. The PDAM cistern in our village is almost always empty, because the water only flows once every three weeks. Even then, it only flows for two hours then it stops."

55) Data was gathered by the author in June 2016.

Lilik – Resident, Kampung Katemba
"The water from PDAM is never good, so we rely on the rain water collected in our cistern."

Taip – Resident, Kampung Nemewikarya
"The water from PDAM rarely flows, but every month we must pay Rp. 300,000."

Table 3. Water Storage Facilities[56]

No	Area	Storage Type	Amount	Condition	Notes
1	Kelurahan Danaweria	-	0	-	-
2	Kampung Kayu Merah	Cistern	1	Good	PDAM
3	Kampung Katemba	Cistern	1	Good	PDAM
4	Kampung Nemewi Karya	Rainwater cistern	1	Good	Local initiative
5	Kampung	Rain	3	Lightly damaged	Local
6	Kampung Brongkendik	Rain cistern	2	Lightly damaged	Local initiative
7	Kampung Hambriamkendik	Rain cistern	2	Lightly damaged	Local initiative

56) Data was gathered by the author in 2016.

8	Kampung	-	0	-	-
9	Kampung Kanan-tare	-	0	-	-
10	Kampung	Rain	2	Severely	Severely
11	Kampung Sekar-	-	0	-	-
12	Kampung Pasir Putih	Rain Cistern	3	Severely damaged	Local ini-tiative
13	Kampung Pirna	Rain Cistern	4	Severely damaged	Local initiative

From the data above, we could pinpoint which area need serious attention from the regional government. The lack of good public water storage and declining condition of existing facilities makes it harder for villagers to access clean water. The Danaweria village has no public water storage facility. Its residents rely on private cisterns and water gallons. Similar situations can be found in Kampung Air Besar, Kanantare, and Sakartemin.

Water Management from a Gender Perspective

In her most phenomenal work to date, *Water Wars*, Vandana Shiva illustrated how people manage water influences the societal and environmental problems at large. Due to the shift in people's perceptions of water, conflicts around the control of water will slowly but surely impact many facets of social life, including people, businesses, and governments.

Shiva argues everyone has the right to water because they have the right to live. Water is essential to humans' biological processes, so its significance should never be questioned. But access to water requires a

number of social and cultural breakthroughs. The long history of human civilization is inseparable with water. In short, water is life.

Shiva observed that modern governments are under the under control of big corporations. In recent times, there are new areas of trade: agriculture, intelligence, services, and investment. Water service is included among them. Shiva emphasized that water is irreplaceable. Consequently, people will have great difficulties in times of water crisis. There is simply no substitution for water.

In her book, Shiva concluded that women will suffer the most due to water privatization. In general, water privatization will impact the middle-to-low economic classes, in which women play big roles in sustaining livelihoods. Women are in charge of the household, including the provision of water. In many developing countries, women must walk great distances and carry dozens of kilograms in one trip just to obtain clean water for their families.

Chronic problems such as the long distance to water sources, poor water distribution, high water tariffs, and many others prove that water privatization policies are not sensitive to the gender dimension in society. Private water companies fail to provide access to poor people and women. As mentioned throughout this article, the right to water is an inherent part of basic human rights. This means that water can be used by everyone, but not owned by a few parties. Similar lines of thinking can also be found in religious laws, such as Islam and Hindu. The fact that these rights continue to exist as customary laws in modern times clearly defies the notion that rights to water are merely legal rights, namely rights granted by the state or law.

Poor water distribution in Central Fakfak impacts local communities as a whole, but women suffer the most from the lack of accessible clean water, as stated in the following testimonies:

Mama Maria Temongmere – Resident, Kampung Mendopma

"To take care of my family, I use plastic drums to collect rainwater for cooking, drinking, and bathing. During dry seasons, we must buy water from the tank water seller. Around Rp. 150,000. There is a public rain

cistern here, but it's beyond use since it's in really bad condition. We usually get our water from Salobar pond."

Salama Rumalolas – Chairman, Pitak Farmers Collective

"I usually set aside Rp. 200,000 so I can afford a tank of water, around 1,100 liters. I use it to water the vegetables in my garden."

Arnolda Wagab – Resident, Kampung Pasir Putih

"I often buy water for my family. In my village, water is hard to come by. If we want to take a bath, or if we want to wash our things, we must walk to Kampung Sakartemin, 600 meters from here."

Everyday women must make sure their households have enough water for numerous needs. No woman is exempted. Whether a housewife or an employee, a woman is tasked with the mental load of managing and taking care of household chores, even in her free time. It's different with men. Outside work, a man can usually enjoy moments of peace or commit some time for leisure activities. A woman rarely enjoys such privileges, for her mind is always occupied with things she must do—raising kids, stocking food, house cleaning, and so forth.

Legally speaking, women's right to water is regulated in the Convention on the Elimination of All Forms of Discrimination against Women. Though abstract, the convention asserts that there must be a guarantee of women's rights to proper and appropriate social services, including water, as stated in Article 14 (2)(h):

States Parties shall take all appropriate measures to eliminate discrimination against women in rural areas in order to ensure, on a basis of equality of men and women, that they participate in and benefit from rural development and, in particular, shall ensure to such women the right to enjoy adequate living conditions, particularly in relation to housing, sanitation, electricity and water supply, transport and communications.

Ideally, public resource management should accommodate all gender roles fairly and equally. Each gender is dependent on the other—they

are inseparable. Similar ideas could be found in the thoughts of Ivan Illich. He stated that men and women are intertwined in their collective interdependency. Intergender relations are fundamentally reciprocal, therefore a collective code of conduct can be agreed upon. Each party should define what should be considered loss, suffering, and exploitation in their own terms. By doing that, acceptable compromises between the genders can be negotiated as the basis of equal and sustainable intergender relationships. Only through such collaboration can a fair management and distribution of public resources, such as land and water, be realized. Otherwise, the current situation will not get any better and lead to more inequalities.

Conclusion

The government's serious lack of attention to the public welfare of Central Fakfak must be brought to account. PDAM's poor management and distribution of water has brought about severe consequences to the lives of the people in the area.

The regional government is responsible for providing and maintaining proper facilities and infrastructures for the public benefits, as mandated by the 2004 Regional Government Law. Specifically, the state's duty to provide public water services is mandated in the 2004 Water Resource Law and the 2005 Governmental Decree on Development of Drinking Water Supply System. Both texts stated that the regional government is responsible for "fulfilling the public need for drinking water in its territory, in accordance with the minimum requirement by the legal standard".

From the data and observations throughout this article, we could formulate three recommendations to address the growing public concerns in Central Fakfak:

1. The government of Fakfak Regency must pay more attention to the problem of poor water distribution in Central Fakfak;

2. The regional government must work with the local parliament to formulate new policies to address the above-mentioned problem;

3. PDAM, as the state company that manages the water distribution in the Fakfak Regency, must evaluate its system and plan new approaches to serve the public better;

4. PDAM must reinstall the pipes that distribute water to the indigenous people in accordance with their rights.

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How a Sago Factory Changed the Lives of the Kais People

Eva Tadjo

The Indonesian government has chosen West Papua as a priority area for the program of accelerated development in the eastern part of the archipelago. The program covers both infrastructures and superstructures that are vital for the advancement of social and economic life of the region. One of the planned projects is the establishment of a sago factory in the district of Kais, South Sorong.

South Sorong Regency is renowned for its abundance of sago. Most people work on sago plantations, along with some who farm, hunt, or fish. A minority work as civil servants and entrepreneurs. The yield from the plantations, combined with food gathered from farming and hunting, is enough to sustain daily life for local communities. They see no need to sell them on the market. Such a way of life leads to a peculiar way of cultivating the sago palms. Local farmers tend to let ripe sago palms flower, resulting in the loss of highly-valuable sago starch. The government sees this as wasted economic potential, thus their plan for the sago factory in the regency.

On 1 January 2016, President Joko Widodo inaugurated the sago factory in South Sorong. Managed by Perhutani, a state-owned forestry company, the sago factory is considered to be the biggest in Indonesia.[57] The government intended the factory to be the main driver of the local economy, by providing jobs for the people and a financial boost to the development of the region.

57) http://news.metrotvnews.com/read/2016/01/01/465752/jokowi-resmikan-pabrik-sagu-terbesar-di-indonesia

These good intentions however resulted in several unintended consequences. The sago factory hardly benefits the women in the region, since it only accepts men as its workers. This means that the Kais women lost an integral part of their way of life, since tapping sago palms was a tradition passed down from generation to generation. For decades, tapping sago trees has been inseparable from the life of the Kais women.

For the Kais people, cultivating sago means more than a job. It is a ritual that has deep connection to the local wisdom of collective living. Cultivating sago trees requires specific task divisions. The men are in charge of cutting down the trees and the women are responsible for tapping sap out of the trees. The ritual encourages collaboration and understanding between the people. It is the togetherness that matters, not the economic value of the sago. The factory works on another logic, one that is indifferent to the cultural veins of the Kais people. In the name of progress, the machines reign over local wisdom.

Ideally, the government and its business entities must consider every aspect of the lives of local communities. In this case, it is the men and women who live in the proximity of the sago factory. How could the local ways of life, including the rights of the women, coexist with the developmental projects in the Kais district?

The question warrants further investigation into the social life of the Kais people. This article is a product of direct observations, surveys, and interviews from June to July 2016 in Kampung Kais, South Sorong, West Papua. The investigation seeks to highlight the impact of the sago factory on the social life of the local community as a whole, and particularly the indigenous women of the region.

Overview of Kampung Kais, South Sorong

South Sorong is a regency in West Papua with its capital in Teminabuan. On the map of Papua, South Sorong, which has an area of 9,408.63 square kilometers, is located on 'the bird's head' of the island. In 2014, the regency had a population of 43,898 people.[58]

58) https://id.wikipedia.org/wiki/Kabupaten_Sorong_Selatan

Figure 1. *The journey on foot to the sago factory in Kampung Kais*[59]

South Sorong is divided into four districts that are collectively referred as IMEKKO, which stands for Inanwatan, Metemani, Kais, and Kokoda. The research for this article took place in Kais. There are two ways to reach Kampung Kais from Teminabuan. By land, one can use four wheel drive trucks to navigate the road—the journey on average takes two hours. By sea, one can ride on longboat for around four to five hours.

Overview of the Situation around the Sago Factory in Kampung Kais

Kais is home to vast areas of sago plantations. The district is situated on low lands with many swampy areas that are flooded with fresh water—perfect for the growth of sago palms. According to Bambang Sukamanto, Director of Perhutani, the sago palms in Papua are renowned for

59) Photo taken by the author, July 2016.

their ability to produce up to 900 kilograms of sago flour per stem. The sago palms in Malaysia, for comparison, can only produce up to 250 kilograms of sago flour per stem. Hence, in some social circles, the Papuan sago palms are referred as 'king sago.'

Such quality produce attracted the attention of the government. Through Perhutani, the government built the sago factory in Kais to further develop and cultivate the sago palms, and also to provide jobs and support the local economy. Backed with a wealth of natural resources, the government was confident the sago factory would prove to be a highly profitable business. On September 2014, two years before the factory opened, Bambang Sukamanto said, "The investment value is around Rp. 112 billion [US$8 million] with a capacity of 30,000 tons of sago per year. We are targeting this plant to start operating in March 2015. Now the construction process is around 60 percent complete."[60]

Another reason to build the sago factory is to better the economic condition of the local farmers. The factory is hoped to enable progress in education and job skills, which would be useful for the mostly undereducated local farmers. Better human resources can only mean well for the development of the region.[61]

The government's plan, however, failed to reach its targets. Until now, the sago factory has not been fully operational. According to Frans Tebe, the village chief of Kampung Kais, the factory is still testing its machines. A few months ago, the factory conducted a test with 7,000 bundles of sago, and shortly followed by another test with 6,000 bundles.[62] If so many bundles of sago were used for testing, one should worry how many more sago forests would be cut down just for trials. According to Arkilaus Baho, a youth activist in Kais, the government should rethink its approach since sago plantations are vital for local community livelihoods.

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60) Komunitas_Papua, published on Thursday, 4 September 2014, 19:01.

61) https://m.tempo.co/read/news/2016/01/01/090732389/pabrik-sagu-terbesar-beroperasi-di-papua-per-1-januari-2016/8/12/2016

62) Author's interview with the village chief of Kampung Kais on July 2016.

> *"For Papuans, one sago palm could feed seven generations. We live and die by it. If the sago is being controlled by the state, and the Papuans are being deprived of their livelihood, then that sago palm must be worth around one or two billion rupiah. The sago's value is as high as our reliance on it."*[63]

Most of the workers in the sago factory are men from the Kais District, though in general the quality of the human resources in Kampung Kais is still found wanting. Most people, both men and women, don't even complete middle school. Since the factory only accepts men into its workforce, the women have no chance of the same opportunity, whereas in Kais cultivating sago palms is a collaborative ritual between the genders. The Kais people believe in togetherness and mutual respect, values that are contained within the act of cultivating sago.

Such simple things became the focus of this research. Ideally, the presence of the sago factory shall not betray the values of the local community and discriminate against women. In practice, the Kais women are denied their right to work. The factory must remedy this by accepting women as its workers or establishing organizations for the Kais women to learn and hone new skills. According to the village chief, Perhutani has not considered such concerns to be a priority.

The regional government also paid very little attention to the empowerment of women, since Perhutani had not yet been able to maximize the sago factory's production line. According to the Regional Chief of the Production Section of the South Sorong Forestry Office, the factory had not been able to reach its full capacity due to local political tensions. He also mentioned that Perhutani has not submitted reports on the sago factory to the Forestry Office. They have only received a report from PT ANJ Agri Papua, a private-owned sago factory.[64]

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63) *Sorong Raya*, episode 15 January 2016, accessed at 13:12 WIT

64) Author's interview with respondent, July 2016.

Empty Promises for the Kais People

Before opening the sago factory, Perhutani contacted and met with the indigenous land owners. Among them were representatives of four major clans: Kaitau, Abago, Saimar, and Asikasau. Perhutani not only met with the land owners, but also organized several forums with village leaders and youth. According to Decky Abago, a community member, Perhutani has not completed its payments to the land owners for the purchase of their land. "They still owe us money. They are still borrowing our land," said Decky Abago.[65]

Complaints about the government's sago business once reached the Teminabuan Police Headquarters, South Sorong. According to Frans Tebe, the village chief of Kampung Kais, the trouble began when an indigenous land owner failed to make good use of the money he got from the purchase of his property. There was very little communication between one indigenous land owner with the other.[66] The chief explained that he could do very little about the land conflicts since he knew very little. "The land owners rarely inform me about any transaction of their land. I have no information to work on," said Frans. [67] He felt that certain parties blamed the land owners, which in turn ignited social conflicts with Perhutani.

Another problem facing the community is the unfinished road that will be used by the factory's vehicles.

Potential Violation of the Rights of the Kais Women

The Convention on the Elimination of All Forms of Discrimination against Women notes that States parties have an obligation to guarantee equal rights between men and women to enjoy all economic, social, cultural, civil and political rights. One of the concerns it tried to address is, "in the situations of poverty, women have the least access to food, health, education, training, and opportunities of employment and

65) Author's interview with respondent, July 2016.
66) Based on the author's interview with the village chief of Kampung Kais, July 2016.
67) Based on the author's interview with an interlocutor in Kasi on July 2016.

other needs". Several articles of the convention that address such concern are as follow:

Article 5

States Parties shall take all appropriate measures:

(a) to modify the social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices and customary and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women.

Article 11

States Parties shall take all appropriate measures to eliminate discrimination against women in the field of employment in order to ensure, on a basis of equality of men and women, the same rights, in particular:

(a) The right to work as an inalienable right of all human beings;

(b) The right to the same employment opportunities, including the application of the same criteria for selection in matters of employment;

(c) The right to free choice of profession and employment, the right to promotion, job security and all benefits and conditions of service and the right to receive vocational training and retraining, including apprenticeships, advanced vocational training and recurrent training;

(d) The right to equal remuneration, including benefits, and to equal treatment in respect of work of equal value, as well as equality of treatment in the evaluation of the quality of work;

(e) The right to social security, particularly in cases of

retirement, unemployment, sickness, invalidity and old age and other incapacity to work, as well as the right to paid leave;

(f) The right to protection of health and to safety in working conditions, including the safeguarding of the function of reproduction.

Article 14

States Parties shall take into account the particular problems faced by rural women and the significant roles which rural women play in the economic survival of their families, including their work in the non-monetized sectors of the economy, and shall take all appropriate measures to ensure the application of the provisions of the present Convention to women in rural areas.

The sago factory promised many things to the Kais. When Perhutani first came to the area to socialize its plan, the company promised to build a high school in Kais District. Perhutani also promised to install a telephone network in the area and pay compensation for indigenous lands and forests. Specifically, for Kais women, the company promised to provide economic opportunities by giving them juvenile fish to farm. Once mature, the fish could be resold to Perhutani. The company also proposed a shift of functions for the women: from cultivating sago palms to planting chili, corn, and other vegetables. Once harvested, the crops could be resold to Perhutani.

Some of the promises remain unfulfilled until now. The regional government has paid very little attention to the empowerment of women, while Perhutani has not been able to maximize the sago factory's production line. According to the Regional Chief of the Production Section of the South Sorong Forestry Office, the factory had not been able to reach its full capacity due to local political tensions.

Conclusion

The sago factory in Kais started several bad precedents. Its presence has brought about changes in the local social fabric, changes that go against the cultural values and traditional beliefs of the Kais people.

The rights of indigenous people should not be forgotten amidst the factory's construction. Perhutani could have paid more attention to the social and cultural relations that connect the Kais people to their land and everything around them. Depriving the Kais people of their culture and beliefs is akin to pushing them to the brink of extinction.

The state must recognize the rights of indigenous peoples in Kais District to their lands, territories and natural resources, as guaranteed by a number of legal and human rights instruments, both national and international, including the 1945 Constitution.

Perhutani and the government—local, regional, and national—could have involved the indigenous people in drawing up plans and deciding upon the best policies for the development of Kais District. Instead, sweet yet unfulfilled promises from Perhutani have made the people feel cheated and ignored by the government.

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About the Authors

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Basic Course for Human Rights Defenders

Institute of Policy Research and Advocacy (ELSAM) collaborates with Peace Brigades International (PBI) to organize a basic training course for human rights defenders working in conflict-prone areas. The course is intended as a capacity-building exercise for the human rights defenders. The whole program, divided into two parts, lasts seven months. The first part, which lasts for four months, is a series of lectures and discussions in Jakarta. The second part is a three month field research project, in which participants observe and investigate human rights violations that occur in their area.

The Basic Course for Human Rights Defenders aims to improve the knowledge and skills of human rights defenders in monitoring and documenting human rights violations that occur in conflict-prone areas. The course is not limited to human rights theory and instruments, but also provides opportunities for practice and contextual application of human rights work. At the end of the first phase of the course, participants design a research plan to document human rights violations in accordance with the needs and issues addressed by each participating institution. Monitoring and documentation is done from a human rights perspective while paying attention to security concerns. The course is based on four modules:

Human Rights Theory

Consists of discussion topics on the Basic Concept of Human Rights, Main Instruments of Human Rights, and Settlement of Human Rights Violations.

Monitoring and Documentation

Consists of discussion topics on the Introduction to Documentation, Fact Finding and Information Gathering, Interviewing Techniques, Literature Study, Internet Research, Introduction to Data Processing and Analysis Methods, Introduction to Database Systems, Human Rights Report Writing, and Research Design Preparation.

Advocacy Strategy

Consists of discussion topics on the Introduction to Advocacy Mechanisms on National and International Levels, Strategy for Mass Media Campaigns, Press Releases, Feature Writing, Lobbying and Mass Communication Strategy, Introduction to Social Movements, and the Use of Audio-visual Medium for Social Campaigns.

Security and Protection

Consists of discussion topics on Contextual Analysis, Threat and Risk Assessment, Mitigation Strategy, Standard Operating Procedures and Emergency Plans, Digital Security, Security Plans, Dealing with Aggression, Dealing with Stress and Trauma, etc.

Other than the topics listed above, there are other topics that are part of the Open Space section—a series of discussions on human rights issues that is open to requests from the participants according to their needs. The thematic issues discussed in the Open Space range from indigenous peoples, freedom of expression, LGBT issues, natural resource conflicts, to freedom of belief and religion.

The Basic Course for Human Rights Defenders is connected to a network of NGOs, academics, government institutions, the diplomatic community, survivor communities, and others. As of 2018, a total of 49 human rights defenders have joined this course. They are from 32 different organizations based in seven provinces across the archipelago.

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PROFILE OF ELSAM

The Institute for Policy Research and Advocacy (ELSAM), established in August 1993 in Jakarta, is a policy advocacy organization with limited association as its legal entity. ELSAM's 'driving' objective is to actively participate in the efforts to develop, promote and protect civil and political rights and other human rights, as mandated by the 1945 Constitution and Universal Declaration of Human Rights (UDHR). From the outset, ELSAM has committed itself to developing a democratic political order in Indonesia by empowering civil society through advocacy and promoting human rights.

ELSAM's main activities are: 1) Policy and law research and their impacts on human rights; 2) Human rights advocacy in various forms; 3) Human rights education and training; and 4) Publication and dissemination human rights related information.

ELSAM's working programs are: 1) The integration of the principles and norms of human rights in state policies and laws; 2) The integration of the principles and norms of human rights in policies about corporate operations related to local communities; and 3) Capacity building of civil societies in advancing human rights.

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