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**Promotion and protection of all human rights,
civil, political, economic, social and cultural rights,
including the right to development**

**Joint written statement* submitted by the Franciscans
International and the Commission of the Churches on
International Affairs of the World Council of Churches, non-
governmental organizations in general consultative status;
VIVAT International and the Dominicans for Justice and
Peace - Order of Preachers, non-governmental organizations
in special consultative status**

The Secretary-General has received the following written statement, which is circulated in accordance with Economic and Social Council resolution 1996/31.

[10 May 2013]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

Freedom of expression in Papua is under threat*

Franciscans International, TAPOL, International Coalition for Papua, the Commission of the Churches on International Affairs of the World Council of Churches, the Asian-Human-Rights-Commission, Elsham-Papua, VIVAT-International and Dominican-for-Justice-and-Peace: Order of Preachers welcome the report of the Special Rapporteur (SR) on freedom of opinion and expression and his ongoing commitment to address the issue.

During the 2nd UPR of Indonesia in March 2012, Mr. Marty Natalegawa, the Indonesian Minister of Foreign Affairs extended an invitation to the SR to make a country visit in 2012. We regret that there is no agreement on the time and schedule of the visit. Therefore, we would like to draw the attention of the SR to the issue of freedom of expression and Papuan political prisoners.

Current Situation

Freedom of expression in the province of Papua is under the threat. We join the UN High Commissioner for Human Rights, Ms. Navi Pillay in expressing our deep concern of the using of excessive force by the Government of Indonesia through its police force to the peaceful demonstration in Sorong, Papua, 30th April 2013, to commemorate the 50th anniversary of the inclusion of Papua as part of Indonesia. As result, two indigenous Papuans, Mr Abner Malagawak and Mr. Thomas Blesya were killed, while three others were wounded. Similar incidents took place in Biak and Timika, where at least 27 protesters were arrested.

Freedom of the press in Indonesia is deteriorating. In 2002, Indonesia was ranked 57th out of 178 countries in the World Press Freedom Index; in 2010 it slipped to 117th and to 139th in 2013 from 179 countries.¹ The situation in Papua can be considered the worst in Indonesia. Journalists who criticize the government are subject to reprisals ranging from intimidation to death. Several journalists have reported receiving threats and being followed. We would like to highlight some cases in the recent years. On 30 July 2010, the body of journalist Ardiansyah Matra'is, a reporter of Merauke TV, was found dead in a Sungai Maro, Merauke. His death is considered suspicious, due to his critical report on plans for a large agribusiness development.² In October 2012, Oktovianus Pogau, a journalist of Suara-Papua was beaten by five policemen while reporting a rally organised by the West Papua National Committee (Komite-Nasional-Papua-Barat, KNPB).³ According to the Indonesian Alliance of Independent Journalists (Aliansi-Jurnalis-Independen, AJI) in Jayapura, in 2012, there were 12 cases of violence against journalists in Papua provinces, with four cases in West Papua and eight in Papua.⁴ Local journalists face great risks to their personal safety when reporting on sensitive issues. They are not free to broadcast their reports to the public. Instead, news of injustice and abuse in Papua is leaked out through underground channels. The Indonesian government continues to manipulate the bureaucracy to obstruct the operations of NGOs and other international organizations, thereby indirectly cutting off their access to Papua.

* TAPOL, the International Coalition for Papua, the Asian Human Rights Commission, and Elsham-Papua, NGOs without consultative status, also share the views expressed in this statement.

¹ See <http://en.rsf.org/press-freedom-index-2013,1054.html>

² See <http://www.cpj.org/killed/2010/ardiansyah-matrais.php>

³ See <http://westpapuamedia.info/2012/10/23/end-the-violence-against-papuan-journalists-oktovianus-pogau/>

⁴ See <http://tabloidjubi.com/?p=7724>

International journalists and organizations are severely restricted in their access to Papua, while domestic journalists are subjected to intimidation, threats, and even death. Mark Worth, an Australian journalist who had reported on the independence struggle of the Papuans, was found dead in suspicious circumstances on 15 January 2004.⁵ His death occurred just two days after the announcement of the release of his documentary on Papua. French journalist Baudouin Koenig was arrested and expelled for filming a peaceful demonstration in Jayapura, in June 2010.⁶ On 8 February 2012, Petr Zamenick, a Czech national who claimed to be a journalist, was deported from Papua after taking a picture of a demonstration in the local parliament in Jayapura. Civilians who attempt to exercise their rights to express their Papuan identity and political opinions are met with condemnation as separatists and face criminal punishments.

The Indonesian government has repeatedly denied the existence of political prisoners in Papua,⁷ in contradiction with the facts. According to *Papuans Behind Bars*, there were at least 40 political prisoners in jail as at 31st March 2013.⁸ In 2012, there were 210 political arrests, of which 134 were released without charge, 45 were reportedly charged and the fate of the remainder remains unknown. Of the 210 political arrests, over half took place at demonstrations, and the majority of arrests at demonstrations were of KNPB members. There were at least eight cases of mass arrests at demonstrations in locations across Papua, including protests against a government development initiative, an anti-AIDS-protest, a street-fundraising effort for sick political prisoners, several KNPB demonstrations, a flag-raising at which protection for human rights was requested, and a celebration of the UN Day of the World's Indigenous Peoples.⁹

During 2012 torture was reported in at least 28 cases of political arrests. Tortured political prisoners were variously blindfolded, gagged, threatened with death, subjected to electric shocks and forced to take their clothes off during interrogation. While torture is sometimes reported in non-political cases, it is most frequently used in political cases, often in order to force the victim to confess. Seven of the political arrests recorded during 2012 reportedly involved forced confessions.¹⁰

At least three political activists and one leader of the OPM were shot by police while allegedly resisting arrest. In the case of Mako Tabuni and Hubertus Mabel, the gunshots were fatal. In the case of Dani Kogoya, the resulting wound to his leg required amputation, and Natalius Alua was reportedly in a coma following the shooting.¹¹

⁵ See <http://www.international.ucla.edu/article.asp?parentid=6642>

⁶ See <http://www.guardian.co.uk/commentisfree/libertycentral/2010/jun/09/indonesian-democracy-papua>

⁷ In 12/12/2011, the Coordinating Minister of Politic, Law and Security made a statement that there was no political prisoner in Papua. See <http://www.tempo.co/read/news/2011/12/12/078371304/Menteri-Djoko-Tegaskan-Tak-Ada-Tahanan-Politik-di-Papua>. In June/2012 the Minister for Law and Human Rights stated "We have never detained anybody for expressing their freedom of speech as has been accused by some parties. The Papuans who were detained, including Filep Karma, are those who have obviously violated the law on treason. Therefore, it's misleading to address them as political detainees." See Jakarta Post, "Papuans angered by President's statement," 14/6/2012, <http://www.thejakartapost.com/news/2012/06/14/papuans-angered-president-s-statement.html>

⁸ See *Papuans Behind Bars* at http://www.papuansbehindbars.org/?page_id=17

⁹ See 'No political prisoners? The suppression of political protest in West Papua,' TAPOL, April/2013, p.6 <http://tapol.org/sites/default/files/sites/default/files/pdfs/Suppression%20of%20political%20protest%20in%20West%20Papua.pdf>

¹⁰ Ibid.

¹¹ Ibid. p.7.

Of those political detainees who were charged, at least 20 were charged under Article 106 of the Indonesian Criminal Code on treason (*makar*), a criminal offence originating from the Dutch colonial period. The worryingly flexible nature of this problematic piece of legislation was evident from the variation in alleged offences prosecuted under Article 106 during 2012. These ranged from reportedly carrying KNPB or Free Papua Movement (Organisasi-Papua-Merdeka, OPM) documents, to organising a celebration of the UN Day of the World's Indigenous Peoples, to raising the Morning-Star flag, to suspected involvement in a National Liberation Army (Tentara-Pembebasan-Nasional, TPN) training camp.¹²

In March 2012 five men were each sentenced to three years' imprisonment for treason under Article 106, for their peaceful involvement in the planning and execution of the Third Papuan People's Congress.¹³ In May 2012 Darius Kogoya and Timur Wakerkwa were arrested for their role in organising a demonstration demanding protection for human rights, at which the Morning-Star flag was raised. They were convicted of treason under Article 106 and sentenced to three and 2.5 years' imprisonment respectively. After their appeal to the High Court was rejected, they are now serving their sentences in Abepura prison,¹⁴ alongside Filep Karma who was sentenced to 15 years' imprisonment for a flag-raising in December 2004.¹⁵ In Wamena prison in Papua's Central Highlands, four men are serving eight-year sentences after being arrested and tortured by the military for carrying a Morning-Star flag on their way to a funeral in 2010. Meki Elosak, Obed Kosay, Wiki Meaga and Oskar Hilago were unable to afford the costs to appeal the sentence, and now their only hope of release is clemency from the President of Indonesia.¹⁶ Despite the Opinion issued by the UNWG on Arbitrary Detentions stating that Mr Karma's detention (and all those secured on similar grounds) is arbitrary,¹⁷ Papuan activists continue to be arrested and convicted for acts of peaceful political expression.

The stigma of 'separatist/traitor' is applied to students, activists and NGO workers who demonstrate, organise or otherwise peacefully advocate in support of a range of human rights, and is used to justify harassment and arrest. The stigmatisation of Papuans as 'separatists/traitors' reinforces the feeling among Papuans that they are not really considered Indonesian, yet at the same time they are expected to be 'loyal' citizens. Those defending the rights of political prisoners are also branded as 'separatists/traitors' by authorities, and subjected to threats from both known and unknown sources.¹⁸ While defending the case of the five treason suspects in early 2012, Papuan lawyer Gustaf Kawer was threatened with prosecution whilst carrying out his duties in defending his clients.¹⁹ Another organisation working as part of the legal team had a dead cat placed outside their office.²⁰ According to lawyers based in the provincial capital Jayapura, when they are working on political cases, prison staff and officials from the Law and Human Rights Department regularly restrict access to their clients.²¹

¹² Ibid. p.14.

¹³ See <http://www.papuansbehindbars.org/?p=242>

¹⁴ See <http://www.papuansbehindbars.org/?p=1244>

¹⁵ See http://www.papuansbehindbars.org/?prisoner_profiles=filep-karma&lang=en

¹⁶ See <http://www.papuansbehindbars.org/?p=855>

¹⁷ See UN WG on Arbitrary Detentions Opinion No 48/2011 (Indonesia), available at <http://tinyurl.com/7f27ewj>

¹⁸ See 'No political prisoners?' Op.cit. p. 13.

¹⁹ See <http://tapol.org/news-and-reports/briefings/urgent-appeal-special-rapporteur-situation-human-rights-defenders-threat>

²⁰ TAPOL interview with Aliansi Demokrasi untuk Papua, February/2012

²¹ See 'No political prisoners?' Op.cit. p. 13.

Political prisoners are routinely obstructed in accessing healthcare while in detention, and the prison authorities are unable or unwilling to foot the bill. During 2012 political prisoners suffering from a hernia, colon problems and semi-paralysis following a stroke for which no treatment was provided were refused healthcare by the authorities. Campaigns at the local, national and international level were required to fundraise for transport, care, operations and physiotherapy. Furthermore, intensive lobbying was needed to negotiate permission for the prisoners to receive the necessary healthcare.²²

In the run-up to 1 May 2013, which is commemorated as the anniversary of the annexation of Papua in 1963, police in Papua issued orders that nobody should demonstrate or protest on this date.²³ This denial of the right to free expression is counter-productive, simply strengthening the resolve of activists to express their views. The suppression of political protest in Papua both fuels existing resentments and creates new ones. The policies used to clamp down on free expression and limit democratic space send a message that peaceful means will not be tolerated, increasing the incentive to turn to other means of expression. Civil society live in an atmosphere of intimidation, fear, mutual distrust, and any residual faith in the justice system is being eroded; many groups are increasingly oriented towards the international community rather than trying to pursue justice at the local or national level.

While the Indonesian government denies the existence of Papuan political prisoners, authorities continue to respond to political activity with arbitrary arrest, torture, ill treatment, forced confessions and neglect. Papuan political prisoners are not only symbolic of the continuing struggle for justice, but also of the government's failure to recognise and address the political problem in the territory. The fulfilment of the right to free expression in Papua is a basic first step towards establishing the conditions for a peaceful dialogue towards resolution of the conflict.

Recommendations

This coalition recommends the Indonesian government to:

- Provide access to the Special Rapporteur to visit Papua, West Papua and Maluku during the visit to Indonesia;
- Review articles 106 and 110 of the Penal Code which are frequently applied to sentence activists for the peaceful expression of their political opinions;
- Ensure that no further arrests of peaceful demonstrators and activists are taking place based on the expression of their political opinions;
- Recognise the existence of political prisoners and release all Papuan political prisoners.

²² See 'No political prisoners? Op.cit. p. 13.

²³ Police in Papua have stated that in order to prevent any problems, they will not give permission for demonstrations planned for 1 May, including the planned KNPB mass prayer at the grave of Theys Eluay, (assassinated by Indonesian Special Forces in 2001). See http://tabloidjubi.com/2013/04/29/peringatan-1-mei-jangan-dinodai-dengan-demo/?utm_source=twitterfeed&utm_medium=twitter