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Alternative Report on Indonesia

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A joint submission of

Franciscans International (FI)
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VIVAT International
Justice Peace and Integrity of Creation/Gereja Kristen Injili di Tanah Papua
(JPIC/GKI-TP)

Introduction

1. This stakeholders' report is a joint submission of Franciscans International (FI), Human Rights and Peace for Papua: International Coalition for Papua (ICP), VIVAT International. The report highlights key concerns related to economic, social and cultural rights as stipulated in the UN International Covenant on Economic, Social and Cultural Rights (ICESCR) in which the Government of Indonesia is a state party. The data and information obtained for this submission came from various contributors and sources including the Medecins du Monde, ELSHAM Papua, Awas MIFEE and some other local NGOs in Papua. The report is structured based on the CESCR list of issues for Indonesia.

Article 1 paragraph 2 – Free disposal of natural wealth and resources

Issue 3. Please provide information on the framework for the protection of the right of indigenous populations, including Masyarakat Adat, to their customary lands as well as the process through which their customary lands and forests are officially recognized. Please also provide information on concrete measures taken by the State party to address the increasing incidence of land grabbing, as well as examples of cases where such measures have been effective at preventing land grabbing.

2. The recognition of the right to self determination of the indigenous peoples in Indonesia remains a concern for the implementation of article 1 of the International Covenant on Economic, Social, and Cultural Rights (ICESCR). While the revised Indonesian Constitution 1945 recognises the existence of indigenous communities and their traditional rights as stipulated in article 18B (2), the Government of Indonesian does not recognise the terminology and definition of indigenous peoples as stipulated in the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP).¹ Currently, the Government of Indonesia is preparing the Bill on Recognition and Protection on the Rights of Indigenous Peoples (*Rancangan Undang-Undang Pengakuan dan Perlindungan Hak – Hak Masyarakat Adat – RUU PPHMA*) to be considered for the adoption by the parliament for the period of 2011 – 2014. The civil society organisations continue to raise their concern on the Bill especially concerning the definition of indigenous peoples and the discriminatory terms. The Bill does not use the definition of indigenous peoples as stipulated by Article 1 of the International Labour Organization (ILO) Convention 169 and also fails to comply with the spirit on the UNDRIP.

3. With regard to the indigenous peoples in the provinces of Papua and West Papua (Papua), the Government of Indonesia has failed to guarantee their full enjoyment of human rights. Since the annexation of Papua to Indonesia in 1969 through the Act of Free Choice,² the Government of Indonesia uses a more top down and centralised policy for Papua, in which the decisions are taken by the central government in Jakarta without a comprehensive consultation and consent of the Papuan. As an example, the Government of Indonesia adopted Law No.21 /2001 on the Special Autonomy for Papua³ with the purpose to bring justice, uphold the rule of law and respect for human rights, accelerate economic development and improve welfare for the people of Papua, as an affirmative policy. However, this Law is considered ineffective. There has

¹ See the statement of the Government of Indonesia on the recommendation of the Human Rights Council's Universal Periodic Review (UPR) A/HRC/21/7/Add.1, para 6.3.

² The result of the 1969 Act of Free Choice has been put into question during the Second Papuan Congress in 2000. See <http://www.library.ohiou.edu/indopubs/2000/06/08/0017.html>

been overlapping regulations passed by the central government in Jakarta.³ On August 30th, 2013, the UN Committee on the Elimination of Racial Discrimination (CERD) under its early warning and urgent action procedure sent a communication to the Government of Indonesia on the alleged on-going negative effects of the livelihood on the massive and non-consensual alienation of the traditional land of the Malind due to the Merauke Integrated Good and Energy Estate (MIFEE) development project. CERD expressed its concern on the involvement of indigenous peoples on the process of amending the Papua Special Autonomy Law and the recognition of the collective ownership of customary indigenous territories.⁴

4. Land grabbing in Papua is committed by companies supported by the national and local government through policies and licensing as well as with the of the security forces. The two Papuan provinces have become a preferred option for the development of palm oil plantations in Indonesia. According to the government statistics, there has been a steady increase of palm oil plantation operation, from 6.85 million hectares in 2007 to 9.28 hectares in 2013,⁵ which include 40.199 hectares in Papua province and 20.360 hectares in West Papua Province. However, it is likely that this area will substantially increase in the next few years, as oil palm companies increasing look towards Papua for their expansion plans. Provisional data collected by Awas MIFEE suggests that local governments across the two Papuan provinces have issued location permits for palm oil plantations covering around 2,313,000 hectares of land.

5. As of 2012, the land area that has been reserved for companies operating in Papua, whether Indonesian or foreign companies, had reached 15'661'796 hectares, amounting to 23% of Papuan land. The use of land by companies is typically for mineral concessions, coal, logging, large-scale plantations, petroleum, and liquefied natural gas. This includes of 152⁶ oil and gas companies operating in the provinces of Papua and West Papua.⁷

6. The national government's intervention to turn Papuan land into development projects is visible in various sectors notably concerning food and energy. President Susilo Bambang Yudhoyono's administration has prepared a Master Plan for Indonesia's Acceleration of Economic Development (MP3EI) for the period 2011-2025. In the MP3EI, different economic corridors are designed to generate a specific global commodity. Papua and Maluku have become strategic corridors for commodities from mining, plantations, agriculture, fisheries and forestry. The development of Indonesian economic power focuses on the wealth of the country's natural resources, in which the provinces of Papua and West Papua become the most important target for both national- and international-scale project developments.

Example: Medco Group Palm Oil exploitation

7. Medco Group is an Indonesian company investing in palm oil production in Papua, despite their core business being in oil and gas. Medco started work in the Manokwari region of West Papua province in 2008. The same company is also involved in Merauke, and was a key player in promoting the MIFEE project,⁸ an

³ See the initial report of the Government of Indonesia to CESCR, E/C.12/IDN/1, paras 18 and 19

⁴ See Communication of CERD to the Government of Indonesia, CERD/GH/mja/vdt, see at http://tbinternet.ohchr.org/Treaties/CERD/Shared%20Documents/IDN/INT_CERD_ALE_IDN_7098_E.pdf

⁵ Publication of BPS-Statistics Indonesia, at http://www.bps.go.id/hasil_publicasi/stat_kelapa_sawit_2012/index3.php?pub=Statistik%20Kelapa%20sawit%20Indonesia%202012

⁶ PAPUA LAND IS RESERVED: Papuan People Forced Out From Their Own Land, Leaving a Deep Despair, Septer Manufandu (Executive Secretary of FOKER Papua NGO, 2006-2009 and 2009-2012 period), in 2010.

⁷ Papua Forestry Statistics, in 2012 there were the following areas: Papua Province was 31'773'063 acres spread over 29 districts/cities and West Papua, 2008, the area is 9'769'686.81 hectares covering 9 districts and city.

⁸ Based on the article Environmental and Social Impacts from Palm based Biofuel Development in Indonesia, written by Rubeta Andriani, Agus Andrianto, Heru Komarudin and Krystof Obidzinski, See <http://dlc.dlib.indiana.edu/dlc/bitstream/handle/10535/7364/323.pdf?sequence=1>

Indonesian government development project for ensuring food security created in 2009. A plantation permit has been given to Medco's subsidiary PT Medco Selaras Inti Semesta for an industrial forestry plantation producing woodchips and wood pellets. This company cleared key important sites of the Malind indigenous peoples. These important sites have historical, social, cultural and economic value, such as routes travelled by their ancestors, sacred relics, ancestral burial sites, historic villages and sago groves (as the main source of staple food for the Malind).⁹ It was allegedly done without the consent of the Malind. This clearing was also in contradiction with the Papuan Governor to protect important sites as well as areas of high conservation value. According to our source who monitor the MIFEE operation in Papua, in many cases involving oil palm, there is clear evidence that consent has been obtained by deception or intimidation. Companies might give money as a 'token of appreciation', but when people sign for receipt of the money, they find out it is actually a land transaction. But once the transaction goes through, it is considered as valid by the authorities, who grant the permit.

8. Recommendations:

1. **The Government of Indonesia should ensure the recognition of the customary land of the indigenous peoples through the adoption of the Bill on the Rights of Indigenous Peoples currently being considered by the parliament. The Bill should comply with the international human rights laws including the UN Declaration on the Rights of Indigenous Peoples and ILO Convention 169.**
2. **The Government of Indonesia needs to take legislative measures to protect the rights of indigenous peoples to their customary lands and to fully involve Indigenous Peoples in all development projects which affect their customary lands through the implementation of the 'Free, Prior and Informed Consent principles'.**

Issue 4. Please indicate how the principle of free and prior informed consent is guaranteed in law and in practice in decisions on and the implementation of development and extractive projects affecting communities.

9. *Free prior and informed consent (FPIC)*, is the principle under which a community has the right to give or withhold its' consent with regard to proposed projects that may affect the lands that are customarily owned, occupied or otherwise used by the community.¹⁰ In general, companies that have been operating, or are in the exploration stage, have failed to engage with and seek informed consent of Indigenous peoples. Rather, communities have typically been promised community development as a result of the company operations, without any meaningful development commitments.

10. As examples show, natural resource conflicts result from the appropriation of customary land by companies. This illegal appropriation usually involves the regency, the provincial and the national government. The different level of corruption (between companies and government and some cases indigenous leaders) that exists in regency, provincial and national levels impacts directly the extent to which indigenous peoples have a controlling say over their customary lands.

Example: Ongarri Community

11. At the Ongarri Village community, Malind district, Merauke regency, the companies PT. Karya Bumi Papua and PT. Cendrawasih Jaya Mandiri, both sugarcane company subsidiaries of the Rajawali Group, have

⁹ See the report of Awasi MIFEE at <https://awasmiffee.potager.org/?p=682>,

¹⁰ Forest Peoples Programme (FPP) www.forestpeoples.org

cut down customary forest and cleared indigenous sacred places. The land is a community-owned marsh area. The deforestation is estimated to have started in 2012. Although the village community is the traditional land owner, it was not consulted, and gave neither agreement nor permission, nor handed over the land to PT. Rajawali in any way. When PT. Rajawali disseminated information about the planned project at the Malind district office in Kaiburse Village in the beginning of 2010, the Onggari community leaders who attended the meeting expressed their refusal to let the company operate in the Onggari area.

12. According to the testimony of Stephanus Mahuze, an Onggari community leader, some of the community members have conducted surveys at the deforestation locations known as Tuptidek, Kopti and Kandiput, where forests and swamps had already been cut down and cleared. The interviewees responded “These are our places for hunting, fishing, collecting wood and (traditional) medicine. It is the living space for animals and the Malind tribe’s ancestors’ sacred ground. The company has ravaged the land and we are disappointed with the eviction and demolition of the forest by PT. Rajawali without permission.”

Example : Road construction in Papua and West Papua Provinces

13. Following the establishment of the Special Unit for the Acceleration of Development in Papua and West Papua (*Unit Percepatan Pembangunan Papua dan Papua Barat – UP4B*) in 2010, the government issued a Presidential Regulation No. 40 in 2013 on the roads constructions in West Papua and Papua Provinces with the aim to open the two provinces from isolation. The government entrusted this project to be implemented by the Indonesian military (*Tentara Nasional Indonesia – TNI*). Civil society organisations at national and local level and Papua has raised strong comments on this project which is considered as imposing development agenda from the capital without making and consultation or seeking the consent from the Papuans. There has no published environmental assessment of the impact of this construction.

14. Recommendations:

- 1. The Government of Indonesia should combat the discrimination against the Indigenous Peoples, especially by modifying existing legislation and practices which discriminate the indigenous peoples and violate their rights, such as Investment Law No 25/2007 and Presidential Regulation 65/2006 on Land Acquisition which are implemented without the consent of the affected communities such as the indigenous peoples.**
- 2. The Government of Indonesia should implement the principle of Free, Prior and Informed Consent in a meaningful manner for the development and extractive projects, such as the MIFEE project Papua Province and Bintuni Bay project in West Papua Province, to comply with the UN Declaration on the Rights of Indigenous Peoples and the UN Guiding Principles on Business and Human Rights;**
- 3. The Government of Indonesia should uphold the principles enshrined in the UN Declaration on the rights of Indigenous Peoples and ensure the right of indigenous Papuans to the resources that are the sources of their livelihoods, including forests and land;**

Issue 5. Please provide information on the existing regulatory framework and processes for ensuring that development and extractive projects bring tangible benefits to communities. Please also provide information on the process by which the State party responds to reports of human rights violations, loss of means of livelihood and environmental degradation caused by development and extractive projects. Please give concrete examples of cases where the State party has taken measures to ensure that affected communities receive reparations.

Regulatory Framework

15. Article 18B of the Indonesian Constitution stipulates the recognition and the respect of traditional communities along with their traditional customary rights, with the condition that State has the controlling power over the lands and natural resources, to be used for the benefit of peoples.¹¹ Since 2011, the Indonesian People's Representative Council is taking a consideration on the bill on the Recognition and Protection of the Rights of Indigenous Peoples, in which the principle of free, prior and informed consent has been proposed. The adoption is scheduled to take place in 2014. However, due to the political climate toward parliamentarian and presidential elections, the adoption of the bill seems not to be the priority of the parliament.

16. On 16 May 2013, the Indonesian Constitutional Court adopted decision No. 35/PUU-X/2012 on the review of the Forestry Law No 41/1999. A group of civil society organization requested the Court to interpret article 1(16) of the law. The Court declared the word "state" to not be legally binding. The article which was previously read "customary forests are state forests located in indigenous peoples' territories," was declared by the court to be simply read as "customary forests are forests located in indigenous peoples' territories." This ruling has given a hope for the recognition of rights of indigenous peoples over their customary forests. At present, the government has not issued any mechanism of implementation of this historic ruling.

17. During the Second Congress of Rescuing the Human and Livelihood Resources in the Land of Papua in September 2012, indigenous Papuan and civil society organizations have urged the Indonesia government to immediately stop company activities and the issuing of new investment licenses for natural resources exploitation that damage and harm the livelihood and rights of the indigenous people of Papua, Indonesia, and the world.¹² Until now the rights of indigenous communities concerning forest/land resources have still not been legally guaranteed. Various development projects in Papua marginalize the rights of indigenous people, especially with regard to their access to customary forests and land resources. It is therefore important to halt the issuance of new licenses until a legal framework can ensure that they do not harm the interests and livelihoods of the customary holders of land. Existing licenses have to be reviewed in that regard.

Deforestation

18. Between 2010 and 2012, each year 299'100 hectares of forest were directly affected by deforestation and forest degradation in both Papuan provinces. Over the last 10 years this process has resulted in more than 4'715'975 hectares of forest (more than 10% of the total Papuan land) having been cleared.¹³ These numbers do not fully account for the additional deforestation caused by illegal logging, which is caused by handlers of forest resources through the system of forest concessions (HPH), forest products concessions (HPPH), conversion of forest resources for industrial timber plantations (HTI), plantations and transmigration and forest fires. The deforestation is often carried out by actors who do not recognise or respect indigenous people's land tenure rights. Unreliable data and inconsistent ways of measuring forest and land size make precise calculations of the alarming deforestation rate difficult.¹⁴ According to research by Greenpeace the

¹¹ Article 18 of the Indonesian Constitution says "(1) The State recognises and respects units of regional authorities that are special and distinct, which shall be regulated by law. (2) The State recognises and respects traditional communities along with their traditional customary rights as long as these remain in existence and are in accordance with the societal development and the principles of the Unitary State of the Republic of Indonesia, and shall be regulated by law.

¹² Congressional Declaration from The Second Congress of Rescuing the Human and Livelihood Resources in the Land of Papua, Unipa Campus, Manokwari, 29 September 2012 (point 2);

¹³ Human Rights in West Papua 2013, International Coalition for Papua and Franciscans International (2013).

¹⁴ In 2002, provincial government data estimated the total land in Papua with 42'198'100 hectares while in 2003, right after the split of the earlier single Papuan province into two Papuan provinces, new government data gave province wise estimations of total land area that added up showed 655'351 hectares of land less compared to the year before.

total annual deforestation rate between 2000 and 2009 was with 910'000 hectares per year three times higher than the data provided by government statistics. Different government sources such as statistical data from the provincial forestry department, the provincial plantation department as well as data from departments of different administration levels (regency, provincial, national) are inconsistent. Land rights activists estimate that both the total deforestation and the share of it caused by illegal logging have both increased over the last few years.

Example : MIFEE Project in Merauke and Bintuni Bay Project

19. One of the mega projects is the MIFEE development project. MIFEE reserves 1.2 million hectares of indigenous people's land in the Merauke regency for 32 companies which have gained a permit from the national government as part of the national food sustainability program. In its first phase, MIFEE will involve 480.000 hectares of land.¹⁵ Among the 32 investing companies, eleven companies are already fully operating and are acquiring land from the local communities. For this they are engaging in contact with the holders of customary land rights in Merauke by disseminating information regarding their investment plans. These eleven companies are subsidiaries of the five major investment groups: Medco Group, Rajawali Corporation, Daewoo International and AMS Plantation and Korindo. These five large companies therefore control 480'000 hectares of land in Merauke.

20. The local research conducted by the Secretariat for Justice and Peace (SKP) -KAME (Archdiocese of Merauke) together with the Sajogyo Institute between February and April 2012, shows that the land ownership transition from indigenous communities to investors have destroyed food sustainability, threatened livelihood sources of local communities, especially among the Malind community. Furthermore, these large-scale agricultural investment activities will slowly destroy the ecology and the environment in this community's area. The impact of MIFEE on the Malind community shows that the MIFEE program and policy package is not in favour to the Malind people's livelihood and is violating their human and indigenous people's rights.

21. The Marind-anim people have been displaced by development projects, economic growth and demographic changes. They have seen non-Papuans take over their lands. These processes give no regard to the customs and way of life of the Marind-anim, who consider their lands to be their mother. Their lack of access to information about modern land tenure systems has placed them at a disadvantage in their struggle with large agricultural companies that participate in the MIFEE project. Now they face fear and the loss of their forests, water and land.

22. When the Indonesian Government launched the MIFEE programme in 2010 of the in the Merauke regency, Papua province, indigenous people's rights activist Leo Deonggat Moyuwend saw the MIFEE programme as a "great plague" that will destroy his tribe.¹⁶ The scale of the MIFEE programme presents an unprecedented threat to the Marind-anim tribe's livelihood and traditional living environment. The use of land and energy resources by the government must take into consideration the environment and indigenous rights, and has to be done with careful planning.

¹⁵ MIFEE Planning documents by Merauke Local Government, 2010. Agricultural Production Center Region (KSPP) were divided into four Clusters, which are KSPP I located in Merauke area of with 90'900 hectares with the main commodities being rice, corn, fish; KSPP II, located in Kumbe, with an area of 214'300 hectares with the main commodities being sugarcane, corn, beans, livestock, and fisheries; KSPP III in Yeinan area consisting of 82'900 hectares of land with the main commodities being corn, beans, sugar cane, fruits, livestock and fisheries, and KSPP IV located in Bian, with an area of 91'700 hectares with the main commodities being nuts, sugarcane, fruit, livestock and fisheries.

¹⁶ Human Rights in in West Papua 2013, International Coalition on Papua and Franciscans International (2013), page 56.

23. Marind-anim clans are now trying to protect sago, the traditional food of many Papuan indigenous communities, which is harvested from their forest as part of their indigenous culture. The tribe do not know much about the MIFEE project that causes the deforestation of large parts of the Marind-anim forest. Many village elders face the arrival of MIFEE without being provided with information or consultation and have to witness how sago, their traditional food, is being eliminated together with the forest they live in.

24. Already in 1930, the Governor General of the territory of Papua, Sir Murray Hubbert, in his annual report wrote about the expected oncoming destruction of the traditional way of life through the arrival of foreign culture and industry to the Marind-anim area. He already feared for their survival. In 1975, Mrg. Hermanus Tillemans, msc, then the Archbishop of Merauke, again echoed this fear on his deathbed, stating that the, "Marind people will be strangers in the Marind land and are slowly going to become extinct."

25. Social psychology includes the "mass disenchantment" concept, which describes the mass disappointment etched on the social consciousness of the Marind-anim. For the Marind, "Matohale" is the loss of social awareness of self, identity and cosmic balance and is used to describe the future of the Marind-Anim in their own land. Matohale is a form of social apathy born out of loss of life balance.

26. Indonesia's Master Plan for the Acceleration and Expansion of Indonesia Economic Development (MP3EI) includes the gas and petrochemical industry in West Papua province. UK-based multinational British Petroleum (BP) is operating the Tangguh gas installation (it is to as 'BP Tangguh') on the southern shore of Bintuni Bay in West Papua province. German industrial giant Ferrostaal is to build a US\$ 2 billion petrochemical processing plant in Bintuni Bay, using Tangguh gas as feedstock. An initial agreement for a petrochemical plant by Korean-based LG has already been signed. Local communities, whose customary lands and resources are being used for such schemes, are struggling to comprehend what is happening to their region and to have their voices heard.

27. In November 2012, the Indonesian and UK governments signed a US\$12.1 billion deal to expand production at BP's gas extraction and liquefied natural gas (LNG). The expansion of BP Tangguh, which was formally agreed in London, involves building a third 'production train' which is planned to be fully operational by 2018. This will increase the production capacity at the Tangguh plant by 3.8 million tonnes of LNG per annum to a total of 11.4 million tonnes per annum. As part of the deal for this third train, a significant proportion of the gas will go to the domestic market in Indonesia via State electricity company PT. PLN as well as feeding the proposed petrochemical plant. BP is the operator of the Tangguh project and owns a 37.16% stake in it. BP's partners are Japan's MI Berau BV, which holds a 16.3% stake; China's CNOOC Ltd. (13.9%), Japan's Nippon Oil Exploration (Berau) Ltd., (12.23%), Japan's KG Berau/KG Wiriagar (10%), LNG Japan Corporation (7.35%) and Australia-based Talisman (3.06%).

28. Before the commencement of BP's Tangguh project, local communities had voiced their wishes for an improvement of their living conditions through the project. Promises for this and a development of infrastructure were made. Until now, this had not taken place as expected. The ongoing prevalence of poor living conditions in the face of the enormous economic power of BP adds to a sense of unfairness.

29. The community in the Bintuni Bay regency has become disenchanting and disillusioned with the project, due to the failure to provide electricity access as was promised, limitations to access to traditional fishing grounds, and complaints that local community members may only receive menial, casual work while well reimbursed work positions are reserved for people outside of the community.

30. According to our source, in November 2012, community members from the Bintuni Bay were able to confront BP and the local government planning department (*Bappeda*) with their disappointment and expectations. The workshop ended with recommendations to the regional government for more transparency, openness and a pro-people approach; for the adoption of regional legislation on the distribution of oil and gas revenues; for a review of the recruitment system for local and non-local workers and for the formation of a Regional Information Commission.

31. The development undertaken so far by BP Tangguh covering education, health and home economics (family-based economic activities) has not fulfilled the promises made. BP Tangguh should therefore immediately step up its community development programme; conduct regular workshops to discuss the impact of the project to local communities; meet with their representatives and share its exploration policies in a transparent way.

Human Right Impact Assessment

32. These examples demonstrate that, to the extent that the Indonesian government does undertake environmental and human rights impact assessments, they are manifestly inadequate. In 2012, the UN Special Rapporteur on the right to food and the Special Rapporteur on the rights of indigenous peoples sent a communication to the Government of Indonesia questioning whether there has been any human rights impact assessment.¹⁷ However, until today, there has no public report on such assessment conducted for MIFEE Project or Bintuni Bay project.

33. Recommendations:

- 1. The Government of Indonesia, in particular the Ministry of Forestry, the Ministry for Mining and the Ministry for Agriculture, as well as provincial and regency governments, should conduct, environmental and human rights impact assessments on development and extractive projects by involving the affected communities, especially the indigenous peoples;**
- 2. The Government of Indonesia should review licenses that have already been issued to private enterprises which violate the human rights especially the right to information, the right to livelihood, the right to healthy environment, the right to food and the right to culture of the indigenous peoples, especially in the Papua and West Papua Provinces;**
- 3. The Government of Indonesia should conduct human rights impact assessments for all development projects with the involvement of other stakeholders such as the representative of the affected communities, the National Human Rights Commission of Indonesia and other civil society organisations.**
- 4. The Government of Indonesia should respect the principles of Free, Prior and Informed Consent in relation to development and mining projects conducted within the lands of Indigenous Peoples.**

Article 2 paragraph 2 - Non-discrimination

Issues 7: Please indicate to what extent the State party's legislation is effective in enabling the implementation of the provisions on non-discrimination contained in the Constitution and the Covenant,

¹⁷ See the communication of the Special Rapporteurs on right to food and indigenous peoples to the Government of Indonesia at [https://spdb.ohchr.org/hrdb/20th/AL_Indonesia_01.02.2012_\(7.2011\).pdf](https://spdb.ohchr.org/hrdb/20th/AL_Indonesia_01.02.2012_(7.2011).pdf)

including by prohibiting discrimination in the exercise of all economic, social and cultural rights on all grounds, and providing for sanctions, remedies, and the application of special measures.

34. There is a discrepancy between the states health policies and existing discrimination in health services specially and in society in general. For instance, stigma towards Papuan AIDS patients by migrant staff is considerable. According to the information from the staff of *NGO Mediciens du Monde* a doctor didn't want to examine an AIDS-patient by fear of being infected himself. Also Papuan population has little trust in migrant staff and relates them to Indonesian domination. Its one of the reasons why the district hospitals and clinics are often empty and poorly visited. There are good examples where this distrust between staff and population has overcome, but this the exception rather than the rule. Another issue is that all formal work, consultation and policies is in Indonesian language, while a part of the highlanders speak poor Indonesian, and have another tongue. HIV and VCT services could be much approved by allowing proper translation via a local and neutral counselor.

35. One of the ways that this systematic discrimination is covered-up, is by not disaggregating data according to ethnicity in formal government and health statistics. Statistics from Papua always indicate in several social and health indicators that the province is lagging behind, but on average it is moving towards the national level. These statics, as in the 2012 national demographic health survey, does not show the considerable health inequity between the indigenious and migrant population, whether it is in general health status, life expectancy, access to services, nutritional status, HIV/AIDS prevalence, human resource management for health etc. It is estimated that there is a difference of life expectancy of 10-15 years between the indigenious and migrant population. These disaggregated data is however not collected and/or reported by national or district (health authorities). Disaggregation of data and consecutive affirmative and specific action and policies would enable some of these (structural) health inequalities to be addressed.

36. Indigenous women in Papua experience high levels of domestic violence with little protection from the police. The subordination of women is customary and so violence against women tends to be tolerated. The experience of violence is rooted to some interlinked causes. To some extend that female subordination finds support within indigenious culture where there are instances in which domestic violence is largely tolerated. This has been exacerbated by the marginalisation of the Papuans in their own land and the culture of violence that has accompanied militarisation and conflict. Impunity exists at all levels of the Government of Indonesia, aggravate the victimization of women. Gender discrimination permeates all aspects of life including property ownership, inheritance, participation in decision making and the prescribed role of women in the family and society.

37. Recommendation

- 1. The Government of Indonesia should provide disaggregated data on health in Papua, especially between the indigenious Papuans and the migrant populations.**
- 2. The Government of Indonesia should provide concrete measures to address the domestic violence in Papua especially through awareness raising programs as well as providing a shelter for the victims of domestic violence.**

Article 3 - Equal rights of women and men

Issue 10. Please indicate whether the State party has adopted gender equality legislation and the progress achieved in the enforcement of such legislation. Please also provide information on measures taken to overcome stereotypes that continue to negatively affect the equal enjoyment of economic, social and cultural rights by men and women.

38. The national security approach implemented in Papua creates a situation that allows for acts of violence by the law enforcement personnel, especially against women. The STOP SUDAH! Report¹⁸ documented cases of women's human rights violations, including 138 cases of state violence against women, most of which have been carried out by security forces. The political upheaval and ongoing conflict in the region leave women vulnerable to abuse. The report identifies 58 cases of abuse between 1999 and 2009, which were carried out by members of 'Brimob' (*Brigade Mobil - Mobile Brigade*), the Indonesian Police, and the Indonesian Army. These included killings and disappearances, illegal detention, torture (including sexual torture), sexual slavery, assault, forced abortion and displacement.

39. Recommendation

1. **The Government of Indonesia should provide specialized social security and support services for indigenous Papuan women who experience violence and abuse.**
2. **The Government of Indonesia should set up in Papua a regional office of the National Commission on Violence against Women (KOMNAS Perempuan) with the power to investigate violations and abuses perpetrated against women, including domestic violence, and promote and protect women's rights in Papua.**

Article 11 - The Right to Adequate Standard of Living

Issue 26. Please provide information on the measures taken to ensure the availability of affordable food, in particular staple food, and to prevent speculative actions which is one of the drivers of food price hikes.

Right to Food

40. With respect to the cultural context in the Provinces Papua and West Papua, the right to adequate standard of living and food are closely related with the right to land. All native Papuans are indigenous peoples, considering their land as the place of ancestral origin and foundation of life. Their way of life and food security highly depends on their land and its natural resources.

41. Victims and civil society organizations in both Indonesian provinces have reported dozens of cases, where the Indonesian government has intentionally promoted land grabbing and the exploitation of natural resources, prioritizing economic growth and national food security without considering its obligation of protecting the rights of indigenous minorities.

42. The Special Autonomy law contains several articles to ensure the protection of indigenous land rights (UU No. 21/2001, Article 38(2) & Article 43 (1 – 5)). Nevertheless, due to its poor implementation, the Papuan Autonomy law has failed to guarantee indigenous Papuans the protection of their right to land, as an essential foundation for their right to adequate standard of living and food. National and multinational

¹⁸ Stop Sudah!! Kesaksian Perempuan Papua Korban Kekerasan dan Pelanggaran HAM 1963 – 2009: http://komnasperempuan.or.id/publikasi/Indonesia/materi%20publikasi/Laporan%20Pemantauan/new_buku%20laporan%20stop%20sudah%20papua_revisi%2004102010.pdf

corporations have gained access to land and natural resources in Papua and Papua Barat without being monitored or restricted by government institutions in charge, e.g. following any legitimate procedure to obtain the prior, free and informed consent of the affected communities.

43. In Merauke many indigenous communities have lost access to hunting grounds, or are affected by the rapid decrease of local animal populations, caused by the implementation of the national large scale Food and Energy project MIFEE.²⁴ The project itself was launched to maintain national food security but involves many international companies and violates the local indigenous peoples' right to food and right to fully enjoy and utilize their natural resources, as stated in the International Covenant on Economic, Social and Cultural Rights in the Articles 1(2), 11 and 25.

44. Similar problems have been reported from several areas where the government approved concessions to national palm oil companies. Companies have cleared vast areas of primary rain forest, including local sago stocks, which are the main food source of indigenous peoples. Furthermore it is a common practice that companies hire military and police personnel to prevent local indigenous population from entering the plantation for the purpose of hunting or collecting food.²⁵

45. Besides the threat of losing access to land, the constantly rising prices for staple foods in the provinces Papua and West Papua are of serious concern. In the interior, the prices for staple foods such as rice and cooking oil can be 10 times higher than in the urban regions, due to high transportation costs by airplane.

Issue 27. Please provide information on the impact of measures taken by the State party to improve access to improved sanitation, in particular in rural areas, and to eliminate the practise of open defecation

Right to Adequate Standard of Living

46. The Indonesian Ministry of Health confirmed that 72,5 million of Indonesian still live under a bad sanitation condition. In 2012, the average of the access to sanitation in Indonesia is only 56,24 %.¹⁹ One of the main problems is the open defecation, especially in the rural area. This has resulted to possible contamination of drinking water and indirectly to food contamination. This has been confirmed through the study done by the World Bank. According to it, Indonesia is currently facing a great challenge on water and sanitation issues. About 14 % of the Indonesian urban dwellers defecate in the open.²⁰ Only about 1 % of the urban wastewater is treated.

47. Many people in the provinces Papua and Papua Barat still have to live in undignified conditions. With regards to sanitation, in remote areas open defecation close to rivers and wells is still commonly practiced, due to lack of health care knowledge and sanitary facilities. Papua province has the lowest rate of the access to sanitation among other provinces in Indonesia. Less than 15 % of the people in rural area in Papua have the access to decent sanitation. The situation in West Papua province is not much better. Only around 45% of the people in the rural area have the access to decent sanitation.²¹ The situation in the urban area of some cities in Papua is not better. For example in Wamena, the capital of Jayawijaya regency, most people rely on water supply from small wells, which they build in their yards near their outhouses. People in such areas

²⁴ Zakaria, Kleden, Franky (2011): MIFEE Tak Terjangkau Angan Malind, p. 67

²⁵ Suara Perempuan (2009): Dari Kampung ke Kampung, Perjalanan Jurnalistik Suara Perempuan Papua, pp. 261 ff.

¹⁹ Road Map: Percepatan Program STBM 2013 – 2015, Indonesian Ministry of Health (2013), page 2.

²⁰ East Asia Pacific Region Urban Sanitation Review. Indonesia Country Study, World Bank (September 2013).

²¹ Ibid, page 12.

have to live with increased health risks, because most of the toilet facilities do not have any sealed septic tanks.

48. Recommendations:

- 1. The Government of Indonesia should concrete measures to improve the access to water and sanitation in Papua, especially in the remotes areas and in the highlands. This has to be consulted to concerned communities especially the Papuan indigenous peoples.**

Issue 28. Please provide information on the impact of measures taken to improve access to, and the quality of, sexual and reproductive health services and maternal health services, particularly in rural and remote areas.

HIV/ AIDS and other sexual transmittable diseases (STDs).

49. Sexual and reproductive health services indicate serious shortcomings in the highlands, and have worsened since the implementation of Special Autonomy funds in 2002. An expanding HIV/ AIDS epidemic, that is for a large extend affecting the indigenous mountain population, is not under control. It is difficult to know the exact prevalence of HIV infections in the highlands. A challenge for government and non-governmental data registration is that the denominator of a population cohort is often not clear. Demographic data on inhabitants vary greatly between churches and government institutions. Due to considerable mobility of indigenous persons, and influx from migrants from outside, it is difficult to know the real number of inhabitants residing in the often (new) urban capitals of the districts.

50. A demographic survey in 2006 found an average prevalence of 2.4 % of adult population to be infected for the two combined provinces of Papua. In the highlands regencies of Papua the survey estimated the prevalence to be 2.9 %. In 2009, based on narratives in Mulia, Sinak and surrounding villages NGO Medecins du Monde estimates it to be about 5 % in (in the indigenous population). Health care workers in Wamena currently talk about a prevalence that is about 8 – 10% in their region. Other more anecdotal indication comes from Apaphasili, in Yahukimo regency, where 92 people were found to be infected in a village with less than 1000 inhabitants. Beginning of 2014, rest results for 80 Siriwo residents (Paniai district) have revealed that four cases of them are infected with HIV- AIDS

51. In 2008 the Ministry of Health initiated a so called `Save Papua` program, in which at district level mobile health teams were formed to provide in remote villages Voluntary Counselling and Testing (VCT), and if positive for the HIV virus, refer people to a hospital to receive ARV treatment. This program functioned till 2010, and its outcomes are unclear. The program has not been continued by the government, and has not been evaluated.

52. What is however known are the cases of people that come for VCT and possible treatment to the clinics in the urban centers in the highlands, and this number increases rapidly. The regency aids commission (KPA) registered on 31 December 2011 the accumulated number of people living with HIV/AIDS was 1351 cases in the regency of Jayawijaya. On 31 December 2013 this number has risen to 3868 cases. Nearly all those persons are indigenous people from the highlands, many in their early adult years, while many of them come from surrounding mountain districts such as Yahukimo, Tolikara, Puncak Jaya and Lani Jaya.

53. Ministry of Health Surveillance data (IBBS collected in May 2011) shows that 25% of Wamena sex workers were HIV positive, while 35.4 % were infected with gonorrhoea, 31.4 % had syphilis and 44.8 per cent had Chlamydia.

54. A church based health clinic in Wamena that provides VCT, antiretroviral HIV treatment, Tuberculosis programs and STD treatment is overrun by patients seeking care. From a mere 20 patients under care 5 years ago, it now permanently provides care for 130 patients. It has a special shelter for TB patients to receive care during 2 months to guarantee treatment adherence. Co-infection of TB in HIV persons is high, its prevalence estimated to be 60-80%. It must be noted that this clinic does not have a doctor employed, and that care and testing are provided by 3 nurses with the support of a laboratory technician. A government hospital doctor comes once a week on voluntary basis to support the consultations.

55. The government hospital (RSUD) in Wamena provides ARV treatment and can hospitalize HIV patients in severe cases. Although ARV treatment is in essence free from financial costs available, payment for additional medication (often provided via private pharmacies), care and food is required. Trust from the indigenous population in the often migrant staff at the hospital is limited, and they rather prefer care and follow-up via the church organisations. All in all uptake of ARV treatment is limited. Only a total 2,091 out of 13,726 registered HIV-infected patients in Papua are taking the anti-retroviral (ARV) medication (data from 2013). Prevention from Mother to Child treatment (PMCT) programs has been started up in the cities of the coast, and a pilot program is started in Wamena by hospital. In the highlands, pregnant women are not automatically checked if they have the HIV virus. This is related to limited maternal health services coverage (See below)

56. In the wake of special autonomy policies and funds, many new districts have been created, especially in the highlands. In essence, the old districts have been divided in 2 or more districts, to further support decentralisation of government. This process, known as 'pemekaran' has demonstrated to be destructive for the health services in remote areas. New health authorities have to be created in the new districts, as well as health posts staffs have to be re-aligned. The governance of these health departments and health services is poor. Bad human resource management, non-accountability, and a laissez-faire attitude make that a majority of health posts in sub-districts in reality do not have health workers present. According to government data these health posts are staffed, but staff (whether doctors, nurses or midwives) remain in general in the urban centers, while still receiving salaries and other benefits. Leadership within these health authorities is a rare exception. It is however not only a local governance issue. The national (health) authorities let this happen without monitoring, asking for accountability, or interfering in the services or the management. And when they interfere such as in the 'Save Papua' program, it is mainly via the allocation of 'emergency' funds, without really be involved in its execution.

57. Detection of HIV, TB or STDs infections, and follow-up of treatment and care are hence virtually impossible in the more remote districts and villages. Before 'pemekaran' remote governmental health posts, was already functioning with many limitations, at least had staff being more often present.

58. Church organisations, and until 2012 also NGO *Medecins du Monde*, fill up the many health services gaps in the remote highlands. They train health cadre, often volunteers, to provide basic prevention and care, via the existing widespread church network in the highlands. They visit the villages few times per year to provide health, education and other services. Villages in the districts of Yahukimo, Yalimo, Jayawijaya, Tolikara, Lani Jaya and to an extend also Paniai and Dogiyai have infrequent visits of these organisations. Church

organisations have however less financial and staff support than in the decades before, and their own cadre (mantri) trained in remote health posts are aging and not being replaced by younger staff.

59. Especially the central highland districts of Nduga, Puncak Jaya, Puncak, Intan Jaya have virtually no access to health services outside the primary health clinic in the district centre. ARV treatment is not available, or when available such as in Mulia, there is little trust in the services, often provided by migrant health staff. The number of people on permanent ARV treatment in Kota Mulia is less than 50.

60. Local organisation Kinaonak follows-up since 2012 about 20 persons living with HIV-AIDS taking ARV treatment in Mulia. 6 persons of them have passed away. Kinaonak reports that for at least 5 people living in the villages outside Mulia, continuity of treatment has stopped because they cannot access Mulia for security reasons.

61. These central highland districts, especially in Mulia and Enarotali, have a big presence of military personnel, and is the site of an armed conflict with a pro-independence group. The indigenous community is caught in-between these factions. In January and February three villages (Kulirik, Dondobaga and Wuyuneri) nearby Mulia were raided as it was expected that pro-independence groups were hiding in there. Indigenous people are often stigmatised as pro-independence supporters. The people from the three villages, cumulating up to over 1000 persons, have reportedly fled the area to cities like Nabire and Timika, some stay in the nearby district of Tolikara. For the moment they are afraid to return. Majority of the 'honais' (traditional houses) in the three villages have been burned down. As the people rely on traditional subsistence farming, access to affordable food in urban areas is difficult.

62. Due to this armed conflict, low trust by the indigenous people in the state, and limited government presence, health services in this mountainous, rugged, area approximately the size of 100 by 50km, are non-existent or of truly poor quality. However, from indigenous perspective this area is relatively well populated with villages dotted around the mountain slopes and valleys. At least 50,000 people live in this area. Besides creating new districts in this area, the national government has not re-initiated or contracted urgently required sexual and reproductive health services.

Family planning

63. The Papuan provincial health profile shows that the uptake of active family planning (49%) and skilled birth attendance (53%) falls far behind the rest of the country. The first is consistent with stories that indigenous Papuans see family planning as a form of population control by the State. For example, in the 1980s and 90s, the "two children are enough" family planning policy resulted in injections being given to Papuan women in some areas as a form of family planning. However these injections were given under the false pretence of being vaccinations.

64. According to 2012 Indonesia Demographic and Health Survey (IDHS) Papua's fertility rate is 3.50, higher than 2.18 % in 2007. While the percentage of contraception (CPR) use dropped from 38.3 in 2007 to 21.8 in 2012

65. While the overall average fertility in Papua has increased, this is certainly not the case for the indigenous people in the highlands. Multiple determinants, such as chronic malnutrition in children and young adults; alienation of traditional lands; marginalized living conditions of highland Papuans living in urban areas on the coast; HIV-AIDS and STIs; existing traditional child spacing methods, a perception by highlanders of 'enforced' family planning on the indigenous population by the Indonesian government leading to a

demographic deficit (43% of the current population in Papua province has an indigenous Papuan background); lead to a low fertility rate and low uptake of family planning (whether injections, tablets or condoms). An unpublished survey by the Catholic Church in Jayawijaya early 90's estimated a fertility rate of 1.14 for the Papuan population. Current fertility rates are unknown, as the national health survey does not disaggregate data to ethnic background. The author roughly estimates that the fertility rate is somewhere between 1.5 and 1.8 child per adult woman for the Papuan people in the highlands. The government and family planning office have so far not been addressing these concerns. Their approach follows rather the national strategy of a `two children`, small healthy family. This program does not fit with the social-cultural reality of the highlanders and is hence for a large part ignored.

Maternal health

66. The Indonesian demographic health survey 2012 indicates that for the two Papuan provinces maternal mortality is three times higher (112 vs 43/100.000 births) than in the rest of the country, while skilled attendance during pregnancy and birth is about 30% lower than in the rest of the country. In Papua, 40 % of babies were delivered by a skilled provider: in Jakarta, the rate was 99 %. In Papua, 27% of babies were delivered in a health facility; in Jakarta, the rate was 96 %.

67. Skilled attendance during pregnancy and deliveries drops under 10% in the highlands. A program by the Indonesian government and supported by the World Bank (2001-2003) to train and deploy village midwives in remote areas has not shown a long term impact. After the program and incentives for the midwives ended, most of them left the villages. The creation of new districts has only aggravated the problem, with many health posts in reality not operating. This means that immunization, growth and weight monitoring for under five, ante- and postnatal care, detection of risk factors for delivery, not or infrequent functions in the rural villages. These services do exist to an extent in the health centers in the urban areas, but are mainly visited by migrants and urban residents. Papuan highland woman rarely deliver in health centers, for several socio-cultural reasons, and often even not deliver in the traditional hut. They rather deliver in the forest or nearby the gardens, with sometimes support of a traditional midwife. As many young pregnant women might deliver at a young age (14-16 years), are chronic malnourished, having anaemia, and lack minerals and vitamins, they face more often complications during childbirth. This might lead to pre-term delivery, small birth weight of the child and hemorrhagic bleeding and collapse, retention of the placenta, leading to sepsis.

68. When women do rarely reach a clinic for emergency obstetric care, they come in a late, serious stage. Emergency obstetric care is, besides Wamena's general hospital, non-existent. Stocks of partum stimulating medication (such as Oxytocine that stimulates contraction of the uterus) are left unused, out of cold chain, in the warehouses of primary health clinics and hospitals. C-Section is not possible in most district hospitals (except Wamena) because anaesthetic facilities are not present. Another observation is that midwives and doctors in the clinics wait for the women to come to deliver, rather than helping them to deliver at home. In one such rare occasion where author was present, the (migrant) doctor did not want to give contraction stimulating medicine, because she was afraid that if that would lead to complications or stillbirth, the local family would blame her. This aspect of trust and blame is another reason why only limited births are attended in the highlands. Consecutively the maternal mortality rate in the highlands is considerably higher than the 112 deaths/100.000 births as stated in the official figures. The government has in the highlands not further initiated a social-cultural sensitive service that provides skilled birth attendance directly in the women's villages.

69. Recommendations:

1. **The Government of Indonesia should monitor, evaluate, and intermediate the execution of failing health services in the highland districts. It should not come with more funds, migrant staff or new programs. The national health authorities should hold the districts accountable regarding the responsibility towards its citizens to provide essential health services. The current laissez faire attitude by the government legitimizes the poor functioning of the health services. If needed the government should hold health district authorities juridical accountable for the (mis-)allocation of health funds provided by special autonomy.**
2. **The Government of Indonesia should in its demographic and health service statics disaggregate data for different ethnic groups, such as non-Papuan and Papuan inhabitants. These data would bring insight on existing health inequalities, and would be a basis for a specific provincial Papuan health strategy where challenges such as HIV/AIDS, sexual and reproductive health, substance abuse, human resource challenges, can be addressed, programmed and funded.**
3. **The governments is required to install a health policy forum at provincial or highland district level, where participatory policy making can be made, with direct input from the communities, so that their grievances, expectations, and solutions can be elicited for a future health strategy.**

Issue 29: Please provide information on the measures taken to ensure access to adequate mental health treatment and care.

70. In the highlands, formal mental health care is not available. From the formal governmental health staff, there is no one specialized in mental health treatment and care, whether it's from a medical, nursing or psycho-social perspective. An urgent, and very evident issue, is the amount of drunken indigenous young men visible in the streets and markets of Wamena and Enarotali (Paniai), playing gambling games. Younger children roam the streets of Wamena, sniffing glue (Aibon). These youngsters are unemployed, come from the rural areas to the city. They do not fit in the traditional values anymore, but cannot cope with the modern economy either. There are hundreds of these youngsters in the highlands, and many of them also come to the cities on the coast. This 'lost generation' requires urgent attention and care, and besides a bit of attention by church organizations. There is nowhere they can go to. One hears every now and then of Papuan people dying because they drink polluted, self-distilled, alcohol with a high percentage. Psychosocial rehabilitation of substance abuse services, rooted in customary values and principles are urgently needed. This area (mental health and substance addiction) is a neglected field of attention, not only in the highlands but all over Papua. Without going into detail, one realizes that it is also related to the large amount of domestic violence that occurs in the population. An Australian study reported in 2013 that over 80% of Papuans that have sought refuge in Australia reported post traumatic stress disorders. The extent for the highlands is unknown, but with the rate of violence expected to be considerable.

71. Recommendation

1. **The government is recommended to urgently address the mental health and substance abuse challenges in the Papuan highlands. This can be done via cultural sensitive appropriate psychosocial services**

Article 13 and 14 Right to Education

Issue 31. Please provide information on the impact of measures taken by the State party to improve access to and the quality of education in rural and other disadvantaged areas.

72. There are concerns about the state of education in Papua, particularly in the mountain or remote areas such as Jayawijaya Regency, Star Mountains, Tolikara, Yahukimo, Mamberamo Raya, Yalimo, Lanny Jaya, Nduga, Central Mamberamo, Puncak Jaya, Puncak, Paniai, Intan Jaya, Dogiyai and Deiyai. The prevailing problems discussed below affect almost all elementary and junior high schools in indigenous villages. There, school hours are not applied according to the standard of school hours as mandated in educational regulations. Teachers are not living as expected in their assigned locations because of poor facilities in those rural areas. As a result of the resulting absence of teachers, students are not able to read, write or and count. These problems also exist in senior high schools. Even in the few Papuan local universities a considerable amount of teachers are not present at work.

Educational Standards

73. The School participation rate, literacy and enrolment ratio in Papua remains well below the Indonesian national standard.²² This is despite the allocation of funds for education under the Special Autonomy provision for the Provinces of Papua and West Papua. The government's policy to establish School Operational Assistance (*Bantuan Operasional Sekolah/BOS*) under the government regulation No. 17/2010 on Educational Management and Operational the Presidential Decree No. 48/2008 on Education Funding was meant to improve the access to quality basic education for the poor, people living in rural and remote areas as well as conflicted areas such as in Papua. However, securing access to the promised funds is often not easy and as a result many schools continue operating under poor conditions.²³

74. Until 2013, the findings of past education sector evaluations have not been taken into account. Already in 2009, the then- Governor of the Papua Province, Mr. Barnabas Suebu, together with the representatives of religious partnership groups, during a visit to Berlin raised the following challenges regarding education in Papua. While these problems were understood by the provincial government, they have to date failed to address them.

75. When measured under national and international standards, primary and secondary schools in Papua are at very low level. Experts talk about affected students as being a "lost generation." There are various reasons behind this: (a) there is no supervision of schools by the Education and Teaching Office, especially at the district level; (b) the currently used curriculum is the national curriculum which is not at all in accordance with the students' daily lives in the rural or mountain areas, or coastal villages; (c) teachers are not encouraged to adjust their subject material to fit better with the local environment and there is lack of innovation on the part of teachers because of the absence of regular in-service teacher training to improve their capacity. With the proliferation of administrative regions, many teachers have left their jobs and entered local government administration, as heads of district or sub-districts, resulting in the significant shortage of teachers in these areas; (d) Insufficient infrastructure in rural areas, such as poor schools or housing facilities for teachers, expensive transportation, and wages not being paid regularly, disappoint and

²² The Indonesian National Government Bureau of Statistics http://www.bps.go.id/eng/menutab.php?kat=1&tabel=1&id_subyek=28 accessed on 4 October 2013

²³ *Human Rights in West Papua 2013*, International Coalition for Papua and Franciscans International (2013).

discourage teachers from fulfilling their duties responsibly. They then often leave their supposed place of work and move to the cities.

Example: Koromboi village

76. In Koromboi village, Rainbawi district, Yapen Islands Regency, 63 students are enrolled in one of the 6th grade classes of the elementary school. The students come from two villages around the Sewenui district and the Kororompui village. The school facilities both for students and teachers are not comparable with more advanced schools in the district or province capital cities. School supplies, such as notebooks, school uniforms, and shoes, are not available because the village community cannot afford to buy them. Most of the teachers live in Serui city, which is a six-hour ferry trip away from their school. Only occasionally do they make the effort to travel to the remote school, leading to them being absent from their work most of the time. As a result, teaching and classes are not running. There is no supervision of the teacher's attendance by the district Education Office.

Curriculum

77. The development of local curricula which could present teaching subjects that are adjusted to indigenous culture and include local wisdom, is not considered as an innovative teaching style. In the past, boarding school dormitories in the Papuan capital had caretakers that would bring students from different regions together to create a feeling of unity and ensure that young students - from the age of 13 - are getting age-appropriate care and supervision. Within the recent development activities on boarding schools, regencies have only constructed buildings in the provincial capital without providing care and maintenance for minors. The regency-managed dormitory system leads to tribal separation and, in the absence of proper care, young students face serious problems coping with urban life. Seeing them as education development projects, cities and districts are allocating funds for the construction of more boarding schools and dormitories, rather than allocating funds to improve school standards locally.

78. Education expertise and experience developed by religious institutions run by churches have always made an important contribution to the education sector. However, this expertise and background, in particular with regard to running effective curricula with teachers being available at their place of work, is not taken into account in the current development plans for education in Papua.

79. Recommendations:

- 1. The Government of Indonesia should ensure the improvement of the quality of education in the disadvantaged areas, especially in the rural and mountain areas in the Provinces of Papua and West Papua by providing direct support for the schools and students through the School Operational Assistance (*Bantuan Operasional Sekolah/BOS*) and monitoring its implementation, both in public and private schools.**
- 2. The Government of Indonesia should ensure that the school curricula should be adapted to the local needs of the students by including the especially in the indigenous peoples area such as in the provinces of Papua and West Papua.**

Article 15 - Cultural rights

Issue 32. Please provide information on the measures taken to protect the cultural heritage of ethnic and linguistic minorities and of indigenous populations in the State party, and to create favourable conditions for them to preserve, develop, express and disseminate their identity, history, culture, language, traditions and customs.

80. As culture is conceived as “all manifestations of human existence”,²⁴ the Papuan culture is not respected and protected by the government of Indonesia. On the contrary, the Papuan past was denied and the present manifestations have been suppressed. Despite the Special Autonomy which employs affirmative actions for Papuans, the government of Indonesia does not recognise the Papuan Customary Council (*Dewan Adat Papua- DAP*) as the legitimate representative body of the indigenous Papuans. Instead, it continues to enforce the government-sponsored Indigenous People’s Council of Papua (*Lembaga Masyarakat Adat Papua*) to channel and amplify its voice. As a result, the divide and rule tactics maintain and exacerbate divisions among Papuans.

81. The leaders of the Papuan Customary Council have been detained and charged with treason whenever they express their views to rectify their history. Their office was frequently illegally searched by the Indonesian police. Moreover, Papuans are often arrested, being arbitrarily detained, tortured and/or killed when they celebrate the UN International Day of the World’s Indigenous Peoples. Under the Special Autonomy status, the Papuan People’s Assembly was established to represent Papuans. However, this body fails to adequately represent the interests of Papuans.

82. Additionally, Indonesia has neither signed nor ratified the Optional Protocol to the International Covenant on Economic, Social and Cultural rights, denying Papuan persons the ability to individually communicate violation of their economic, social or cultural rights to the international committee.

83. Recommendations:

- 1. The Government of Indonesia should ensure the full and unrestricted enjoyment of the indigenous peoples and ethnic minorities including the indigenous peoples in Papua by recognising the Papuan Customary Council as a legitimate representative body of the Papuans.**
- 2. The Government of Indonesia should ratify the Optional Protocol to the International Covenant on Economic, Social and Cultural rights.**

²⁴ Doc E/C.12/GC/21 para 11