

# **Application of the United Nations Framework of Analysis for Atrocity Crimes: The Case of West Papua**

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**Master Thesis in Conflict, Peace & Security**

**Course 2021-2022**

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Date: 28/2/2022



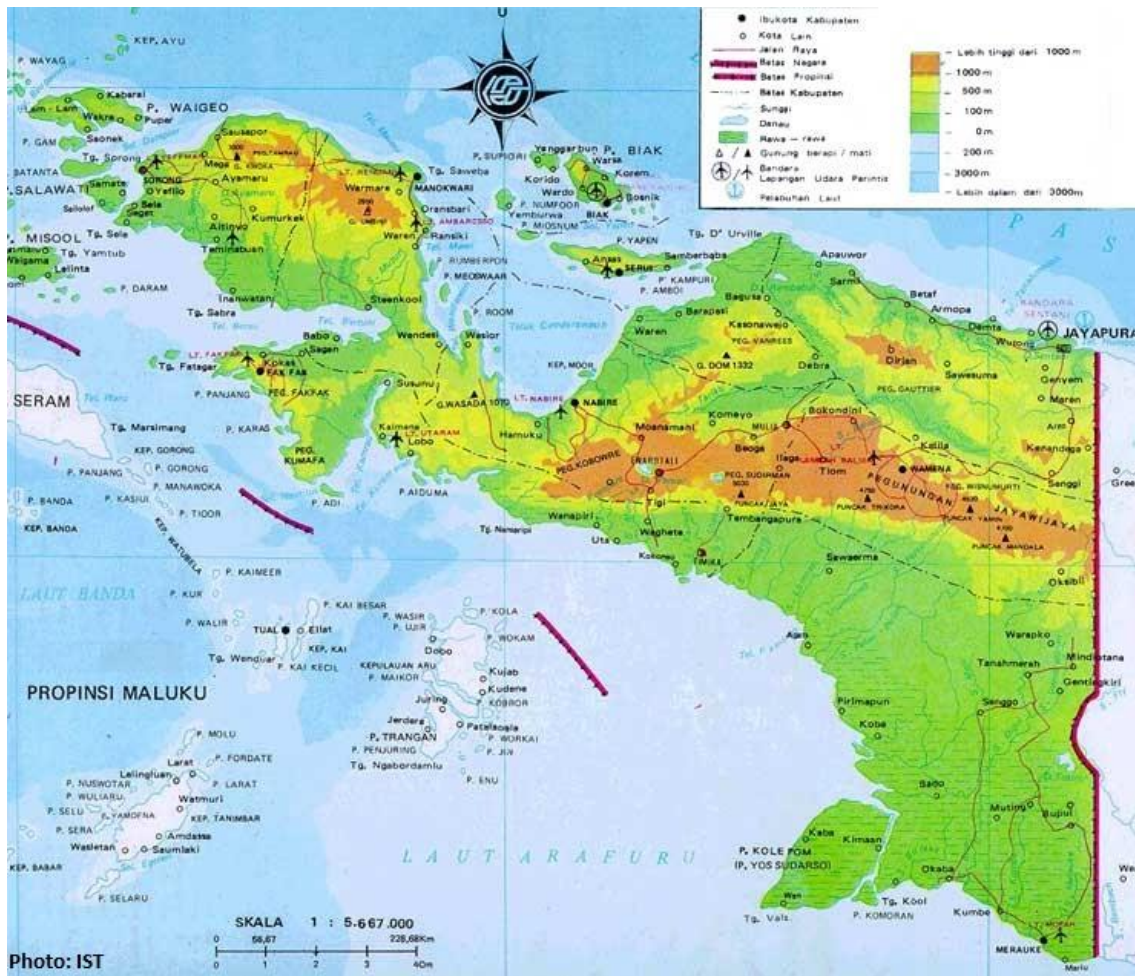


Figure 1: Map of West Papua<sup>1</sup>

<sup>1</sup> Source: <http://ipenksetiawan.blogspot.com/2010/03/papua.html>

## **ABSTRACT:**

This thesis explores whether the Indonesian government's treatment of the West Papuan people satisfies the UN Framework of Analysis for Atrocity Crimes. This work consists of two main parts; First, there was a review of the current literature on the treatment of the people of West Papua by the government of Indonesia since 1963. Secondly, the information gathered was sorted across the 14 human rights risk factors of the UN Framework and analyzed according to the 143 indicators of the Framework.

The study found that; (1) West Papua's integration into Indonesia was illegal, the UN applied a non-existent law to transfer West Papua from the Netherlands to Indonesia via the United Nations, (2) Indonesia and West Papua developed their nationalism separately, and that West Papuans' struggle for self-determination remains an unfinished business of decolonization, and (3) Indonesia's declaration of Operations Trikora in 1961 and subsequent imposition of martial law in 1965 designing West Papua as a special military operations zone was an 'intent' to destroy in whole or in part the West Papuan people, thus, fulfilled the 'intent' aspect of the 1948 Genocide Convention.

The findings are convincing enough to establish that Indonesia is guilty of committing atrocity crimes against the people of West Papua. Thus, the international community is morally responsible for assisting the West Papua people under Pillar III of the R2P principle.

**Keywords: West Papua, Atrocity Crimes, Genocide, Responsibility to protect, UN Framework of Analysis for Atrocity Crimes, Human Security**

## **FOREWORD**

This study explores the human rights situation in West Papua, keeping the hermeneutical phenomenology research tradition. I was born in the jungle when the armed conflict between West Papua National Liberation Army (TPNPB-OPM) against the Indonesian military was intense. Though I grew up outside West Papua in Papua New Guinea in my later life, I was deeply influenced by the stories of the West Papua conflict and my experiences during my early childhood.

The conflict left a lasting imprint in my personal life that, every time I think about it, I feel like I owe my life to my family and the struggle they have started. “Solving is better than complaining” has been my motto since high school. The motto still drives me to think deeper about how I can contribute towards solving the West Papua problem in every action I take, including my academic study.

I think that one of the pathways to resolve the West Papua problem is by exploring the human rights conditions in West Papua following the criteria set in the UN Framework. That was why I chose the topic in the first place. I hope that my contribution through this thesis can be a means to highlight the human rights situation in West Papua. I believe that the West Papua problem will be solved one day.

## **DEDICATION**

I dedicate this paper to the people of West Papua. In particular, those West Papuans fighting for freedom from colonialism and exploitation. I am grateful to those who fought and died in the name of liberty for the people of West Papua. Those fighting in the jungles, streets, and cities worldwide and those who will come after us to fight and maintain the struggle, only for freedom for the people of West Papua. Just only for freedom, for the people of West Papua!

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## **LIST OF ABBREVIATIONS**

**ICP** – International Coalition for Papua is a network of NGOs that work together to report on human rights issues in West Papua.

**KOMNAS HAM** – Komisi Nasional Hak Asasi Manusia is Indonesia's national human rights commission.

**NGO** – Non-Government Organization refers to any organization that is not a government organization.

**OACPS** – Organization of African Caribbean and the Pacific States is an international organization comprising states from Africa, Pacific, and Caribbean regions.

**OPM** – Organisasi Papua Merdeka (Free Papua Movement) is a political organization established by the West Papuans in West Papua in 1965 to fight for West Papua's independence.

**PIF** – Pacific Islands Forum is a regional organization in the Pacific.

**R2P** – Responsibility to protect is an international norm established in 2005 to protect the population from atrocity crimes.

**POLRI** – Polisi Republik Indonesia (Indonesian Police).

**TNI** – Tentara Nasional Indonesia (Indonesian military).

**TAPOL** – Tahanan Politik, translated to mean Political Prisoners in English, is an organization based in the UK that promotes human rights in Indonesia, including advocacy for abuses in West Papua since the 1980s.

**UN** – United Nations is an international organization established in 1945.

**UNTEA** – United Nations Temporary Executive Authority was a temporary UN administrative body established in 1962 as per the New York Agreement to ensure the smooth transfer of West New Guinea from the Netherlands to Indonesia.

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## **ACKNOWLEDGEMENTS**

My deepest gratitude to my sponsors, namely: the Human Resource Department of the Papua Provincial Government and the Human Resource Department of the Star Mountain Regency, for their trust and financial assistance towards my study.

I wish to extend my sincere gratitude to my lecturers, in particular Professor Daniel Rajmil Bonet, Course Coordinator and Dr Trond Ove Tollefsen, Course Advisor, for their valuable advice and support towards me in completing this paper; I will forever be grateful.

Lastly, I acknowledge my family and relatives in Oksibil for their unconditional love and support towards my studies.

# CHAPTER 1: INTRODUCTION

## 1.1. Statement of Research Problem

The people of West Papua continue to exist under Indonesian occupation coincides with atrocity crimes since 1963, when their territory was transferred to Indonesia by the Netherlands via the United Nations. West Papua, formerly known as Netherlands New Guinea, came under formal Dutch colonial rule from 1898 to 1963, when the Netherlands government transferred the administrative authority to Indonesia. What makes the West Papua human rights situation essential to investigate through academic research is its urgency due to the dire situation of the people of West Papua under the Indonesian military occupation.

Thousands of Indonesian military and police have continued to be deployed to conflict zones in West Papua under what the Indonesian government claimed as ‘humanitarian operations’ since December 2018. The military operations are still active in six regencies causing waves of internally displaced people to migrate from their home villages into the jungles or relocate to nearby regencies for safety, including crossing the international border as refugees into Papua New Guinea<sup>2</sup>.

Three separate research publications on genocide in West Papua have noted that the Indonesian government's continuous violation of the human rights of the people of West Papua, including exploitation of their natural resources, “amounts to genocide under the 1948 United Nations Genocide Convention”. The publications include; *Indonesian Human Rights Abuses in West Papua: Application of the Law of Genocide to the History*

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<sup>2</sup> International Coalition for Papua and the West Papua-Network, "Human Rights in West Papua: The Seventh Report of the International Coalition for Papua (ICP) provides an analysis of violations from January 2019 until December 2020". <https://humanrightspapua.org/hrreport/2021/>, accessed: 13/12/2021.

of *Indonesian Control* by Brundige et al.<sup>3</sup>, *A slow-motion genocide: Indonesian rule in West Papua* by Elmslie and Web-Gannon<sup>4</sup>, and *Colonialism and Cold Genocide: The Case of West Papua* by Anderson<sup>5</sup>.

Anderson described the West Papua case as a '*cold genocide*' because it occurred gradually over generations undetected due to the perpetrator's ambiguous intent. While Elmslie and Web-Gannon described the situation as '*slow-motion genocide*'. The publications established that the "ambiguous nature of the perpetrator" obscures the definition of genocide provided in the 1948 United Nations' Genocide Convention.

The intensity of the conflict and atrocity crimes committed in West Papua may not be comparable to East Timor, Rwanda, or Srebrenica in the 1990s. Still, the uniqueness of the West Papua case stands out from those three in terms of intensity and time frame. The West Papua case is unique due to its consistency and lengthy time frame that lasted over six decades and counting. Within the six decades, the atrocities committed are unaccounted for due to limited recorded data on the crimes committed by Indonesia against the people of West Papua. In 1983 *TAPOL*<sup>6</sup> estimated the number of deaths to be around 100 000 to 150 000 people died during the first twenty years of the conflict. Later estimates put the number between 500 000 and 700 000<sup>7</sup> and counting.

The conflict in West Papua endures due to (1) unsolved historical atrocity crimes committed by the Indonesian government against the people of West Papua, (2) ongoing armed conflict and the humanitarian crisis that overshadows the armed conflicts, (3) the

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<sup>3</sup> Brundige, E., King, W., Vahali, P., Vladeck, S., & Yuan Xiang. *Indonesian Human Rights Abuses in West Papua: Application of the Law of Genocide to the History of Indonesian Control*. (1–78) [Human Rights: Genocide]. (Allard K. Lowenstein International Human Rights Clinic Yale Law School, 2004).

<sup>4</sup> Elmslie, J., & Webb-Gannon, C. B. *A slow-motion genocide: Indonesian rule in West Papua*. (Griffith Journal of Law and Human Dignity, 1(2), 2013).

<sup>5</sup> Anderson, K. *Colonialism and Cold Genocide: The Case of West Papua*. (Genocide Studies and Prevention: An International Journal, 9(2), 2015). 9–25.

<sup>6</sup> Budiardjo, C., & Liang, L. S. *West Papua: The Obliteration of a People*, (1st ed.). (TAPOL, London, 1983). 9.

<sup>7</sup> Elmslie & Webb-Gannon, 148.

persistent demands for self-determination and independence by the people of West Papua under Organisasi Papua Merdeka (OPM), and (4) existing ambiguity to confirm the existence of genocide and the lack of "compelling political interest"<sup>8</sup> to advocate and support West Papuans by the major Western Powers.

## **1.2. Study Objectives**

This study aspires to explore the human rights situation in West Papua by applying the United Nations Framework of Analysis for Atrocity Crimes to ascertain the existence of atrocity crimes hoping that it might warrant an intervention by the international community under the principle of Responsibility to Protect (R2P).

The need for a descriptive analysis of the situation in West Papua arises from the existing ambiguities of the descriptions of atrocity crimes committed by the Indonesian government. The existence of the four major atrocity crimes, namely; (1) genocide, (2) crimes against humanity, (3) war crimes, and (4) ethnic cleansing, is actual, but identifying and categorizing them is a problem due to; (1) general media blockade by the Indonesian government, (2) limited recorded data on the crimes committed, and (3) limited or lack of access by international and local human rights workers into the conflict zones in West Papua to record accurate information.

However, with the assistance of the United Nations human rights risk assessment tool, a clear description may be established, enabling the advocacy from all sectors for the international community's intervention.

## **1.3. Significance of the Study**

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<sup>8</sup> Bloxham, D., & Moses, A. D. (Eds.). *The Oxford Handbook of Genocide Studies*. (New York, Oxford University Press, 2010). 476-479.

The establishment of the human rights risk assessment tool under the principles of human security and the responsibility to protect (R2P) in the early to mid-2000s was one of the milestone achievements of the United Nations so far within the context of human rights protection. Though its orientation follows the conventional holocaust narratives that limit its scope to cover the atrocity crimes committed on a large scale within a short period, it has “universal coverage”<sup>9</sup>. Universal coverage applies to any situation, including those that occur over a long period. Despite the ambiguity, the principle also covers the human rights situation in West Papua.

The significance of this study is the engagement of the United Nations Framework to identify the presence of four major atrocity crimes in West Papua, which differs from the previous studies that only focused on genocide<sup>10</sup>. It contributes to the existing academic literature on genocide and atrocity crimes in three ways: (1) affirms the previous work on the presence of genocide and highlights the existence of the other three major atrocity crimes in West Papua, (2) attempts to introduce the UN Framework into the study of genocide and atrocity crimes as a research tool, and (3) clarify the ambiguity of genocidal intent of the perpetrator identified by the previous research on genocide done in West Papua without the UN Framework.

The application of the UN Framework in this study differs from organizations such as the Asia Pacific Centre for the Responsibility to Protect, which focuses on reporting the human rights situations of states in general. This study aspires to incorporate the UN Framework into academic research phenomenologically as a tool to describe human rights violations in a particular area. The researcher is based within the analysed

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<sup>9</sup> Bellamy, A. J., & Dunne, T. (Eds.). *The Oxford Handbook of the Responsibility to Protect* (1st ed.). (Oxford University Press, 2016). 8.

<sup>10</sup> Previous studies on genocide in West Papua by (Brundigje E. et al., 2004); (Elmslie & Webb-Gannon, 2013); and (Anderson, 2015).



territory and obtains primary data from those affected and experienced firsthand the conditions in the region under study.

#### 1.4. Literature Review

West Papua is a subject of contention in the literature divided between pro-West Papuan literature and pro-Indonesian literature that researchers on West Papua should note. The existing pro-West Papuan literature mainly entails topics such as (1) promoting West Papua's struggle for independence through peaceful means<sup>11</sup>, (2) claims of the existence of genocide and atrocity crimes in West Papua<sup>12</sup>, (3) disputes between Indonesia and the Netherlands over West New Guinea and the United Nations' involvement<sup>13</sup>, (4) exploitation of resources and human rights violations of the West Papuan people<sup>14</sup>, and (5) comparison of West Papua social indicators before and after integration with Indonesia<sup>15</sup>.

The pro-West Papuan literature maintains the status quo of difference between Indonesia and West Papua continues to promote and justify West Papua as a separate entity from Indonesia and push for the right to self-determination of the people of West Papua.

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<sup>11</sup> Macleod, J. *Merdeka and the Morning Star: Civil Resistance in West Papua*. (University of Queensland Press, 2015).

<sup>12</sup> (Anderson, 2015); (Elmslie & Webb-Gannon, 2013); and (Brundige E. et al., 2004).

<sup>13</sup> Salford, J. *The United Nations and the Indonesian Takeover of West Papua, 1962-1969: The Anatomy of a Betrayal*, (Routledge Curzon, Taylor & Francis Group, London and New York, 2003); and King, J. M., & Johnson, A. *West Papua Exposed: An Abandoned Non-Self-Governing Territory or Trust Territory*. (2019).

<sup>14</sup> Uropkulin, O. D. *The effects of Merauke Integrated Food and Energy Estate on the livelihoods of indigenous communities in Merauke West Papua* [Master Thesis]. (Massey University., 2021). Osborne, R. *Indonesia's Secret War: The Guerrilla Struggle in Irian Jaya*. (Allen & Australia Pty Ltd, 1985); (Budiardjo & Liong, 1983); Tebay, N. *West Papua: The Struggle for Peace with Justice*. (Catholic Institute for International Relations, 2005).

<sup>15</sup> Ipenburg, A. *Education in West Papua. Congress "Education in Papua"*, (Gau, Friesland, The Netherlands, 2009).

The pro-Indonesian literature, on the other hand, aspires to (1) restructure the Indonesian narrative to integrate West Papua into the Indonesian state system<sup>16</sup>, (2) justify the Indonesian government's actions in West Papua<sup>17</sup>, (3) capture violations of human rights and environmental destruction as part of the development process<sup>18</sup>, and (4) advice Indonesian government to counter West Papua's independence narrative<sup>19</sup>. Pro-Indonesian literature maintains its status quo of keeping West Papua within the Indonesian Republic. The literature in this study is sighted chiefly from pro-West Papuan sources keeping the tradition of preserving West Papua apart from Indonesia.

Aside from the literature on West Papua, other literature on genocide<sup>20</sup>, human security, responsibility to protect, atrocity crimes, and general research processes<sup>21</sup> were also reviewed.

Critical aspects of genocide and atrocity crimes are that they are well-defined in international law and are universally applicable<sup>22</sup>, including the processes and procedures to address them within the global system through the United Nations. The principles of human security and responsibility to protect (R2P) enables rationalizing ideological

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<sup>16</sup> Asgart, S. M. "Demiliterisasi dan Demokratisasi di Papua".

[https://www.academia.edu/4418411/Demiliterisasi\\_dan\\_Demokratisasi\\_di\\_Papua](https://www.academia.edu/4418411/Demiliterisasi_dan_Demokratisasi_di_Papua). (Unknown).

<sup>17</sup> Akbar F. V., *Konfrontasi Bersenjata Merebut Irian Barat*, (Research Centre for Politics and Government, Jurusan Politik, Universitas Gadjah Mada. 2011).

<sup>18</sup> Mietzner, M. *The Politics of Military Reform in Post-Suharto Indonesia: Elite Conflict, Nationalism, and Institutional Resistance*. (East-West Center. 2006).

<sup>19</sup> Ngatiyem, K. *Organisasi Papua Merdeka 1964-1998: Study Tentang Pembangunan Stabilitas Politik Di Indonesia* [Thesis, (Universitas Sebelas Maret Surakarta, 2007); and King, B. A. *Peace in Papua: Widening a Window of Opportunity*, (Council on Foreign Relations; JSTOR. 2006).

<sup>20</sup> (Bloxham & Moses, 2010); (Bellamy & Dunne, 2016); Martin, M., & Owen, T. *Routledge Handbook of Human Security*. (Routledge, 2014); and United Nations. *Office on Genocide Prevention and The Responsibility to Protect*, (2021).

<sup>21</sup> Patten, M. L., & Michelle, N. *Qualitative Research Design in Understanding Research Methods: An Overview of the Essentials*, (Taylor & Francis Group, 2017), (pp. 163–179); Lune, H., & Berg, B. L. (Eds.). *Qualitative Research Methods for the Social Sciences* (9th ed.). (Person Education Limited, 2017); Creswell, J. W. *Qualitative Inquiry & Research Design: Choosing Among Five Approaches* (2nd ed.). (Sage Publications, 2007). Klotz, A., & Prakash, D. *Qualitative Methods in International Relations: A Pluralistic Guide*. (Palgrave Macmillan, 2008); Bloomberg, L. D., & Volpe, M. *Completing Your Qualitative Dissertation: A Roadmap from Beginning to End*. (Sage Publications, 2008); and Stake, R. E. *The Art of Case Study Research*. (Sage Publications, 1995).

<sup>22</sup> Bloxham & Moses, 2010 and Bellamy & Dunne, 2016.

background to justify intervention<sup>23</sup> by the international community. The United Nations Framework was established as a tool to be used by the public to report the existence of human rights violations<sup>24</sup>.

## **1.5. Hypothesis and Research Question**

This study attempts to answer the research question of whether outside intervention can end the persistent atrocity crimes occurring in West Papua:

*Question: Does the existing human rights situation in West Papua convincing enough to warrant the international community to intervene under the principles of human security and the responsibility to protect (R2P)?*

The hypothesis for this study was derived from the understanding that the atrocity crimes occurring in West Papua are accurate and that intervention by the international community would be justified. The atrocity crimes have occurred in West Papua for sixty years, overshadowed by several military operations targeted at the West Papuan people and their organizations.

*Hypothesis: The records of human rights violations and current atrocity crimes occurring in West Papua are convincing enough for the intervention by the international community under the principle of Responsibility to protect (R2P).*

The study attempts to verify the hypothesis descriptively by reviewing existing literature and analyzing the findings under the fourteen risk factors of the United Nations Framework of Analysis for Atrocity Crimes.

## **1.6. Methodology**

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<sup>23</sup> Badescu, C. G. *Humanitarian Intervention and the Responsibility Protect Security and Human Rights*. (Routledge, 2011) and Bellamy & Dunne, 2016.

<sup>24</sup> United Nations, 2014.

The study explores the human rights conditions in West Papua by reviewing existing literature. The result is then analyzed under the UN Framework of Analysis for Atrocity Crimes indicators. The UN Framework contains fourteen risk factors and 143 indicators distributed among the fourteen risk factors. The risk factors are divided into two parts, part one describes common human rights risk factors (risk factors 1 – 8), and part two describes specific risk factors (risk factors 9 – 14). The common risk factors describe general conditions, while the specific risk factors describe the existence of the three legally defined atrocity crimes, namely, genocide (risk factors 9 & 10), crimes against humanity (risk factors 11 & 12), and war crimes (risk factors 13 & 14).

The literature reviewed emanates from different sources, including written reports of NGOs, online sources, News articles, journals, official statements, UN resolutions, books, and other publications on West Papua. The findings are analyzed under the 143 indicators of the UN Framework to verify whether a particular violation has occurred, is occurring, or is likely to happen in the future.

The study was conducted phenomenologically, reflecting the researcher's experiences as a West Papuan. The researcher is a primary source confirming major atrocity crimes in West Papua. At the time of research, the researcher is also based in West Papua and experienced first-hand human rights situations in West Papua.

## **1.7. Limitations**

The study on the atrocity crimes committed against the people of West Papua has limitations due to security considerations that mainly curtailed the research's primary objective of an interview with individuals in West Papua. The literature was primarily reviewed from pro-West Papuan sources which might have likely biased views on the

atrocities committed. To avoid possible biases, only the major crimes committed in West Papua that were recorded by more than one source were noted and analysed under the UN Framework of Analysis for atrocity crimes and events known to the researcher.

## **1.8. Thesis Outline**

The information regarding the human rights situation in West Papua explored in this study is presented in six chapters. Chapter two provides a brief background of West Papua, its human rights problem, and its controversial integration into Indonesia following the 1962 New York Agreement between the Netherlands and Indonesian governments. Chapter three briefly describes the conceptual framework of human security, atrocity crimes, genocide, and the responsibility to protect. Chapter four contains the presentation of findings, followed by a discussion in chapter five. The thesis concludes in chapter six with recommendations for the OPM, the Indonesian government, and the international community.

## **CHAPTER 2: WEST PAPUA'S BACKGROUND**

### **2.1. Overview**

This chapter provides a brief background to the West Papua problem, which began as a colonial territory of the Netherlands in 1898. The Netherlands' colonial rule ended in May 1963, and Indonesia subsequently annexed West Papua via the 1962 New York Agreement brokered by the United States of America. It further highlights the international community's involvement under the United Nations during the annexation process. The West Papuans established Organisasi Papua Merdeka (OPM) to fight and reclaim their denied nation of West Papua and its subsequent historical atrocity crimes committed by the Indonesian government against the people of West Papua. Towards the end, the chapter compares West Papua's social indicators under the Netherlands and Indonesian governments and concludes with a summary.

### **2.2. Brief Colonial History 1890 – 1960**

What is now known as the island of New Guinea is not an indigenous name. It was sort of an adjective applied by the Spaniards in the 1500s to mean another “Guinea” in the Pacific in addition to the first Guinea located in Africa, thus naming the island “Nueva Guinea” or “New Guinea” in English<sup>25</sup>. The Melanesian people on the island do not even know the size and shape of their island or their next tribal neighbours beyond what their eyes can see and what their feet and dugout canoes can reach. They live in small groups isolated by the harsh geography, different languages, and tribal belief systems.

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<sup>25</sup> Osborne, 6-7.

Formal contact between the West and the people of West New Guinea occurred 300 years after the sighting and naming of the island by the Spaniards in the 1500s. The first-ever administration post was established on the Western part of the island of New Guinea, now West Papua, in 1898<sup>26</sup>. The island of New Guinea formed the “periphery” of the Dutch empire in the East Indies but was never considered part of the East Indies by the Dutch, according to Anderson. It only acted as a buffer with no interest whatsoever for the Dutch. The essential point from this treatment was that the Dutch never regarded Netherlands New Guinea and Netherlands East Indies as a single entity.

West Papua's colonial history goes back as far as the 1890s; earlier than that remains a mystery as written accounts of colonial occupation date back to 1898 when the Dutch "established an administrative post" in West Papua<sup>27</sup>. According to Anderson and Osborne, the Dutch influence in West Papua "remained minimal" for the next thirty years, only exploring and establishing contacts surrounding the island's coastal regions. Even then, the missionaries provided most works of establishing contacts, education, and health to the West Papuans<sup>28</sup>. The Dutch saw no value in the island due to its rugged terrain and inhospitable jungles, making penetration difficult. Later in the 1950s and 60s, penetrations were completed, and administrative posts were established throughout West Papua.

After the Second World War, the Dutch seriously attempted to establish their presence throughout the island, including the interior regions, to civilize the West Papuans. The lately contacted people went as far as 1959, to be exact<sup>29</sup>; the Ngalum people of the Star Mountains were the last people to be reached after sixty-two years of

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<sup>26</sup> Anderson, 12; Osborne, 7-8.

<sup>27</sup> Anderson, 12; Osborne, 115.

<sup>28</sup> Ipenbourg, 2.

<sup>29</sup> Brongersma, L. D., & Venema, G. F. *To the Mountains of the Stars*, (A. G. Readett, Trans.). (Doubleday & Company, Inc., 1963).

Dutch formal administrative presence on the island since 1898 and more than 350 years in the East Indies.

The seriousness in the Netherlands towards West New Guinea after 1945 stems from (1) Indonesian pressure, (2) pressure from the United Nations for the lack of development, (3) a sense of responsibility as a civilizing agent to the people considered as “backwards”, (4) anti-colonial sentiments from the West Papuan elites, and (5) Netherlands’ desire to maintain its colonial presence in the Pacific. The result was the incorporation of West New Guinea as part of the Netherlands in 1952 through the amendment of the Netherlands’ Constitution<sup>30</sup>.

The Dutch presence, however, was not exploitative; they were friendly and only wanted to civilize the people perceived as “stone-aged and uncivilized” at the time. West Papuans remember them fondly as their brief contact exposed them to Western civilization and its influences through education and religion. Osborne described the Netherlands’ treatment of West Papuans at the time as “paternalistic” and viewed as superior to West Papuans.

### **2.3. Annexation and Transition to Indonesian Rule**

The Indonesian build-up to the annexation of West New Guinea within fourteen years after the transfer of sovereignty by its former colonial power in December 1949 can be divided into two fronts, the military front and the diplomatic front<sup>31</sup>. The diplomatic front began at the Round Table Conference in the Hague and was maintained throughout the fourteen years. The military front started in 1961 under “Operasi Trikora” (Three Peoples Command Operations) and continued up to the present<sup>32</sup>.

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<sup>30</sup> Salford, xvii.

<sup>31</sup> Budiardjo & Liong, 6 - 7.

<sup>32</sup> Salford, 2003; Tebay, 2005.



What drove Indonesia into claiming West New Guinea into its borders remained questionable due to the following factors; (1) the nation of Indonesia was only formed in 1945 under the tutelage of Japan, excluding the West Papuans who were under the Allied Powers, (2) the Netherlands did not mix the two peoples throughout the entire occupation apart from stopovers and for specific purposes like jailing Indonesian nationalists in West Papua and sending West Papuans to seminaries in Jakarta or Bandung, (3) the two territories as a result developed separate nationalisms. Indonesia's inclusion of West New Guinea into the Indonesian state upon their declaration of independence on the 17<sup>th</sup> of August 1945 was, therefore, unknown to the people of West Papua.

Budiardjo and Liong<sup>33</sup> explained the Indonesian government's motives for claiming West New Guinea, Portuguese Timor, and Malaysia during "*konfrontasi*" (confrontation) period. It was based on Indonesia's expansionist desires and fears of recolonization by its former colonizer. The Netherlands government's claim to retain West New Guinea was rationalized based on the stark differences between the people of the former Netherlands East Indies and West New Guinea<sup>34</sup>. The Netherlands government intended to decolonize West New Guinea separately, set in motion on 1<sup>st</sup> December 1961 by raising the morning star flag and adopting other national symbols of the would-be nation of West Papua.

The situation in West New Guinea changed dramatically starting from the 1<sup>st</sup> of May 1963 when Indonesia integrated West New Guinea following the 1962 New York Agreement as one of its 27 provinces. John Salford<sup>35</sup> described the events from 1949 to 1969, including the actors involved and what happened in his PhD thesis. Indonesian takeover was by force at the time, perceived as a military victory conquering the

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<sup>33</sup> Budiardjo & Liong, 7.

<sup>34</sup> Salford, 4; Osborne, 2; and Tebay, 4.

<sup>35</sup> Salford, 6-176.

uncivilized, primitive people of a different race. The West Papuans interpreted it as an annexation by another colonizer that must be expelled by all means from West Papua.

The controversial takeover and subsequent military operations coincided with human rights violations, and the exploitation of natural resources left the scars of conflict afresh throughout the entire occupation of the territory within the West Papuan communities. The ongoing armed conflict in West Papua is the continuation of this history. The Indonesian campaign to annex West New Guinea ended in 1969 by implementing the act of free choice favouring Indonesia after heavy-handed military operations and courtship through the United Nations finally compelled West Papuans into submission.

The Indonesian annexation of West New Guinea remains one of the significant controversial subjects throughout the sixty years of Indonesian occupation. Controversy exists due to (1) the violation of the right to free prior and informed consent of the people of West Papua concerning their territory and their future during the signing of the 1962 New York Agreement and (2) the violation of the United Nations Trusteeship system by the Netherlands, the United Nations, Indonesia, and the United States of America during the implementation of the New York Agreement.

#### **2.4. International Community's involvement in the Affairs of West New Guinea through the United Nations**

Throughout the 1950s, the United Nations' position has been neutral and respected the views of the administering authority. The UN, while receiving yearly reports on the situation of West New Guinea, never had in any way considered West New Guinea to be transferred to Indonesia.

According to John Saltford, Indonesia protested bitterly from 1949 onwards throughout the 1950s, continually submitting proposals through the United Nations. Still, the United Nations General Assembly rejected every time up to 1962 when the United States sided with Indonesia. The United States initiated the so-called New York Agreement, through which the territory of West New Guinea was transferred to Indonesia via the United Nations.

The UN only complied according to the powers conferred to it by the New York Agreement. The UN's role was to accept the responsibility through the joint draft resolution submitted to the General Assembly by Indonesia and the Netherlands (Article 1), after the agreement of which the General Assembly took note of it and acknowledged its role. The agreement mentioned in Article II of the establishment of a "Temporary Executive Authority" known as the United Nations Temporary Executive Authority (UNTEA)<sup>36</sup> to administer (Article V) for a period and then transfer to Indonesia, which the UN did not entirely keep.

According to King and Johnson<sup>37</sup>, the agreement between the Netherlands and Indonesia was a "trusteeship agreement"<sup>38</sup> that shifted West New Guinea's legal status from a Non-Self-Governing Territory of the Netherlands to the Trust Territory of the United Nations. The United Nations, via the Trusteeship Council, should have applied Article 76 (b) of the UN Charter to grant *self-government or independence* to the people of West Papua instead of passing the territory to Indonesia.

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[https://peacemaker.un.org/sites/peacemaker.un.org/files/ID%20NL\\_620815\\_AgreementConcerningWestNewGuinea.pdf](https://peacemaker.un.org/sites/peacemaker.un.org/files/ID%20NL_620815_AgreementConcerningWestNewGuinea.pdf)

<sup>37</sup> King, J. M., & Johnson, A., 11

<sup>38</sup> King, J. M., & Johnson, A., 70's conclusion was due to the revelation of classified information from the era which revealed that the transfer was a Trusteeship arrangement.

The act of passing (placing) West New Guinea from the Netherlands' care to the United Nations by the Netherlands was under Chapter XII of the UN Charter, in particular Article 77 (c), and that was a trusteeship pathway. The Netherlands government could have taken no other option to “place” West New Guinea into the United Nations' care to fulfil the New York Agreement. The next step, passing West New Guinea from the United Nations' care to Indonesia, has no legal pathways through the UN Charter that the UN could have taken to transfer from its care to Indonesia. The only path was through Article 76 (b), which the UN did not exercise at the time due to political influences. King and Johnson found that;

While the Agreement was recorded in Volume 437 of the United Nations Treaty Series ('UNTS'), a disclaimer by the Secretariat states that '[t]he terms “treaty” and “international agreement” have not been defined either in the Charter or in the regulations, and the Secretariat follows the principle that it acts by the position of the Member State submitting an instrument for registration. The legal status of the Agreement, according to the United Nations ('UN') Secretariat, is therefore undefined<sup>39</sup>.

Legally speaking, West New Guinea (West Papua) remains what King and Johnson termed a “hidden trust territory of the United Nations” administered by Indonesia. Trusteeship, per Article 73, was meant to be a “sacred trust” entrusted to the administering authorities that were not meant to be broken. The Netherlands government violated that trust, followed by the United Nations and other nations involved in the saga.

The United Nations committed an error in not exercising its powers under Article 76 (b) due to the political situation at the time. Less importance was placed on the West Papua problem, allowing Indonesia to speed up the integration process through military and diplomatic manoeuvres. John Saltford explained in detail the information on the

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<sup>39</sup> King, J. M., & Johnson, A., 72.

establishment and administration of West New Guinea under the UNTEA from 1962 to 1963 and UN involvement in the act of free choice in 1969<sup>40</sup>.

## **2.5. Organisasi Papua Merdeka**

The Organisasi Papua Merdeka (OPM)/Free Papua Movement (FPM) is the political organization established by the indigenous people of West Papua in 1965 to fight for self-determination and independence for West Papua, born out of the events of 1961 through to 1963. The OPM remains the major organization fighting for political independence for West Papua through arms struggle and diplomacy.

The West Papuan leaders witnessed the international community go against them following the New York Agreement in 1962. No one, including the United Nations, was on their side to defend their inalienable right to be free. They witnessed the dissolution of the New Guinea Raad (New Guinea Parliament) and Papuans Volunteer Corps, leaving them powerless to address their grievances. They had no weapons to defend themselves and protect their embryo nation of West Papua, established on the 1<sup>st</sup> of December 1961.

They witnessed the invasion of their land by the Indonesian military with their proud looks and boastful mouths of triumph over them and their people. West Papuan leaders, out of frustration, pulled out of the situation and defended their rights that began in 1965. The West Papuan leaders established OPM under Perminas Awom to fight for decolonization. Robin Osborn provides detailed information about the foundation of OPM, its leadership, declaration of independence on the 1<sup>st</sup> of July 1971, including its internal factions, strength, and weakness.

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<sup>40</sup> Salford, 6-176.

The OPM's primary aim was to defend the nation of West Papua, established in 1961 through a military campaign against Indonesia inside West Papua and seek diplomatic support from the international community to expel Indonesians from West Papua. In the "Radical Historian Review" magazine, Professor Swan highlighted that the OPM's diplomatic path mostly appealed to the newly decolonized African states for recognition and support after forming the Provisional Government of West Papua in 1971.

The nation of West Papua, founded on the 1<sup>st</sup> of December 1961, is still intact under Mr Jeffrey Bomay with its flag, anthem, and other state symbols. The Republic of West Papua was declared as an independent nation on the 1<sup>st</sup> of July 1971 in Markas Victoria, a liberated territory by the founders of the West Papua struggle in fulfilment of the promise made in 1961 by the Netherlands government<sup>41</sup>. Due to Indonesians' advances, the Provisional Government of West Papua was forced to operate in exile for the last 50 years. The Republic of West Papua has a constitution promulgated on 1<sup>st</sup> July 1971 alongside the declaration of independence that still exists today.

## **2.6. Historical Atrocity Crimes Committed by Indonesia in West Papua**

Indonesian military campaign to invade West New Guinea began with the declaration of "Operasi Trikora" (Three Peoples Command Operations) by the then President of Indonesia Sukarno on the 19<sup>th</sup> of December, 1961<sup>42</sup>. The military operation was intended to dismantle the newly established nation of West Papua, destroy the sympathizers of the West Papua nation, and integrate West Papua into Indonesia. The Indonesian government subsequently imposed martial law in West Papua under what they

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<sup>41</sup> King, J. M., & Johnson, A., 74.

<sup>42</sup> Hedman, E.-L. E. *Dynamics of Conflict and Displacement in Papua, Indonesia*. (RSC Working Paper No. 42, 2007). 7.

termed as “Daerah Operasi Militer – DOM” (Military Operation Area)<sup>43</sup> when Suharto took power in 1965. Therefore, martial law in West Papua was effective for 33 years, from 1965 to 1998, with the overthrow of the Suharto regime.

DOM - Military Operations Area means that the Indonesian military’s human rights abuses were covered by martial law justifying all military activities in West Papua in the name of the Indonesian state, including committing atrocity crimes. Thousands of West Papuans who died due to military operations were counted as OPM rebels, including civilian deaths.

Mr. al Rahab, former chairman of the Indonesian national human rights commission (*KOMNAS HAM*), called it an “*obsesi militer*” (military obsession) where the *ABRI* (Indonesian Military) dominated the politics and administration of Papua province and ran the area. He stated that at the time, “in the minds of every military leader and member of the *ABRI*, every Papuan in West New Guinea has to be a separatist unless that person can deny his membership to the OPM.”<sup>44</sup>

Indonesian military committed atrocity crimes with impunity; those cases brought up due to concrete evidence were often given three months to two years maximum prison sentences. After that, they are often rewarded with heroes’ honours, as Tebay noted in the case of Theys Hiyo Eluay in 2001<sup>45</sup>. Under martial law, every atrocity crime defined under Article 7 of the 1998 Rome Statute of the International Criminal Court (ICC) was committed in West Papua by the Indonesian military and police. Many incidents of human rights violations were never reported but could be heard from the survivors in West Papua through oral testimonies. The grave human rights violations committed by the Indonesian

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<sup>43</sup> al Rahab, A. *OPERASI-OPERASI MILITER DI PAPUA: PAGAR MAKAN TANAMAN?* (Lembaga Ilmu Pengetahuan Indonesia, 3(2), 2016). 3.

<sup>44</sup> al Rahab, 3-4 (translated from Indonesian).

<sup>45</sup> Tebay, 18.

military in West Papua that was considered well-defined and awaiting trial are only a handful. Still, the Indonesian government has not implemented it as the National Human Rights Commission of Indonesia (*KOMNAS HAM*) recommended.

The cases that were recorded as serious violations of human rights officially by the national human rights commission were six<sup>46</sup>include; (1) the Biak Massacre of July 1998, (2) the Wasior Massacre of June 2001, (3) the Wamena Massacre of April 2003, (4) Abe Massacre of March 2006, (5) Paniai Massacre of December 2014, and (6) Deiyai Massacre of August 2017. The cases were all committed after the end of the “*Orde Baru*” (New Order era of Suharto) in 1998 during the period of the so-called “*Era Reformasi*” (reformation era). The cases were labelled “massacre”<sup>47</sup> because the Indonesian military opened fire on crowds of people, killing some and wounding others in broad daylight in all six cases.

Here are some of the well-known and recorded military operations in West Papua under Indonesian rule<sup>48</sup>: (1) Operasi Trikora (Operation Three People’s Command) (1961 – 1963), (2) Operasi Sadar (Operation Conscious) (1965 – 1967) (3) Operasi Brathayuda (Operation All-out War) (1967-1969), (4) Operasi Wibawa (Operation Authority) (1969), and (5) Operasi Sapu Bersih I & II (Operation Clean sweep I & II ) (1981)<sup>49</sup>.

The main characteristics of all Indonesian military operations in West Papua have been the “*strategi Bumi hangus*” (scorch-earth strategy). Anything that moved, including domesticated animals, food sources, settlements, and water sources, was often heavily bombarded from the air and land without distinction between civilians, women, or

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<sup>46</sup> Waspada. *Ini Rentetan Kasus Pelanggaran HAM di Papua*. Nationalities Papers. (2021). Translated from Indonesian.

<sup>47</sup> Berdarah in Indonesian literally means blood flow, apply to mean massacre or mass killing.

<sup>48</sup> Suara Papua. *Operasi Militer dan Depopulasi Orang Asli Papua*. (2019).

<sup>49</sup> see appendix 2 for a full list by al Rahab, “OPERASI-OPERASI MILITER DI PAPUA: PAGAR MAKAN TANAMAN?”.



children in the villages and roads within the military operation zones. These techniques have not changed throughout the last sixty years of the conflict.

Apart from the daylight mass killings and the military operations, there were many violations outside media and public view; only the victims and their families knew about the incidents. In 2018, Amnesty International summarized the human rights situation inside West Papua for the 20 years since 1998 as follows;

... since Indonesia's 1998 reforms (Reformasi) began, Amnesty International has continued to receive allegations of unlawful killings by security forces in Papua region,... These killings occur mainly in the context of unnecessary or excessive use of force during mass protests, during law enforcement operations, or due to misconduct by individual officials. Amnesty International has recorded 69 cases of suspected unlawful killings by security forces in Papua between January 2010 and February 2018, with 95 victims. In 34 of the cases, the alleged perpetrators came from the police forces, in 23 cases they came from the military, and in 11 cases both security forces were allegedly involved. Another case also involved the municipal police (Satuan Polisi Pamong Praja, or Satpol PP)... Most of the victims, 85 of them, have Papuan ethnicity<sup>50</sup>.

The Indonesian military killed West Papuans as hunting games and dehumanized them as monkeys and wild pigs worthy of Indonesian bullets. One incident happened at Iwur in Oksibil in 1977; the Indonesian military killed a local Papuan from the *Ngep* clan and squeezed his blood into a bucket, mixed with tea and drink in broad daylight around a bond fire as an example to drive fear into West Papuans. Pastor Neles Tebay, a respectable West Papuan Catholic Priest, described some methods applied by the Indonesian military in West Papua as follows;

Some Papuans were killed by having their bodies slashed with razors. Others died after a hot iron bar was inserted into their anus. A killed Papuan man had his flesh made into a barbeque, and his wife was forced to eat her husband, and his children to eat their father.

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<sup>50</sup> Amnesty International Indonesia. *"Don't bother, just let him die": Killing with Impunity in Papua*. Amnesty International. (2018). 6-7.

In Dila village, Indonesian troops killed Nalogoban Kibak, a tribal leader; filled a bucket with his blood; then forced other tribal leaders, teachers, and pastors of the area, at gunpoint, to drink the blood. In another village, Indonesian troops captured 30 Papuan men, forced them into boats, tied stones around their necks, and threw them overboard. Papuan women have also been killed in barbaric ways.

In Kuyawage village, the army used bayonets to tear pregnant women open to the chest and then cut their unborn babies into halves. In Biak, the soldiers shot dead Maria Bonsapia, a pregnant Papuan woman, before a crowd of 80 women and children, cut the fetus out of her body, and dissected the baby. Whole communities have been terrorized by Indonesian soldiers. The soldiers have assaulted villagers, burned houses and church buildings, destroyed food gardens, and shot the villagers' pigs and chickens. Many villagers take refuge in the jungle where many have died of sicknesses and shortage of food<sup>51</sup>.

This chapter of West Papuan history was forced to close in 1998 without any reconciliation between the Indonesian government and the people of West Papua, a period of 37 years that overshadowed West Papua's genocide. During martial law, the Indonesian military went on a killing spree committing atrocity crimes without any remorse, all in the name of the Indonesian state. These left a generational trauma for the West Papuan people that they cannot recover from when Indonesia is still in West Papua.

## **2.7. West Papua Social Indicators under Indonesian Rule**

All textbooks in Dutch were taken out of the schools and burnt ... all textbooks of the Dutch period were replaced ...<sup>52</sup>

At Ipenburg divided the historical development of education in West Papua into "five periods"<sup>53</sup>: (1) early till 1900, oral tradition dominated the societies, (2) 1900 to

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<sup>51</sup> Tebay, 9 - 10.

<sup>52</sup> Ipenburg, 6.

<sup>53</sup> Ipenburg, 1.

1950, beginnings of mission education purposely to train missionaries for simple village schools, (3) 1950 to 1962, education to prepare for self-determination and independence, (4) 1962 to 1998, the introduction of Indonesian education curriculum emphasis on the values of Suharto's "orde Baru" (new order regime), (5) 1998 to present, new margins introduced for the improvement of the education system in West Papua. The Indonesian system disrupted the education system built to develop West Papuans spiritually, culturally, socially, and mentally by the Netherlands.

The health sector, like education, followed the same fate. John Salford mentioned the Indonesian military confiscating beds and medicines from clinics and hospitals and using or selling them in Jakarta for profit<sup>54</sup>. The state of health, education, and other social indicators today reflect the disruptions experienced during the early stages of development in West New Guinea.

The Indonesians knew what they were doing during the annexation, especially from 1962 to 1998. They first targeted the educated elites, students, education facilities, and health facilities established by the Dutch. They imprisoned or killed intellectual elites of the region and destroyed the education system by burning all the books from schools and libraries. They destroyed the health system by confiscating what they could find in the hospitals, including medicine. They sold or used them in Jakarta and outlawed the public use of West Papuan languages and other cultural identities<sup>55</sup>.

By the year 2000, social indicators in West Papua were abysmal compared to all other Indonesian provinces. Their ancestral lands were converted into investment asserts for the Indonesian military, politicians, and multi-national companies (MNCs). West Papuans were left landless, jobless, less skilled, and marginalized, squeezed onto fringes of towns and cities, awaiting their terrible extinction. Pastor Neles Tebay had to say in

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<sup>54</sup> Salford, 76-80.

<sup>55</sup> Tebay, 9-10.

his analysis of the situation at the time: *“The Papuans are powerless in the face of this collaboration between the government, the military, and the private companies who grab their land.”*<sup>56</sup>

The decrease in life expectancy for West Papuans and their general reduction in the population growth rate was not surprising after years of constant abuse. Papua New Guinea to the east had the same population size as West Papua in the 1970s. Today Papua New Guinea’s population is estimated to be around 10 million compared to the 2.4 million West Papua population.

## **2.8. Chapter Summary**

The modern history of West Papua began as a colonial territory of the Netherlands in 1898. It ended in May 1963 with the transfer of West Papua to Indonesia via the UN through the 1962 New York Agreement. The international community’s involvement in the transfer process was considered to have violated the UN Charter on Trusteeship. The people of West Papua did not agree to the whole process that transpired between the Netherlands, Indonesia, and the United Nations, resulting in the establishment of Organisasi Papua Merdeka (OPM) by the West Papuans to fight and reclaim their denied nation of West Papua in 1965. The process gave birth to the 59 years old West Papua conflict and its subsequent historical atrocity crimes committed by the Indonesian government against the people of West Papua to date. West Papuans are primarily poor and marginalized; their rich cultures, languages, and other aspects of social indicators were extinct or weakened due to the abuses.

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<sup>56</sup> Op.cit., 12.

## **CHAPTER 3: CONCEPTUAL FRAMEWORK**

### **3.1. Introduction**

The United Nations should be credited for the wonderful work it has been doing since 1994 on the transformation of human rights principles from mere concepts into universally applicable laws. The establishment of the human rights risks assessment tool after the publication of the 2005 World Summit Outcome Document was a paradigm shift that completely changed the world's views from state-centric security to human-centric security.

This chapter briefly discusses the concepts of genocide, human security, atrocity crimes, and the responsibility to protect. The ideas are well defined in international law, and nations are encouraged to abide by them through the international human rights conventions.

### **3.2. Existing Human Rights Risk Assessment tools for Assessing Atrocity Crimes**

The international community was shocked by what happened in Rwanda (1994) and Srebrenica (1995), two events that got policymakers to think about what should have been done in the first place<sup>57</sup>. The questions remain to be answered are; is the international community selective in their engagement through the United Nations? Are some conflicts more severe than others? Why are some conflicts not on the international community's scrutiny list, while others appear often?

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<sup>57</sup> United Nations, 2014.

The shock waves of the 1990s led to the realization of saving humanity from genocide and other forms of atrocity crimes, as noted in the literature on intervention, human security, and the responsibility to protect<sup>58</sup>. The United Nations, under the leadership of the then Secretary-General Kofi Annan took the bold step to question the hard questions about national sovereignty and non-intervention of the affairs of a state by other states specifically stated in Article 2 of the United Nations Charter<sup>59</sup>. The shift from protecting and safeguarding “national security to human security” is one of those remarkable events in the international system since the establishment of the United Nations.

As noted by Richard Jolly<sup>60</sup>, the concept of human security was “pioneered” by the UN in its 1994 Human Development Report, the same year that the world witnessed the Rwanda genocide. Its objectives, according to Richard, were:

...conceptualized human security as people-centred, multi-dimensional, interconnected, and universal. It encompassed a shift from the security of the state using the military defence of borders to the security of people, using various measures to counter a diversity of chronic threats, which included: ‘hunger, disease and repression and; protection from sudden and hurtful disruptions in the patterns of daily lives, whether in homes, jobs or communities<sup>61</sup>.

The UN further deliberated on the concept in the early to mid-2000s, culminating in establishing a commission by the UN Secretary-General Kofi Annan, which Canada and the Netherlands took up the challenge. The result was discussed in the 2005 World

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<sup>58</sup> Tadjbakhsh, S., & Chenoy, A. M. *Human Security: Concepts and Implications*. Routledge. (2007)., Pattison, J. *Humanitarian Intervention & the Responsibility to Protect: Who should intervene?* (Oxford University Press. 2010)., Nahlawi, Y. *The Responsibility to Protect in Libya and Syria: Mass Atrocities, Human Protection, and International Law* (1st ed.). (Routledge. 2020)., Wyatt, S. J. *The Responsibility to Protect and the Cosmopolitan Approach to Human Protection*. (Palgrave Macmillan. 2019)., Badescu, 2011, and Bellamy & Dunne, 2016.

<sup>59</sup> [united\\_nations\\_charter.pdf \(unmissions.org\)](https://www.unmissions.org/united-nations-charter.pdf)

<sup>60</sup> Martin & Owen, 139.

<sup>61</sup>Op.cit..

Summit Outcome Document A/RES/60/1,<sup>62</sup> in which the World leaders agreed to prioritize human security over national security.

The establishment of the Office on Genocide Prevention and the Responsibility to Protect and the UN Framework of Analysis resulted from the 2005 summit. The UN Framework is a human rights risk assessment tool that can be applied to assess human rights situations. There are “four” existing human rights risk assessment tools<sup>63</sup> that are actively in use worldwide. The four existing tools are; (1) Assessing Risk of Genocide and Politicide by Dr Barbara Harff, (2) The United Nations Framework of Analysis for Atrocity Crimes, (3) The European Commission Conflict Prevention tool, and (4) Conflict Assessment System Tool by Fund for Peace<sup>64</sup>. In this study, the United Nations Framework is being applied to assess the human rights situation in West Papua.

Gillum reviewed the four models in her study, assessing their strengths, weaknesses, and commonalities. She concluded that significant themes found in every assessment model were; political, economic, or social instabilities. Of the four models, she preferred the United Nations model because it contains all the major themes, including atrocity crimes. Gillum identified two downsides of the United Nations Framework. First, it may be confusing because sub-categories are jumbled together; getting them in order of political, economic, or social may be difficult for non-experts. And secondly, crimes against humanity and war crimes do not have in-depth risk indicators such as genocide<sup>65</sup>.

Regional-based monitoring groups mainly apply the UN Framework, which is still not nationalized by states, national, or local NGOs in most UN member states. In the Asia

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<sup>62</sup> United Nations, 2021.

<sup>63</sup> Gillum, K. *Evaluation of Current Risk Assessment Models for Genocide and Mass Atrocity*, (2016). 3.

<sup>64</sup> Gillum, 2016. 3-8.

<sup>65</sup> Op. cit., 8.

Pacific region, the Asia Pacific Centre for the Responsibility to Protect<sup>66</sup> is applying the UN Framework in general to assess the conditions in the area.

### 3.3. Atrocity Crimes

According to the UN Framework, atrocity crimes are defined legally as international crimes, namely, genocide, crimes against humanity, and war crimes<sup>67</sup>. The United Nations Framework of Analysis for Atrocity Crimes defined the term atrocity crimes based on 1998 Article 7 of the Rome Statute of the International Criminal Court (ICC). Atrocity crimes are:

Acts committed as part of a widespread or systematic attack against any civilian population. The acts include; (1) extermination, (2) murder, (3) enslavement, (4) deportation, (5) imprisonment, (6) torture, (7) rape (and gender-based or sex crimes), (8) group-based persecution, (9) enforced disappearance, (10) apartheid, and (11) other inhuman acts of the similar character intentionally causing great suffering or serious injury to body or mental or physical health<sup>68</sup>.

The presence of atrocity crimes in West Papua was first compiled in detail and reported by *TAPOL* in the book “*West Papua: The Obliteration of a People*” by Budiardjo and Liong in 1983. Every atrocity crime listed above is present in West Papua, starting from deportation to apartheid or systemic racism against the people of West Papua by the Indonesian government.

The perpetrators are often the Indonesian military and police who target West Papuans, generally categorized as members of the OPM and their sympathizers. However, when the methods of military operations against the so-called OPM members

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<sup>66</sup> Asia Pacific Centre - Responsibility to Protect, 2021.

<sup>67</sup> United Nations, 26-32.

<sup>68</sup> Op. cit., 27-28.



by the Indonesian military are analyzed closely, the targets are often West Papuan people as an ethnic group.

Methods such as indiscriminate shooting from the air, aerial bombardments, intimidation and search of houses, and destruction of villages and food sources belonging to West Papuans that were practised by the Indonesian military in the past have not changed. These practices are intended to wipe out the people of West Papua as an ethnic group in the long run through what academics termed as genocidal or “slow-motion genocide”<sup>69</sup>.

### **3.4. Slow-Motion Genocide or Genocide**

Researchers on the subject of genocide often traced it to “holocaust” narratives and Raphael Lemkin, who gave the term genocide and its meaning to define and describe genocide<sup>70</sup>. The tradition of defining and describing genocide from the perspective of the holocaust often limits its meaning and application to what Anderson termed as “hot genocide”, ignoring the existence of other forms of genocide<sup>71</sup>. Anderson identified three forms of genocide apart from hot genocide: cold genocide, colonial/neo-colonial genocide, and indigenous genocide. Cold genocide was termed “slow-motion genocide” by Elmslie and Webb-Gannon in 2013. Their definitions were consistent with genocide as legally defined; only the descriptions and their occurrences take different forms, especially the ‘intent’ aspect.

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<sup>69</sup> Elmslie & Webb-Gannon, 2013, Anderson, 2015, and Brundige et al., 2004.

<sup>70</sup> Bloxham & Moses, 34.

<sup>71</sup> Anderson, 20.

Genocide is an international crime well-defined by the international law on genocide, particularly the 1948 Convention on the Prevention and Punishment of the Crime of Genocide, the 1949 Geneva Convention, and other existing laws<sup>72</sup>.

Article 2 of the Genocide Convention defined genocide as:

Acts committed with intent to destroy in whole or in part a national, ethnical, racial or religious group, as such; (a) killing of the members of the group; (b) causing serious bodily or mental harm to members of the group; (c) deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part; (d) imposing measures intended to prevent births within the group; and (e) forcibly transferring children of the group to another group<sup>73</sup>.

To view genocide from the definition given may lead to overlooking the existence of slow-motion genocide; it is better to start looking at genocide from the descriptions provided by Lemkin in his original work. Dirk Moses provides eight standard techniques<sup>74</sup> of genocide summarized from Lemkin's work in the 1930s and 40s<sup>75</sup>. The perpetrators often direct aggression targeting all aspects of the group being abused. The standard techniques include (1) political subjugation; (2) social subjugation, (3) cultural subjugation, (4) economic subjugation, (5) biological reconstruction, (6) physical abuses, (7) religious subjugation, and (8) moral debasement. The UN Framework covers all eight aspects entirely, which is an added advantage compared to the definition provided in the 1948 Genocide Convention, which has a narrow definition of genocide.

The identification of genocide in West Papua was first made public through the detailed study of a group of experts from the Yale Law School in 2004<sup>76</sup> titled *"Indonesian Human Rights Abuses in West Papua: Application of the Law of Genocide*

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<sup>72</sup> Brundige et al., 2004.

<sup>73</sup> United Nations, 26.

<sup>74</sup> See the eight techniques of genocide in appendix 1 for the full description

<sup>75</sup> Bloxham & Moses, 34-35.

<sup>76</sup> Brundige et al., 2004.

to the *History of Indonesian Control*". This publication was followed by two other publications, including the work by Elmslie & Webb-Gannon, titled "*A slow-motion genocide: Indonesian rule in West Papua*", and Anderson, titled "*Colonialism and Genocide: The Case of West Papua*". West Papua case meets all other criteria but failed only on a single aspect – the ambiguity of the "intent" of the perpetrator<sup>77</sup>.

The ambiguity of intent does not mean that there is no genocide occurring in West Papua; it does, but the international community's willingness determines whether the genocide in West Papua is cold or hot. The difference between cold genocide and genocide defined by international law is the international community's recognition and emphasis on a particular case. Cold genocide may suddenly turn hot if the people's attention is directed towards highlighting the issue. On the other hand, hot genocide/genocide may turn cold if there is no recognition and emphasis placed on it by the international community.

The case of Uyghur and the genocide of Falun Gong members in China, among other cases, including the West Papua case, come under cold genocide due to the ignorance of their existence by the international community due to competing political, economic, and strategic interest of some of its members<sup>78</sup>. In the case of West Papua, Geoffrey Robinson posits that the lack of "compelling political interest"<sup>79</sup> in West Papua by the major Western Powers is the cause of the lack of concern.

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<sup>77</sup> Anderson, 15.

<sup>78</sup> Turdush & Fiskesjö, 2021; Cheung et al., 2018.

<sup>79</sup> Bloxham & Moses, 479.

# CHAPTER 4: PRESENTATION OF FINDINGS ON THE EXISTENCE OF ATROCITY CRIMES IN WEST PAPUA

## 4.1. Introduction

This chapter explores the human rights situation in West Papua, applying the fourteen human rights risk factors of the UN Framework. It aspires to highlight the atrocity crimes in West Papua through the descriptive analysis of each indicator under the fourteen risk factors. The data obtained from reviewing the literature are examined under each indicator to ascertain the existence of atrocity crimes in West Papua. It is interesting to discover that the data obtained from the literature review strongly indicates the presence of atrocity crimes in West Papua.

## 4.2. Presence of Common Human Rights Risk Factors in West Papua

*Key Table*

Symbol	Meaning	Explanation
A	Applicable	Occurring in West Papua
N/A	Not Applicable	Not occurring in West Papua
L/A	Likely Applicable	The situation that is likely to occur or is developing in West Papua
I/A	Indirectly Applicable	Policies that have good intentions but the opposite is occurring

*Table 1: Risk Factor Number 1*

<b>Risk Factor 1. Situations of armed conflict or other forms of instability</b>	
Situations that place a State under stress and generate an environment conducive to atrocity crimes	
	<b>Indicators</b>
1.1	International or non-international armed conflict
1.2	Security crisis caused by, among other factors, defection from peace agreements, armed conflict in neighbouring countries, threats of external interventions or acts of terrorism
1.3	Humanitarian crises or emergencies, including those caused by natural disasters or epidemics
1.4	Political instability caused by abrupt or irregular regime change or transfer of power

1.5	Political instability is caused by disputes overpowering or growing nationalist, armed, or radical opposition movements.
1.6	Political tension caused by autocratic regimes or severe political repression
1.7	Economic instability is caused by scarcity of resources or disputes over their use or exploitation
1.8	Economic instability caused by a severe crisis in the national economy
1.9	Economic instability caused by acute poverty, mass unemployment, or deep horizontal inequalities
1.10	Social instability caused by resistance to or mass protests against State authority or policies
1.11	Social instability is caused by exclusion or tensions based on identity issues, their perception, or extremist forms.

*Risk factor 1. Situations of armed conflict or other forms of instability; situations that place a state under stress and generate an environment conducive to atrocity crimes.* The conflict in West Papua has been active for sixty years without any attempt at peaceful resolution by the Indonesian government, which continues to generate a conducive environment for atrocity crimes. Major instabilities found in West Papua are due to the presence of all of the indicators in risk factor one. They include; (a) instability due to armed conflict (1.1), (b) instability due to security crises (1.2), (c) instability caused by the humanitarian crisis (1.3), (d) instability caused by economic crisis (1.7, 1.8, & 1.9), (e) instability due to political crisis (1.4, 1.5, & 1.6), and (f) instability caused by the social crisis (1.10, 1.11).

The annexation and administration of West Papua by Indonesia has not been positive on West Papua people's survival as a group due to constant violation of their basic human rights. The eight major techniques of genocide as per Raphael Lemkin has been implemented in West Papua by the Indonesian government. The Indonesian government directed their attack on every aspect of the livelihood of the people of West Papua including, political, social, cultural, economic, biological, physical, religious, and morality of West Papuans<sup>80</sup>.

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<sup>80</sup> See appendix 1. Eight techniques of genocide.

*1.1: International or non-international armed conflict.* Sporadic non-international armed conflict in West Papua between the Free Papua Movement (TPNPB-OPM) and Indonesian military and police has occurred in West Papua ever since the territory's integration into Indonesia in 1963. Pastor Neles Tebay, John Salford, Robin Osborne, and Budiarmo & Liong noted several military operations in West Papua between 1960 and 1998, setting the foundation for the current armed conflict. The ICP reported increased 'armed conflicts' between the West Papua National Liberation Army and Indonesian security forces between 2018 and 2021<sup>81</sup>. The armed conflict continues because the Indonesian government has not comprehensively addressed the underlying issues over the years.

*1.2: Security crisis caused by, among other factors, defection from peace agreements, armed conflict in neighbouring countries, threats of external interventions or acts of terrorism.* There were four significant sources of contention in West Papua throughout the Indonesian occupation; (1) the deprivation of decolonization for West Papua by the Netherlands, (2) the 1962 New York Agreement that excluded West Papuans, (3) the 1969 act of free choice that was widely undemocratic and partial, and (4) 2001 one-sided Special Autonomy Law and its partial extension in 2021.

In response to the UNGA resolution 1514 of 14 December 1960, the Netherlands colonial government began to prepare the people of West Papua for self-determination starting in December 1961. The proclamation of the nation of West Papua was declared publicly on the 1<sup>st</sup> of December 1961 with the official display of the Morning Star flag and the national anthem of West Papua<sup>82</sup>. The preparation process for West Papua decolonization ended abruptly in 1962 when the Netherlands changed its mind to abandon

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<sup>81</sup> International Coalition for Papua and the West Papua-Network, 2021, 125.

<sup>82</sup> Salford, "UNTEA and UNRWI: United Nations Involvement in West New Guinea During the 1960's." 37; Osborne, 25.

the process by signing the New York Agreement to transfer the administration of West New Guinea to Indonesia without consulting the West Papuans<sup>83</sup>. It has been one of the bitter sources of tension over the years.

The 1962 New York Agreement between the Netherlands and Indonesian governments has also been one of the major causes of tension because the people of West Papua were excluded from the negotiation and signing of the agreement<sup>84</sup>. The other bitter source of contention was the ‘act of free choice’ conducted in 1969 in which 1026 out of more than 700 000 people of West Papua were hand-picked by the Indonesian military and forced to vote against independence. The people of West Papua often remember them as acts of injustice that violated their human rights and have continued to demand justice over the years<sup>85</sup>.

The one-sided imposition of the Papua Special Autonomy Law on the people of West Papua by the Indonesian government has been controversial since 2001. The extension of the law in 2021 maintained controversy within the West Papuan community because of the undemocratic procedure applied by the Indonesian government. The people of West Papua formed a network of CSOs and activists known as *Petisi Rakyat Papua* (Papua People’s Petition) to protest against the extension of Papua Special Autonomy<sup>86</sup>, which the contention is likely to be maintained.

*1.3: Humanitarian crises or emergencies, including those caused by natural disasters or epidemics.* The humanitarian situation in West Papua is caused by the armed conflict, the Covid-19 pandemic, and natural disasters that often occur in several places from time to time due to climate change. The number of internally displaced people

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<sup>83</sup> Salford, 2 – 3 and Budiardjo and Liong, 11 - 13.

<sup>84</sup> Budiardjo and Liong, 11 – 12; Tebay, 5 – 8; Osborne, 30 – 32; and Salford, 2 – 3, 20, 54.

<sup>85</sup> Salford, 203, 218, and 224; Budiardjo and Liong, 22 – 24, and Osborne, 57 – 68.

<sup>86</sup> Rewapatara Hendrick, “Petisi Rakyat Papua.” <https://papua.tribunnews.com/2022/06/06/petisi-rakyat-papua-keluarkan-19-tuntutan-jefry-wenda-ini-murni-suara-rakyat>, (Tribun News, 2022), accessed: 9/12/2022.

(IDPs) increased to between 60 000 and 100 000<sup>87</sup> in 2022; some have crossed over to Papua New Guinea and are still there. The waves of West Papuan refugees started in 1984, moving into Papua New Guinea and then to other countries<sup>88</sup>.

In conflict zones, people are displaced without food and shelter and often survive on what they can find in the jungles. Social services are cut off, and people do not have access to education and health facilities. People often move to nearby regencies in search of essential services. IDP centres in West Papua are Wamena, Timika, Oksibil, Nabire, Intan Jaya, Nduga, and Tumolbil in Papua New Guinea<sup>89</sup>.

*1.4: Political instability caused by abrupt or irregular regime change or transfer of power.* The internal political instability in the province is due to the double appointments for the position of provincial secretary, the death of the deputy governor for Papua, and deteriorating health conditions and corruption charges against the governor of Papua province. The people of West Papua view corruption charges against the governor as a ploy to overthrow his leadership by the Indonesian government, which they see as a threat to national unity. The Indonesian government accused the governor of funding the nationalist armed conflict in West Papua, an allegation without evidence.

*1.5: Political instability is caused by disputes overpowering or growing nationalist, armed, or radical opposition movements.* Nationalism in West Papua has been the sole instigator of armed conflict between the TPNPB-OPM and Indonesian security forces for the last sixty years and continues. The OPM was formed in 1965 by the people of West Papua to fight for decolonization after they were denied by the

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<sup>87</sup> International Coalition for Papua and the West Papua-Network, "Human Rights in West Papua 2021."

<sup>88</sup> Osborne, 73 – 80.

<sup>89</sup> International Coalition for Papua and the West Papua-Network, 66 – 71.



Netherlands their former colonial power in 1963 when the United States coerced them to transfer the administration to Indonesia via the United Nations<sup>90</sup>.

*1.6: Political tension caused by autocratic regimes or severe political repression.*

The people of West Papua experienced political and military repression under Suharto's authoritarian government for thirty-three years *Ode baru* 'New Order era' that ended in 1998. Mr Amirudin alRahab, former Chairman of the Indonesian human rights commission (*KOMNAS HAM*), termed the era as the period of '*obsesi militer*' (military obsession) in West Papua<sup>91</sup>. The severe repression left substantial psychological and social trauma in the lives of West Papuans. Schools, health facilities, cultural heritage and identity of the people of West Papua were suppressed with heavy military repression, which left deep scars on the people of West Papua. The past abuses have not been addressed appropriately at the end of the New Order era, enabling an environment conducive to all sorts of conflicts.

*1.7: Economic instability is caused by scarcity of resources or disputes over their use or exploitation.* Economic instability in West Papua is caused by disputes over land rights, illegal land grabbing by the government-endorsed investors, resource exploitation without the free prior and informed consent of the people of West Papua and resettlement of immigrants from Indonesia into West Papua<sup>92</sup>. Disputes continue to exist between the people of West Papua, the Indonesian government, and Freeport McMorran Inc. over environmental pollution and the exclusion of West Papua people's participation in the operations of the Freeport Mine over the years<sup>93</sup>.

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<sup>90</sup> Budiardjo and Liong, 11 – 17; Tebay, "West Papua: The Struggle for Peace with Justice." 5 – 7; Osborne, 29 – 32.

<sup>91</sup> Amirudin al Rahab, "OPERASI-OPERASI MILITER DI PAPUA: PAGAR MAKAN TANAMAN?" (2006), <https://ejournal.politik.lipi.go.id/index.php/jpp/article/view/420>, accessed December 12, 2021.

<sup>92</sup> Tebay, "West Papua: The Struggle for Peace with Justice." 12 – 13.

<sup>93</sup> Osborne, *Indonesia's Secret War: The Guerrilla Struggle in Irian Jaya*. 69 – 72.

*1.8: Economic instability caused by a severe crisis in the national economy.* The Indonesian currency was floated in 1998 due to the Asian economic crises, which often experienced sudden exchange rate fluctuations. It usually affects the economy, especially the rural areas where prices of goods and services are higher. In the Papua region, prices of basic goods are often 100 per cent higher as you go from the coastal areas into the highlands, where transportation is heavily dependent on on-air transport for logistic supplies<sup>94</sup>.

*1.9: Economic instability caused by acute poverty, mass unemployment, or deep horizontal inequalities.* Mass unemployment and poverty among Papuans are higher in the Papua region. The economic activities are entirely under the hands of the Indonesian immigrants, and there has been a deep horizontal inequality between the indigenous Papuans and the Indonesian immigrants. The immigrants are well protected by the laws and have easier access to financial services. At the same time, the Papuans are often discriminated against and denied access to financial services and other business opportunities.

According to the national statistics office, poverty in Papua ranges from 27 to 30 per cent. The unemployment rate ranges from 11 per cent to 13.8 per cent overall in the Papua region between 2015 and 2022<sup>95</sup>. During the same period, Indonesian national poverty ranges from 25 to 30 per cent, and unemployment ranges from 6.32 per cent to 10.19 per cent.

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<sup>94</sup>Agustine, “The price of Goods in Papua is More Expensive than in Java, here is the Solution,” (Secfinance, 2016). <https://finance.detik.com/berita-ekonomi-bisnis/d-3336188/harga-barang-barang-di-papua-lebih-mahal-dari-jawa-ini-solusinya>, Accessed December 12, 2021.

<sup>95</sup> Badan Pusat Statistik, “Poverty Severity Index by Province and Region (Percent), 2015 – 2022”. <https://www.bps.go.id/indicator/23/504/1/indeks-keparahan-kemiskinan-p2-menurut-provinsi-dan-daerah.html>, accessed December 12, 2021.

*1.10: Social instability caused by resistance to or mass protests against State authority or policies.* Social instability in West Papua was generated by extending Papua Special Autonomy in 2021 for 20 years without consulting the indigenous people of West Papua. West Papuans fear that the creation of new provinces would be occupied by additional migrants from other parts of Indonesia who do not share the same race and cultural identity as the Papuans. Since 2020, the indigenous people of West Papua formed *Petisi Rakyat Papua* (Papua people's petition), a network of CSOs and individual activists to protest against the extension of the Special Autonomy law<sup>96</sup>. The group is active and continues to lead demonstrations throughout Papua from time to time against the government of Indonesia. The Indonesian government responded by imprisoning Mr Victor Yeimo and others who were the network's leaders<sup>97</sup>.

*1.11: Social instability is caused by exclusion or tensions based on identity issues, their perception, or extremist forms.* There is deep-seated racism against the people of West Papua by the Indonesians, who often discriminate against the culture, race and identity of the people of West Papua. Racial discrimination is endemic in Indonesia, especially against the people of West Papua. Indonesians publicly recognize this difference as the problem of adoption, known as *Anak tiri* in Indonesian, which translates into treating West Papuans as second-class citizens of Indonesia.

The treatment was considered a colonial construct since the Dutch colonial era. The Dutch created a system of hierarchical division by putting Indonesians and West Papuans on the second and third layers of the society, respectively, whilst the Dutch

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<sup>96</sup> Lao Lao Papua, "Papua People's Petition", (2020), <https://laolao-papua.com/2022/05/25/petisi-rakyat-papua-mei-bulan-perlawanan/#:~:text=Petisi%20Rakyat%20Papua%20%28PRP%29%20adalah%20front%20rakyat%20yang.pada%204%20Juli%202020.%20Sejarah%20singkat%20Otonomi%20Khusus>, accessed: January 26, 2023.

<sup>97</sup> Yeimo's case is still ongoing and people are still demanding his release according to Papuans Behind Bars, "Victor Yeimo" (2021), [https://www.papuansbehindbars.org/?prisoner\\_profile=victor-yeimo](https://www.papuansbehindbars.org/?prisoner_profile=victor-yeimo), accessed: January 20, 2023.

colonizers occupy at the top of society. When Indonesians declared their independence in 1945, the division was deepened by the stigmatization they created and attached to the West Papuans as black monkeys from Africa, lazy, stupid, and primitive people<sup>98</sup>.

The structural racism that was deeply rooted in Indonesia has led to the normalization of police brutality and targeted violence against the people of West Papua. The preconceived notions of prejudices and racialization formed the knowledge to support the normality of violence in Black identity in Indonesia. The best example in the West Papuan<sup>99</sup> context was when the Indonesian government deployed thousands of troops to the region, stopped internet access and criminalized activists who participated in the anti-racism protests in August 2019<sup>100</sup>. The dominant security measures placed by the Indonesian government in West Papua result from stigmatising West Papuans as separatists and destructive people. The main problem of systemic racism in West Papua is the tagging and diversion of racism mixed with separatism and nationalism: it is embedded in the policy and central institutions of states that justify the use of coercive power by the superior identity against West Papuans<sup>101</sup>.

*Table 2: Risk Factor Number 2*

<b>Risk Factor 2. Record of serious violations of international human rights and humanitarian law</b>	
Past or current serious violations of international human rights and humanitarian law, particularly if assuming an early pattern of conduct, and including those amounting to atrocity crimes, that have not been prevented, punished, or adequately addressed and, as a result, create a risk of further violations.	
	<b>Indicators</b>

<sup>98</sup>Amnesty International, “Systemic Racism in Papua must be removed too”, (2020), <https://www.amnesty.id/systemic-racism-in-papua-must-be-removed-too/>, accessed: January 6, 2023.

<sup>99</sup>Febriana Firbaus, “Indonesia deploys troops to West Papua as protests spread,” (Aljazeera News, 2019), <https://www.aljazeera.com/news/2019/08/indonesia-deploys-troops-west-papua-region-protests-spread-190820230710563.html>, accessed: February 20, 2023.

<sup>100</sup>Human Rights Watch, “Indonesian Officers Racist Slurs Trigger Riots in Papua”, (2019), <https://www.hrw.org/news/2019/08/23/indonesian-officers-racist-slurs-trigger-riots-papua>, accessed: January 6, 2023.

<sup>101</sup> Association of Indonesian Postgraduate Students and Scholars in Australia (AIPSSA), <https://www.aipssa.org/2020/08/27/rasisme-di-indonesia-dari-blacks-lives-matter-ke-papuan-lives-matter/>, accessed January 6, 2023.

2.1	Past or present serious restrictions to or violations of international human rights and humanitarian law, particularly if assuming an early pattern of conduct and if targeting protected groups, populations, or individuals.
2.2	Past acts of genocide, crimes against humanity, war crimes, or their incitement
2.3	Policy or practice of impunity for or tolerance of serious violations of international human rights and humanitarian law, of atrocity crimes, or their incitement.
2.4	Inaction, reluctance, or refusal to use all possible means to stop planned, predictable, or ongoing serious violations of international human rights and humanitarian law or likely atrocity crimes, or their incitement.
2.5	Continuation of support to groups accused of involvement in serious violations of international human rights and humanitarian law, including atrocity crimes, or failure to condemn their actions.
2.6	Justification, biased accounts, or denial of serious violations of international human rights and humanitarian law or atrocity crimes.
2.7	Politicization or absence of reconciliation or transitional justice processes following conflict
2.8	Widespread mistrust in State institutions or among different groups as a result of impunity

*Risk Factor 2. Record of serious violations of international human rights and humanitarian law; Past or current serious violations of international human rights and humanitarian law, particularly if assuming an early pattern of conduct, and including those amounting to atrocity crimes, that have not been prevented, punished, or adequately addressed and, as a result, create a risk of further violations.*

The serious human rights violations in West Papua that occurred in the past have not been fully recorded due to inaccessibility issues. Most of them, however, are still fresh because the survivors are alive and can be obtained orally. Few reports were published by Budiardjo & Liong, in 1983, Osborne, in 1985, and Tebay, in 2005, which contained information on human rights violations committed against the people of West Papua. The intensification of armed conflict since 2018 has increased human rights violations in the province. The conflict is still active, and serious human rights violations continue to be committed by both parties<sup>102</sup>.

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<sup>102</sup> International Coalition for Papua and the West Papua-Network, 29 – 30.

*2.1: Past or present serious restrictions to or violations of international human rights and humanitarian law, particularly if assuming an early pattern of conduct and if targeting protected groups, populations, or individuals.* The pattern of human rights violations in West Papua has been focused on eliminating members of OPM and its sympathizers since the 1960s. The OPM members and sympathizers are the indigenous people of West Papua who have a different racial, cultural, and linguistic identity to that of Indonesians who are racially and culturally Asians. When the Indonesians invaded West Papua in 1962, the targeted group was extended to educated West Papuan elites, students, and all community members, including their cultural identity, education system, and health care facilities established by the Dutch<sup>103</sup>.

The Indonesians imprisoned or killed educated elites of the region, destroyed the education system by burning all the books from schools and libraries, destroyed the health care system by confiscating what they could find in the hospitals, including medicine, and sold them in Jakarta or used them, outlawed the use of West Papuan languages, and other cultural identities in public<sup>104</sup>.

The Indonesian government continues restricting outside access to the province, including entry into conflict zones. Restrictions were placed on international mainstream media, including international human rights organizations, to enter West Papua during the Suharto regime. The restrictions are currently active mostly journalists are banned from entering the Papua region<sup>105</sup>. Beginning in 2019 following the anti-racism protest by West Papuans, the Indonesian government also restricts internet access in the Papua region during demonstrations and conflicts from time to time.

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<sup>103</sup> Saltford, 107 – 108; and At Ipenburg, “Education in Papua” (2009), [https://www.academia.edu/38322566/Education\\_in\\_West\\_Papua\\_2009\\_pdf](https://www.academia.edu/38322566/Education_in_West_Papua_2009_pdf), accessed January 6, 2023.

<sup>104</sup> Tebay, 9-10.

<sup>105</sup> The travelers have to get *Surat Jalan* permit letter from the local police to access any part of the province as stated here; <https://www.indonesiaevisas.com/news/papua-travel-permit>. The restrictions are still active.

The Indonesian military and police set up a network of secret spies from the village level to public service and into the private sector, constantly watching and eliminating elements of West Papua nationalism from the Papuans. It has led to restrictions on speaking mother tongues in public, demonising West Papuan culture, destroying West Papuan identities in art and music, and introducing ‘*pancasila*’ ideology to indoctrinate West Papuans into Indonesian culture.

*2.2: Past acts of genocide, crimes against humanity, war crimes, or their incitement.* The acts of human rights violations began with the annexation of Papua by Indonesia in the 1960s. Most of the human rights violations committed by Indonesia from 1961 to 1998 could only be recalled through oral testimonies from West Papuans. Pastor Tebay noted some in his report to the Catholic Church in 2005. The cases that were recorded as serious violations of human rights officially by the national human rights commission were six in total; they include<sup>106</sup>; (1) the Biak Massacre of July 1998, (2) the Wasior Massacre of June 2001, (3) the Wamena Massacre of April 2003, (4) Abe Massacre of March 2006, (5) Paniai Massacre of December 2014, and (6) Deiyai Massacre of August 2017. The cases have not been resolved even after years of extensive investigations by the Indonesian government.

The recently committed human rights violations are; the murder and mutilation of four civilians in Timika<sup>107</sup>, the kidnap and murder of two high school students in Oksibil, and the murder of Pastor Zanambani in Intan Jaya<sup>108</sup>. Human rights violations have been

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<sup>106</sup> Waspada. “Ini Rentetan Kasus Pelanggaran HAM di Papua”. (2020). *Nationalities Papers*. Translated from Indonesian. <https://waspada.co.id/2021/07/ini-rentetan-kasus-pelanggaran-ham-di-papua/>, accessed June 4, 2021.

<sup>107</sup> Tabloid Jubi, “KOMNAS HAM Papua Investigates alleged gross human rights violations of Timika Murder”, (Asia Pacific Solidarity Network, 2022), <https://www.asia-pacific-solidarity.net/news/2022-09-05/komnas-ham-papua-investigates-alleged-gross-human-rights-violations-of-timika-murder.html>, accessed: January 19, 2022.

<sup>108</sup> Human Rights and Peace for Papua, “Papuan Pastor Yerimia Zanambani Killed in Intan Jaya” (ICP, 2020), <https://humanrightspapua.org/news/2020/violence-in-intan-jaya-continues-military-members-reportedly-kill-papuan-pastor/>, accessed: January 12, 2023.

committed regularly in conflict zones by Indonesian security forces and TPNPB-OPM since 2018.

*2.3: Policy or practice of impunity for or tolerance of serious violations of international human rights and humanitarian law, of atrocity crimes, or their incitement.* President Suharto established a well-known policy in 1965: *Daerah Operasih Militer – DOM* (Military Operations Zone). Every military operation in West Papua was officially organized under the emergency powers of the president that placed the Papua region under military operations zone in 1965<sup>109</sup>. The policy set the foundation for the *ABRI* (Land Forces of Indonesian military) to establish its base in West Papua, dominating every aspect of the society, from the private sector to the public service. The Indonesian military committed atrocities with impunity for 33 years, from 1965 to 1998<sup>110</sup>.

*2.4: Inaction, reluctance, or refusal to use all possible means to stop planned, predictable, or ongoing serious violations of international human rights and humanitarian law or likely atrocity crimes, or their incitement.* Crimes committed against the people of West Papua from 1965 to 1998 were justified as victims were categorized as members and sympathisers of OPM. They were murdered in the name of the state *Pancasila* ideology. No single military or police officer was prosecuted over the 33 years. The government justified killing Papuans by rewarding military members for their efforts. For instance, in the murder case of Theys Iloway in 2001, the murderer was released from prison after just three years and rewarded with a high rank in the Indonesian military<sup>111</sup>.

*2.5: Continuation of support to groups accused of involvement in serious violations of international human rights and humanitarian law, including atrocity crimes, or failure to condemn their actions.* The doctrine of *dwifungsi* (dual function) of the *ABRI*

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<sup>109</sup> West Papua Support Network, “Military operations in Papua”, (2020), <https://www.papua-merdeka.org/post/military-operations-in-papua-operasi-militer-di-papua>, accessed: January 6, 2023.

<sup>110</sup> Al Rahab, 2016.

<sup>111</sup> Tebay, 2005, 18.



(Indonesian military) to allow the military to run the administrative affairs of the country as well as protect the country has been the foundation for support to the Indonesian army and the police by the government and the Indonesian public to commit atrocity crimes with impunity in West Papua.

There were several military operations conducted in West Papua under the emergency powers of the president that resulted in the deaths of thousands of indigenous Papuans. The recently established military operations were ‘Humanitarian Operations of 2018 to 2019’ and ‘Operations Peace Cartenz’ from 2019 to 2021. The Indonesian narrative has been that those murdered were either OPM members or their sympathisers as far as the victims are black people from West Papua. Amid all the atrocity crimes, Western governments like the United States, Australia, New Zealand, and the Netherlands were complicit to continue fund and train the Indonesian military, directly and indirectly, to commit atrocity crimes in West Papua without any condemnation of their actions. The Australian Embassy’s website states the ‘security’ partnership as one of its “broad partnership” objectives<sup>112</sup> with Indonesia. The United States has been a loyal supporter supporting “six different programs and initiatives of the Indonesian military and other internal security agencies<sup>113</sup>.

*2.6: Justification, biased accounts, or denial of serious violations of international human rights and humanitarian law or atrocity crimes.* Denial has been the order of business by the Indonesian government throughout the West Papua conflict over the last sixty years. The culture of impunity and official denial of the existence of atrocity crimes

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<sup>112</sup>Australian Embassy Indonesia, “Overview of Australia’s Aid Program to Indonesia”, <https://indonesia.embassy.gov.au/jakt/development-programs-in-indonesia.html>, accessed: February 11, 2023.

<sup>113</sup> Adam O’Brien, “The U.S.-Indonesian Military Relationship”, (Council on Foreign Relations, 2005), <https://www.cfr.org/backgrounder/us-indonesian-military-relationship#:~:text=U.S.%20assistance%20to%20Indonesia%E2%80%99s%20armed%20forces%20%28TNI%29%20and,Financing%20%28FMF%29.%20...%20%20Economic%20Support%20Funds.%20>, accessed: February 11, 2023.

in West Papua continue as usual up to date. It also extended to the destruction of evidence, prohibition of outside access into West Papua and restrictions on freedom of expression and assembly. Mahfud MD, the coordinating minister for Political, Legal, and Security Affairs, officially denied the existence of serious human rights violations in Papua in 2022, claiming that the “UN does not view any human rights violations in Papua”<sup>114</sup>. Wiranto, who also held the same ministerial portfolio in 2019, denied the existence of serious human rights violations in West Papua, claiming that there was “no evidence” and that the reports available are incomplete<sup>115</sup>.

*2.7: Politicization or absence of reconciliation or transitional justice processes following conflict.* The first 33 years of West Papuan history that was closed without reconciliation after 1998 leaves room for further violence. There was no public apology by the Indonesian government in 2001 before the imposition of Special Autonomy on the shoulders of Papuan leaders. Article 45 and 46 of the Special Autonomy Law stipulates the establishment of the reconciliation commission but have never been established over the last twenty years. There was an absence of a formal transitional justice process which indicates that the West Papua conflict is still active.

Every state policy implemented went against the existence of West Papuans as a group. The previous crimes committed by the Indonesian military against West Papuans have become part of the foundation that West Papuans built upon to remember the Indonesian mistreatment in West Papua. West Papuans still feel the trauma because Indonesia did not resolve a single case through the Indonesian justice system. The

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<sup>114</sup> Paul Manahara Tambuna, “Mahfud: UN does not view human rights violations in Papua”, (Tribun Papua, 2022), <https://papua.tribunnews.com/2022/06/16/mahfud-pbb-tidak-memandang-ada-pelanggaran-ham-di-papua>, accessed: February 11, 2023.

<sup>115</sup> Praise Christiano, “Here’s what Wiranto said about allegations of human rights violations in Papua”, (MineNews.id, 2019), <https://www.minews.id/news/begini-kata-wiranto-soal-tudingan-pelanggaran-ham-di-papua#>, accessed: February 11, 2023.

researchers have identified that West Papua people collectively suffer from *memoria passionis*<sup>116</sup>.

2.8: *Widespread mistrust in State institutions or among different groups as a result of impunity.* As a result of the frequent suppression and abuse of the people of West Papua by the Indonesian government over the years, West Papuans do not trust Indonesian state institutions because they feel like they exist outside the Indonesian system. There is a clear line of distrust within the West Papuan communities, especially when dealing with justice and health issues. People who die of medicine overdose in clinics and hospitals and food poisoning in restaurants are common, strengthening the already established perceptions that Indonesians have been killing Papuans through such means. The typical phrase activists apply during protests is, *Papua tidak aman di dalam NKRI* ‘Papua is not safe inside Indonesia’.

Table 3: Risk Factor Number 3

<b>Risk Factor 3. Weakness of State structures</b>	
Circumstances that negatively affect the capacity of a State to prevent or halt atrocity crimes.	
	<b>Indicators</b>
3.1	The national legal framework that does not offer ample and effective protection, including through ratification and domestication of relevant international human rights and humanitarian law treaties
3.2	National institutions, particularly judicial, law enforcement, and human rights institutions that lack sufficient resources, adequate representation, or training
3.3	Lack of an independent and impartial judiciary
3.4	Lack of effective civilian control of security forces.
3.5	High levels of corruption or poor governance
3.6	Absence or inadequate external or internal mechanisms of oversight and accountability, including those where victims can seek recourse for their claims.
3.7	Lack of awareness of and training on international human rights and humanitarian law to military forces, irregular forces and non-State armed groups, or other relevant actors

<sup>116</sup> "*Memoria passionis* is about unwritten collective memories of the history of suffering and cruelty experienced collectively by the people under abusive rule (see footnote 129 for Papuans' experience).

3.8	Lack of capacity to ensure that means and methods of warfare comply with international humanitarian law standards
3.9	Lack of resources for reform or institution-building, including through regional or international support
3.10	Insufficient resources to implement overall measures aimed at protecting populations

*Risk factor 3: Weakness of State Structures: Circumstances that negatively affect the capacity of a State to prevent or halt atrocity crimes.* The Indonesian state structures are well established and funded to implement overall measures. The Indonesian security forces are well-trained and equipped with sufficient resources to implement comprehensive measures to protect the population, yet they do not seem to protect West Papuans. The skills and resources available are often applied to protect the corporate, immigrants and their businesses, and the pro-Indonesian West Papuans with the money to pay for their services. The indigenous people of West Papua exist outside the limits of the Indonesian state structures, separated by race and their idea of Papuan nationalism.

*3.1: The national legal framework that does not offer ample and effective protection, including through ratification and domestication of relevant international human rights and humanitarian law treaties.* Indonesia has ratified or accessed 8 of the nine international human rights conventions but has not incorporated them into the national legal framework. The existing legal framework is inconsistent with the international legal standards, especially in West Papua, where they continue to maintain the colonial law of *Makar* (treason) adopted from the Dutch colonial era to jail West Papuan activists and those suspected of supporting the independence movement<sup>117</sup>.

*3.2: National institutions, particularly judicial, law enforcement, and human rights institutions, that lack sufficient resources, adequate representation, or training.*

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<sup>117</sup> Muhammad Yasin, "Legal Language: 'Treason' alias *Anslaag* in Article 104 of the Criminal Code," (Hukum online, 2019), <https://www.hukumonline.com/berita/a/bahasa-hukum--makar-alias-iaanslag-i-dalam-pasal-104-kuhp-lt5cda38ed1e155?page=3>, accessed: February 11, 2023.

The Indonesian national institutions are well-equipped with enough resources, including law enforcement agencies and national human rights institutions. The national human rights commission (*KOMNAS HAM*) conducts proper investigations. It often provides recommendations on human rights based on the existing legal standards. Still, the overall legal system failed to implement the results due to heavy politicization, corruption, and direct military involvement in the legal affairs of cases related to Papuans<sup>118</sup>.

*3.3: Lack of an independent and impartial judiciary.* In West Papua, there is an apparent lack of an independent and impartial judiciary, especially on matters relating to human rights and West Papuan activists. Indonesian military and police are usually heavily involved in prosecuting West Papuan activists and political prisoners. The cases that deal with land grabbing, environmental destruction, and human rights are often one-sided—against the West Papuans, who are victims of the abuses. Activists are repeatedly slapped with long jail terms for participation in the protests or wearing arm bands, caps, and bags with the Morning Star flag painted. There has been no justice for Papuans in the Indonesian justice system; as Annie Faith puts it, “ordinary people in Papua no longer have any reason to believe in the legal process.”<sup>119</sup>

*3.4: Lack of effective civilian control of security forces.* Due to the existing structural racism between the West Papuans and the Indonesians, there is a deep line within the security forces on how they view the civilians in Papua compared to other parts of Indonesia. Suspicious relationships exist, to be precise, due to the active armed conflict in the region and Papuan nationalism. In Papua, every Papuan has to be an OPM member or a sympathiser unless they declare themselves otherwise. The Indonesian military often

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<sup>118</sup>Annie Faith, “Justice for Papuans?” (Inside Indonesia, 2006), <https://www.insideindonesia.org/justice-for-papuans>, accessed: February 11, 2023.

<sup>119</sup> Op. Cit.

monitors, intimidates, and threatens CSO leaders, including church leaders. The circumstances ensure effective civilian control of security forces is impossible.

*3.5: High levels of corruption or poor governance.* There is a very high corruption rate among public servants in West Papua due to heavy military involvement in the administration and distrust between the Indonesian government and the people of West Papua. Indonesia is ranked 110 out of 180 in the world Corruption Perception Index (CPI) as per Transparency International<sup>120</sup>. According to the Corruption Eradication Commission of Indonesia (KPK), Papua province ranked Indonesia's tenth most corrupt province in 2022, with 22 reported cases<sup>121</sup>.

*3.6: Absence or inadequate external or internal mechanisms of oversight and accountability, including those where victims can seek recourse for their claims.* The security forces play both judiciary and law enforcement roles in West Papua with no internal or external oversight and accountability mechanisms. The Indonesian military and police have handled every aspect of the territory for the last sixty years, and people see it as a norm in Papuan societies. For instance, every major newspaper from West Papua contains 80% to 90% of content that involves the military and police. Papua region has been a closed pocket of society in Indonesia, where Indonesia treats it as its valued private property.

*3.7: Lack of awareness of and training on international human rights and humanitarian law to military forces, irregular forces and non-State armed groups, or other relevant actors.* The Indonesian military and police are well-trained and have exposure to regular awareness of human rights, including taking part in regional and international peacekeeping missions. The Australian government is also involved in

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<sup>120</sup> Transparency International, "Indonesia" (TPI, 2022), <https://www.transparency.org/en/countries/indonesia>, accessed: February 12, 2023.

<sup>121</sup> Safira Chairunisa, "KPK Reveals list of Corrupt Provinces in Indonesia", (2022), <https://berita.99.co/daftar-provinsi-terkorup-di-indonesia/>, accessed: February 12, 2023.

training the police providing human rights training occasionally. The national human rights commission sometimes engages with West Papua security forces to conduct human rights training.

*3.8: Lack of capacity to ensure that means and methods of warfare comply with international humanitarian law standards.* The Indonesian security forces commit atrocity crimes with impunity in West Papua due to the ban placed on global media and international non-governmental organizations (INGOs) from visiting the Papua region to keep track of the happenings in West Papua. The local NGOs are also restricted from visiting conflict zones due to the curfews and restrictions on travelling to the conflict zones. The means of warfare applied by the Indonesian military and OPM members often do not comply with international humanitarian law standards. For instance, bombings and indiscriminate shootings from the air by the Indonesian military violate international humanitarian law because the targets are often civilians. Cases of bombardments from the air using helicopters have been common in conflict zones since 2018<sup>122</sup>.

*3.9: Lack of resources for reform or institution-building, including through regional or international support.* The Indonesian security forces are well supported regionally through military partnerships with Australia and other countries that assist in training the Indonesian security forces. The Indonesian security forces also work in collaboration with the United Nations to contribute to police and military for peacekeeping throughout the world. The government also focuses on investing in security forces because the Indonesian military is traditionally viewed as guardians of the state and is still maintained to date.

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<sup>122</sup> David Lipson, “Indonesian military describes chemical weapons attacks on West Papuans as fake news”, (ABC News, 2018), <https://www.abc.net.au/news/2018-12-23/indonesia-military-denies-using-chemical-weapons-in-west-papua/10664402>, accessed: February 12, 2023.

3.10: *Insufficient resources to implement overall measures aimed at protecting populations.* The Indonesian security forces have sufficient resources to implement measures to protect the population. The resources are applied to protect the corporate and migrant population while abusing the people of West Papua due to existing armed conflict and racism. Researchers often refer to this situation as “structural racism”<sup>123</sup> designed and implemented on the institutional level that automatically excludes the West Papuans. The resources are organized to fight and dismantle Papuan nationalism over the last sixty years, which has likely committed genocide against the people of West Papua.

Table 4: Risk Factor Number 4

<b>Risk Factor 4. Motives or incentives</b>	
Reasons, aims, or drivers that justify the use of violence against protected groups, populations, or individuals, including by actors outside of State borders.	
	<b>Indicators</b>
4.1	Political motives, particularly those aimed at the attainment or consolidation of power.
4.2	Economic interests, including those based on the safeguard and well-being of elites or identity groups, or control over the distribution of resources
4.3	Strategic or military interests, including those based on protection or seizure of territory and resources
4.4	Other interests, including those aimed at rendering an area homogeneous in its identity.
4.5	Real or perceived threats posed by protected groups, populations, or individuals, against interests or objectives of perpetrators, including perceptions of disloyalty to a cause.
4.6	Real or perceived membership of or support for armed opposition groups, by protected groups, populations, or individuals.
4.7	Ideologies are based on the supremacy of a certain identity or extremist versions of identity.
4.8	The politicization of past grievances, tensions, or impunity
4.9	Social trauma caused by past incidents of violence was not adequately addressed and that produced feelings of loss, displacement, injustice, and a possible desire for revenge.

<sup>123</sup> Anderson, 2015, Elmslie & Webb-Gannon, 2013, and Brundigje E. et al., 2004.



*Risk factor 4. Motives and Incentives: Reasons, aims, or drivers that justify the use of violence against protected groups, populations, or individuals, including by actors outside of State borders.* The Indonesian government's motive for invading West Papua in 1961 was declared through the 19<sup>th</sup> December 1961's declaration of "Operasi Trikora" (Three peoples' command operations). It aimed to dismantle the newly established nation of West Papua, destroy the sympathizers of the West Papua nation, and integrate West Papua into Indonesia<sup>124</sup>.

The harmful intentions of Indonesia at the time were sugar-coated with good intentions that were appealing to the Western colonialists who supported Indonesia aggressively to suppress the West Papuans by all means to invade the territory. The primary motive for the invasion was political, economic, and strategic, as their actions have shown over the last sixty years.

*4.1: Political motives, particularly those aimed at the attainment or consolidation of power.* One of the motives for Indonesia's invasion of West Papua was political, as Indonesia at the time sought to consolidate its power by suppressing other territories. Indonesia claimed West New Guinea, Portuguese Timor, and Malaysia through what they termed as "*konfrontasi*" (confrontation) based on its expansionist desires and fears of recolonization by its former colonizer. Budiardjo and Liong<sup>125</sup> provide further explanations of this view. The colonial powers, however, disagreed with Indonesia taking over Malaysia. West New Guinea and Portuguese Timor were invaded by force due to the weak resistance put up by the local resistance groups and the support given to Indonesia by the colonial powers.

*4.2: Economic interests, including those based on the safeguard and well-being of elites or identity groups, or control over the distribution of resources.* Indonesia's

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<sup>124</sup> Al Rahab, 5.

<sup>125</sup> Budiardjo & Liong, 7.

economic interest played a greater motive in annexing West Papua. West Papua was endowed with natural resources, attracting even the United States to support Indonesia's invasion of the territory. It was shown by the 1967 mining contract of work agreement that was signed between Indonesia and Freeport McMoran Inc., a USA-based multinational company to operate the Freeport mine in West Papua. This contract of work agreement was signed before the 1969 sham 'act of free choice'.

*4.3: Strategic or military interests, including those based on protection or seizure of territory and resources.* Strategic interest also plays a vital role in Indonesia's claim over West Papua, located strategically between the Pacific and Asia. The Land Forces of the Indonesian military took root in West Papua, dominating almost every aspect of the territory after the annexation. It also provided a training ground for the Indonesian military, who bombarded villages and murdered West Papuans using inhumane techniques to instil fear among West Papuans to dominate and exploit the rich natural resources in West Papua.

*4.4: Other interests, including those aimed at rendering an area homogeneous in its identity.* The hidden motives of Indonesia were to render West Papua homogeneous in its state ideology of Pancasila. Indonesia also spread the Asian race into West Papua, replacing the Melanesian race through intermarriages and transmigration. It aspired to dismantle the newly established nation of West Papua through what they termed as *mengindonesiakan* Indonesization strategy. It was shown through the acts committed by the Indonesian military in West Papua and the transmigration policies of the Indonesian government to resettle the Indonesian population in West Papua. In the eyes of Indonesians, West Papua is an empty land that should be occupied and developed, disregarding the indigenous people of West Papua.

The top military and political leaders in Indonesia even publicly express their opinions on the future of Papuans without reservations in the mainstream media. For instance, in 2021, General H.A. Hendropriyono said, “move the 2 million people of Papua to Manado and replace them with Manado people.”<sup>126</sup> It is not the first and won’t be the last for Indonesian leaders to speak publicly about West Papua negatively. The expressions ‘replace Papuans’, ‘remove Papuans’, and ‘move Papuans’ to other places have been suggested by Indonesian leaders since the 1960s. They continue to mention every year by the country's top leaders when discussions about the West Papua conflict come from time to time.

*4.5: Real or perceived threats posed by protected groups, populations, or individuals, against interests or objectives of perpetrators, including perceptions of disloyalty to a cause.* The people of West Papua’s desire for self-determination since 1961 has never ceased posing a threat to the national unity of Indonesia. Papuan nationalism has been a major concern for Indonesian leaders who constantly enforce colonial policies to rule the territory over the years. The Indonesian government fear that when West Papua breaks away, other provinces might also do the same, an assumption that is unlikely given the contrasting history that separates Papua from other provinces of Indonesia.

West Papuans founded the OPM in 1965 to fight for independence which continues to exist today. The Indonesian government responded by imposing 33 years of military operations under the policy of *Daera Operasi Militer*. West Papuans went through 33 years of martial law from 1965 to 1998, which continues to exist.

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<sup>126</sup> Normshed Papua, “H.A. Hendropriyono Menghina, Melecehkan Dan Merendahkan Martabat Orang Manado Dan Orang Papua”, (2022), <https://normshedpapua.com/h-a-hendropriyono-menghina-melecehkan-dan-merendahkan-martabat-orang-manado-dan-orang-papua/>, accessed: February 12, 2023.

*4.6: Real or perceived membership of or support for armed opposition groups, by protected groups, populations, or individuals.* The OPM continues to exist in West Papua, enabling Indonesian military and political leaders to distrust the people of West Papua, including their elected leaders. Indonesian military aspires to wipe out the members of the OPM, which is difficult because the whole population of West Papua sympathizes with the ideals of an independent West Papua. To wipe out the members of the OPM means driving West Papuans to extinction in their land.

*4.7: Ideologies are based on the supremacy of a certain identity or extremist versions of identity.* Indonesians view themselves as superior<sup>127</sup> to West Papuans, a view that extends to all aspects of life between the two races of people. Indonesians consider the people of West Papua as smelly, ugly, lazy, backward, and ignorant; they prefer applying the word *bodoh* (stupid) to describe the people of West Papua. The perception was attached to the racial supremacy the Indonesians constructed within Indonesia after independence<sup>128</sup>.

*4.8: The politicization of past grievances, tensions, or impunity.* The former military generals continue to fill up the important ministries in every government formation in Indonesia that constantly politicize human rights violations in West Papua. They justify the culture of impunity established in West Papua in the past and continue to block access to INGOs and UN Human Rights Commissioner to have access to West Papua.

*4.9: Social trauma caused by past incidents of violence was not adequately addressed and that produced feelings of loss, displacement, injustice, and a possible desire for revenge.* The Indonesian government committed atrocity crimes in West Papua

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<sup>127</sup> Andrew, 2015.

<sup>128</sup> Normshed Papua, (2022), <https://normshedpapua.com/14-alasan-indonesia-sedang-menuju-ke-tebing-kehancuran-keterpecahan-dan-mutilasi-dari-negara-kesatuan-republik-indonesia-nkri/>, accessed: February 12, 2023.

aimed to suppress the existence of West Papuan nationalism from 1961 to 1998. This history chapter was closed without meaningful reconciliation and apology from the Indonesian government, which continues to haunt the fabric of society in West Papua. West Papuans believe the conflict is not yet over because Indonesia continues colonising West Papua with an iron fist. The Papuan people collectively share the social traumas, which most researchers described as *'Memoria passionis'*<sup>129</sup> an unwritten collective memory of suffering and cruelty experienced in the past that continue to exist among the population due to the absence of meaningful reconciliation and lack of positive transitional justice.

*Table 5: Risk Factor Number 5*

<b>Risk Factor 5. Capacity to commit atrocity crimes</b>	
Conditions that indicate the ability of relevant actors to commit atrocity crimes.	
	<b>Indicators</b>
5.1	Availability of personnel and arms and ammunition, or the financial resources, public or private, for their procurement
5.2	Capacity to transport and deploy personnel and to transport and distribute arms and ammunition.
5.3	Capacity to encourage or recruit large numbers of supporters from populations or groups, and availability of the means to mobilize them
5.4	A strong culture of obedience to authority and group conformity
5.5	Presence of or links with other armed forces or with non-State armed groups
5.6	Presence of commercial actors or companies that can serve as enablers by providing goods, services, or other forms of practical or technical support that help sustain perpetrators
5.7	Financial, political, or other support of influential or wealthy national actors
5.8	Armed, financial, logistic, training, or other support of external actors, including States, international or regional organizations, private companies, or others

<sup>129</sup> "*Memoria passionis* is about unwritten collective memories of the history of suffering and cruelty experienced by Papuans, especially people who live in conflict sites in Papua and have experienced violence and then experience psychological trauma that is difficult to heal," said Cahyo in a webinar held by LP3ES on Monday (18/10). The Institute for Community Studies and Advocacy (ELSAM) in its article entitled "*Memoria Passionis Papua*" (2015) describes this phenomenon as a cycle of violence in Papua that never stops from regime to regime which then causes deep wounds and prolonged trauma among Indigenous Papuans <https://www.gatra.com/news-526159-politik-memoria-passionis-trauma-psikologis-warga-papua-yang-mengalami-kejaman.html>.

*Risk factor 5. Capacity to commit atrocity crimes: Conditions that indicate the ability of relevant actors to commit atrocity crimes.* The Indonesian military is well-trained and equipped with modern weapons, political support, and support from the Indonesian masses. Killing Papuans in the name of national unity is not a crime, according to Indonesians who enjoy labelling West Papuans with all sorts of the tag to justify their actions.

It is effortless to commit atrocity crimes in West Papua by law enforcement agents and armed groups because the conditions are conducive. The ammunitions are readily available, and there are many loopholes in the legal system, including the policy of military operations zone that has been acting as a shield for the security forces to escape punishment.

For instance, a 2018 human rights report by Amnesty International on Papua revealed that between 2010 and 2018, there were 95 victims of extrajudicial killings in Papua. The alleged perpetrators were; the Indonesian Police in 34 cases, the Indonesian military in 23 cases, both military and police combined in 11 cases, and SATPOL PP in one case<sup>130</sup>.

*5.1: Availability of personnel and arms and ammunition, or the financial resources, public or private, for their procurement.* West Papua has been one of those heavily militarized zones on the planet over the last sixty years, and it continues to exist under heavy Indonesian military occupation. Sources of financial resources for Indonesia come from the Indonesia national budget, multi-national corporations established in West Papua, Special Autonomy funds, and profit from military businesses in West Papua. Indonesia also receives military aid from Australia and the United States for its security

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<sup>130</sup> Amnesty International, “Don’t Bother Just Let Him Die: Killing with Impunity in Papua”, (2018), <https://www.amnesty.org/en/wp-content/uploads/2021/05/ASA2181982018ENGLISH.pdf>, accessed: February 12, 2023.

agencies. For instance, as of 2003, Mines and Communities reported that USD 5.6 million was paid to the Indonesian military as ‘security money’<sup>131</sup>.

There are lots of armed groups apart from the national armed forces and police who are willing to fight against the West Papua National Liberation Army (WPNLA) and die as *pahlawan* ‘heroes’ for Indonesia. The opposition armed groups in West Papua are TPNPB-OPM and West Papua Army; both oppose Indonesian rule in West Papua.

The Indonesian military forces are well-structured and equipped. They positioned themselves from the village level up to the provincial level, where they watched every move of the people of West Papua. The TPNPB-OPM, on the other hand, are not well equipped but engage with Indonesian forces from time to time; weapons are mostly captured from the enemy. West Papua Army is a dormant group that does not actively engage with Indonesian security forces, recently established in 2017 under the leadership of Benny Wenda.

The Indonesian security forces also have additional forces that are well-paid and equipped to carry out the purpose of protecting Indonesia. The additional troops currently active are; Komando Pasukan Khusus (Kopassus), Satuan Polisi Pamong Praja (SATPOL PP), Police Brigade (BRIMOB), Densus 88 anti-terror group, and Islamic terrorist groups funded by the Indonesian military and police. The Islamic militant groups often show up during protests in the form of what they call Organisasi Masyarakat (Ormas) to counter the protest. These militant groups are directly funded and organised by the Indonesian

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<sup>131</sup> Mines and Communities, “Freeport paid the Indonesian military US\$ 5.6 million in Protection money”, (MAC, 2003), <http://www.minesandcommunities.org/article.php?a=985#:~:text=Jakarta%20%28JP%29%3A%20The%20U.S.%20Freeport%20company%20paid%20the,Papua%20province%2C%20according%20to%20a%20report%20released%20Thursday>, accessed: February 12, 2023.

police and military. In 2019, they organized counter-protests against the Papuans, who were protesting against anti-racism<sup>132</sup>.

*5.2: Capacity to transport and deploy personnel and to transport and distribute arms and ammunition.* The Indonesian military is well equipped with modern technology and transport system, often deploying personnel and ammunition throughout conflict zones within days to fight against the TPNPB-OPM. The Indonesian military uses civilian and military transportation to support them in the fight against the TPNPB-OPM. The TPNPB-OPM, on the other hand, cannot transport or acquire sophisticated ammunition but is based throughout the Papua region, taking advantage of the local geography and climatic conditions to defend against Indonesian attacks.

*5.3: Capacity to encourage or recruit large numbers of supporters from populations or groups, and availability of the means to mobilize them.* The Indonesian government can mobilise enormous resources and military personnel for the war efforts in West Papua driven by their Pancasila ideology. On the other hand, the West Papuans cannot mobilise massive resources for the recruitment effort. Still, they are motivated by Papuan nationalism that continues to encourage recruits to join the TPNPB-OPM in the jungles to fight against the invading Indonesian military.

*5.4: A strong culture of obedience to authority and group conformity.* The culture of obedience to authority and group conformity exists on both sides of the divide. The Indonesians are driven by their ideals of patriotism under Pancasila ideology, while the ideals of Papuan nationalism drive the West Papuans. The groups in West Papua are polarized along national and racial lines, the Asians against the Melanesians.

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<sup>132</sup> Ridwan Al-Makassari, "Chronology of Papua racist events in Surabaya: A Comparative by Veronica Koman", (Arrahim.id, 2020), <https://arrahim.id/ridwan/kronologi-peristiwa-rasis-papua-16-agustus-2019-surabaya-catatan-pembanding-untuk-veronica-koman/>, accessed: February 12, 2023.



*5.5: Presence of or links with other armed forces or with non-State armed groups.*

The Indonesian military has military ties with Australia, the USA, New Zealand, and France, who continue to sell weapons and train the Indonesian armed forces.

The TPNPB-OPM does not have a strong connection with other non-state arm groups in the region. However, the recent revelation of arms dealing with rebel groups in the Philippines and Bougainville in Papua New Guinea has emerged. The links established are not deep but low-level random exchanges between the groups. The TPNPB-OPM is poorly armed and only managed with whatever they capture from the Indonesian military.

*5.6: Presence of commercial actors or companies that can serve as enablers by providing goods, services, or other forms of practical or technical support that help sustain perpetrators.* The Indonesian military obtains support from corporations exploiting West Papua's natural resources. In the case of Papua, the Freeport mine has been a long-time partner of the Indonesian military that constantly provides financial and logistical support to the Indonesian military to do its operations<sup>133</sup>.

*5.7: Financial, political, or other support of influential or wealthy national actors.* The Indonesian military also obtains financial and political support from political leaders, often ex-military men. The ministers have a lucrative business investments network in Papua especially mining explorations, logging and palm oil. The case of Luhut Binsar Panjaitan, Coordinating Minister for Maritime Affairs and Investment, is an example. Luhut and his companies aspired to invest in Blok Wabu mining exploration next to Freeport mine and attempted to invest during the armed conflict in Intan Jaya but was revealed by the local NGOs<sup>134</sup>.

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<sup>133</sup> Al Rahab, 2016.

<sup>134</sup> Muhammad Idris, "Getting to know the Wabu Block, the Golden mountain in the Luhut vs Haris Azar conflict", (Kompas, 2021), <https://money.kompas.com/read/2021/09/23/084002026/mengenal-blok-wabu-gunung-emas-dalam-konflik-luhut-vs-haris-azhar>, accessed: February 12, 2023.

5.8: *Armed, financial, logistic, training, or other support of external actors, including States, international or regional organizations, private companies, or others.*

The Indonesian military and police benefit from the vast national budget, special autonomy funds for Papua, funding from corporations operating in West Papua, illegal and legal military businesses in Papua, the United States and Australian governments, and other regional partners.

*Table 6: Risk Factor Number 6*

<b>Risk Factor 6. Absence of mitigating factors</b>	
Absence of elements that, if present, could contribute to preventing or to lessening the impact of serious acts of violence against protected groups, populations, or individuals	
	<b>Indicators</b>
6.1	Limited or lack of empowerment processes, resources, allies, or other elements that could contribute to the ability of protected groups, populations, or individuals to protect themselves.
6.2	Lack of a strong, organized, and representative national civil society and of a free, diverse and independent national media
6.3	Lack of interest and focus of international civil society actors or access to international media.
6.4	Lack of or limited presence of the United Nations, INGOs, or other international or regional actors in the country and with access to populations.
6.5	Lack of membership and effective participation of the State in international or regional organizations that establish mandatory membership obligations.
6.6	Lack of exposure, openness, or establishment of political or economic relations with other States or organizations.
6.7	Limited cooperation of the State with international and regional human rights mechanisms.
6.8	Lack of incentives or willingness of parties to a conflict to engage in dialogue, make concessions and receive support from the international community
6.9	Lack of interest, reluctance, or failure of United Nations Member States or international or regional organizations to support a State to exercise its responsibility to protect populations from atrocity crimes, or to take action when the State manifestly fails that responsibility
6.10	Lack of support by neighbouring States to protect populations at risk and in need of refuge, including by closure of borders, forced repatriation, or aid restrictions
6.11	Lack of an early warning mechanism relevant to the prevention of atrocity crimes.

*Risk factor 6. Absence of mitigating factors: Absence of elements that, if present, could contribute to preventing or to lessening the impact of serious acts of violence against protected groups, populations, or individuals.* Indonesia is an important regional and international affairs member and actively participates in them. Indonesia also has positive cooperation with other states and does not seem to have enemies aside from the human rights concerns in West Papua. Indonesia enjoys being a member of several regional and international organizations. It allows Indonesia to suppress the human rights reports coming out of West Papua, continually denying access to global media and civil society organizations, including the United Nations, to visit West Papua to verify the allegations of human rights violations.

*6.1: Limited or lack of empowerment processes, resources, allies, or other elements that could contribute to the ability of protected groups, populations, or individuals to protect themselves.* There is a general lack of support for West Papuans by the Indonesian government or neighbouring countries to address their cultural, social, economic, and political development. The Indonesian government focused development on the migrants and their settlement areas, leaving the West Papuans lacking access to essential government services.

*6.2: Lack of a strong, organized, and representative national civil society and a free, diverse and independent national media.* The lack of strong civil society support for West Papua issues is due to the military's constant intimidation. There is general neglect by the national CSOs and mainstream media to promote the West Papua people and their culture. All they present is the negative aspect of separatism and promote the image of the Indonesian military as defenders of the national ideology continue to justify their human rights abuses in West Papua in the media. There is a general cloud of fear among the leaders of CSOs and media to talk about West Papua, few brave ones are constantly

intimidated by the Indonesian military. The house bombing of Mr Victor Mambor, a senior journalist, is a recent example of how media personnel in West Papua are being treated<sup>135</sup>.

*6.3: Lack of interest and focus of international civil society actors or access to international media.* International CSOs and media have been banned from accessing the Papua region since the 1960s. The visitors have to apply for an approval letter known as *Surat Jalan* from the police and answer a list of questions before entering the region. If they are journalists or humanitarian workers, they are often denied access to the area. Even when they are allowed to enter the region to do other work, they are constantly watched by the Indonesian military and intelligence officials. The case of a BBC journalist sent off in 2018 over a tweet she made while covering the health crisis<sup>136</sup> and the refusal of France journalists to Papua in 2016 were but a few examples of restrictions experienced by international journalists<sup>137</sup>.

*6.4: Lack of or limited presence of the United Nations, INGOs, or other international or regional actors in the country and with access to populations.* The INGOs and United Nations officials have limited access to the region. UNDP has an office in Jayapura but cannot access other areas easily. Their operations are not impactful because many Papuans are unaware of their existence. The Indonesian government has rejected access to the UN High Commissioner for Human Rights to visit the Papua region

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<sup>135</sup> Dandi Koswaraputra and Pizaro Gozali Idrus, "Senior Papuan Journalist, Police investigate motive", (Benar News, 2023), <https://www.benarnews.org/indonesian/berita/bom-meledak-di-dekat-rumah-jurnalis-senior-papua-01232023150453.html>, accessed: February 12, 2023.

<sup>136</sup> Alina Polianskaya, "BBC Journalist ordered to leave Indonesian province because her tweets 'hurt Indonesian Soldiers feelings'", (Independent UK, 2018), <https://www.independent.co.uk/news/bbc-journalist-ordered-leave-indonesia-papua-asmad-tweets-hurt-soldiers-feelings-rebecca-henschke-a8192976.html>, accessed: February 12, 2023.

<sup>137</sup> Reporters Without Borders, "RSF Urges Indonesia to lift the ban on France Reporter Cyril Payen" (RSF, 2016), <https://rsf.org/en/rsf-urges-indonesia-lift-ban-french-reporter-cyril-payen>, accessed: February 12, 2023.

since 2018. The restriction is still active regardless of regional organisations and neighbouring countries' constant calls to open access to the area<sup>138</sup>.

*6.5: Lack of membership and effective participation of the State in international or regional organizations that establish mandatory membership obligations.* Indonesia is an active member of regional and international affairs. The privileges it has is being applied to its advantage by suppressing the voices of the people inside while advocating for human rights outside of its borders. For instance, Indonesia supports Palestine and Rohingya Muslims, including sending its military and police for UN Peacekeeping missions abroad but suppresses the human rights issues in West Papua<sup>139</sup>.

*6.6: Lack of exposure, openness, or establishment of political or economic relations with other States or organizations.* Indonesia is a regional power and has established economic, political, strategic, and military alliances with other regional powers like the United States, Australia, and New Zealand. Indonesia has been using its network to keep its neighbours silent about West Papua. Indonesia signed the Lombok Treaty with Australia and Treaty of Mutual Respect and Friendship with Papua New Guinea to ensure these two countries overlook the human rights issues inside Indonesia.

*6.7: Limited cooperation of the State with international and regional human rights mechanisms.* Indonesia cooperates well with regional and international human rights institutions, including the United Nations Human Rights Council but does not allow access to the Papua region. The Papua issue has been the only issue that Indonesia has been reluctant to open up to outside scrutiny.

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<sup>138</sup> Phelim Kine, "Indonesia shuts out UN Rights Chief from Papua", (Human Rights Watch, 2018), <https://www.hrw.org/news/2018/06/19/indonesia-shuts-out-un-rights-chief-papua>, accessed: February 12, 2023.

<sup>139</sup> Natasia Christy Wahyuni and Heru Andriyanto, "Indonesia among top contributors to UN Peacekeeping missions", (Jakarta Globe, 2020), <https://jakartaglobe.id/news/indonesia-among-top-contributors-to-un-peacekeeping-mission>, accessed: February 12, 2023.

*6.8: Lack of incentives or willingness of parties to a conflict to engage in dialogue, make concessions and receive support from the international community.* Indonesia has been unwilling to open up and engage with the international community to resolve the West Papua conflict. The Indonesian government constantly rejects the appeal for peaceful dialogue by the regional and international partners to resolve the West Papua conflict peacefully. The OPM has also dismissed the internal dialogue proposed by the Indonesian government through the national human rights commission (*KOMNAS HAM*) and only wants an internationally mediated peaceful dialogue under the auspices of the United Nations<sup>140</sup>.

*6.9: Lack of interest, reluctance, or failure of United Nations Member States or international or regional organizations to support a State to exercise its responsibility to protect populations from atrocity crimes, or to take action when the State manifestly fails that responsibility.* From the Indonesian government's point of view, there is an apparent lack of determination to resolve the West Papua conflict peacefully. The UN Member States and regional and international organizations have been calling on Indonesia to keep up with its responsibility to protect the Papuan population from atrocity crimes. The Pacific Islands Forum Member States, in particular have been calling on Indonesia to resolve the conflict peacefully, including opening up the region to the international community to investigate and verify serious human rights violations<sup>141</sup>.

*6.10: Lack of support by neighbouring States to protect populations at risk and in need of refuge, including by closure of borders, forced repatriation, or aid restrictions.*

Papua New Guinea is the neighbouring country that has received most of the West Papuan

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<sup>140</sup>Radio New Zealand International, "OPM calls for UN action in Papua", (RNZ, 2019), <https://www.rnz.co.nz/international/pacific-news/381509/opm-calls-for-un-action-in-papua>, accessed: February 12, 2023.

<sup>141</sup> Radio New Zealand International, "Pacific Leaders call out Indonesia at UN over West Papua", (RNZ, 2018), <https://www.rnz.co.nz/international/pacific-news/367641/pacific-leaders-call-out-indonesia-at-un-over-west-papua>, accessed: February 12, 2023.

refugees since 1984. It does not support the population but accepts them to live within its borders due to the cultural ties West Papua people share with Papua New Guinea people. Due to suspicions that Indonesia had with Papua New Guinea over the OPM members launching their attacks from the Papua New Guinea side of the border, the Papua New Guinea government often ignored the refugee issues. Most refugees live in settlements in Papua New Guinea in dire conditions<sup>142</sup>.

*6.11: Lack of an early warning mechanism relevant to the prevention of atrocity crimes.* The case of West Papua has been known earlier about the possible genocide that has been taking place since the declaration of *Daerah Operasih Militer* in 1965, but the Indonesian government ignored the claim. Studies on genocide in Papua revealed a clear indication, which is an early warning for the responsible authorities to take action to save the people of West Papua<sup>143</sup>. The Indonesian government only interprets issues from its perspective without considering the views of West Papuans. It continues to deny that there is conflict in West Papua and has been ignoring calls by the people of West Papua, including the UN High Commissioner for Human Rights (UNHCHR), to resolve the conflict peacefully.

*Table 7: Risk Factor Number 7*

<b>Risk Factor 7. Enabling circumstances or preparatory action</b>	
Events or measures, whether gradual or sudden, provide an environment conducive to the commission of atrocity crimes, or which suggest a trajectory towards their perpetration.	
	<b>Indicators</b>
7.1	Imposition of emergency laws or extraordinary security measures that erode fundamental rights.

<sup>142</sup> Jenny Munro, “West Papuan Refugees in PNG: on the way to citizenship?”, (Devpolicy blog, 2016), <https://devpolicy.org/west-papuan-refugees-papua-new-guinea-way-citizenship-20160719/>, accessed: February 12, 2023.

<sup>143</sup> Publications by Anderson, 2015; Brundige et al., 2004; and Tebay, 2005 remain an early warning mechanism on genocide in West Papua.

7.2	Suspension of or interference with vital State institutions, or measures that result in changes in their composition or balance of power, particularly if this results in the exclusion or lack of representation of protected groups
7.3	Strengthening of the security apparatus, its reorganization or mobilization against protected groups, populations, or individuals
7.4	Acquisition of large quantities of arms and ammunition or of other objects that could be used to inflict harm.
7.5	Creation of, or increased support to, militia or paramilitary groups.
7.6	Imposition of strict control on the use of communication channels, or banning access to them
7.7	Expulsion or refusal to allow the presence of NGOs, international organizations, media, or other relevant actors, or imposition of severe restrictions on their services and movements
7.8	Increased violations of the right to life, physical integrity, liberty or security of members of protected groups, populations, or individuals, or recent adoption of measures or legislation that affect or deliberately discriminate against them
7.9	Increased serious acts of violence against women and children, or creation of conditions that facilitate acts of sexual violence against those groups, including as a tool of terror
7.10	Imposition of life-threatening living conditions or the deportation, seizure, collection, segregation, evacuation, or forced displacement or transfer of protected groups, populations, or individuals to camps, rural areas, ghettos, or other assigned locations.
7.11	Destruction or plundering of essential goods or installations for protected groups, populations or individuals, or property related to cultural and religious identity
7.12	Marking of people or their property based on affiliation to a group.
7.13	The increased politicization of identity, past events, or motives to engage in violence
7.14	Increased inflammatory rhetoric, propaganda campaigns, or hate speech targeting protected groups, populations, or individuals.

*Risk factor 7. Enabling circumstances or preparatory actions: Events or measures, whether gradual or sudden, provide an environment conducive to the commission of atrocity crimes, or which suggest a trajectory towards their perpetration.*

The situation in West Papua suggests evidence of enabling circumstances that provide an environment conducive to atrocity crimes. Armed conflict has been a norm throughout the last sixty years of the Indonesian occupation of the territory because the state security apparatus was organized to respond to such a situation in West Papua. The whole set up of Indonesian security agencies in West Papua differs significantly from other Indonesian



provinces. There are Indonesian military bases everywhere, between one and two kilometres apart.

*7.1: Imposition of emergency laws or extraordinary security measures that erode fundamental rights.* The Indonesian takeover of West Papua was by force through the imposition of several security measures that granted extraordinary powers to the Indonesian military in West Papua. First, through President Sukarno, the Indonesian government declared *Operasi Trikora* (Operations Trikora) in 1961 to invade West Papua by force<sup>144</sup>. It was the first-ever emergency powers publicly proclaimed by the first president of Indonesia to apply all-out war to invade West Papua.

Second, the Indonesian government imposed another 33 years of extraordinary security measures known as *daerah operasi militer – DOM* (military operations area) in 1965 that designated the Papua region as a conflict zone under the President Suharto regime<sup>145</sup>. And third, under the emergency measures, the Indonesian government launched “at least 44” military operations targeting the members of the OPM and their sympathisers; most victims are often Papuan civilians, according to West Papua Support Network<sup>146</sup>.

*7.2: Suspension of or interference with vital State institutions, or measures that result in changes in their composition or balance of power, particularly if this results in the exclusion or lack of representation of protected groups.* The Indonesian government authorised the *ABRI*, the military, to control all the aspects of administration in Papua throughout the ‘New Order’ era, the so-called *orde baru* period from 1965 to 1998. It

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<sup>144</sup> Yuda Prinada, “History of Operations Trikora: Background, Contents, Objectives, and Figures”, (Tirto.id, 2021), <https://tirto.id/sejarah-operasi-trikora-latar-belakang-isi-tujuan-dan-tokoh-gaV7>, accessed: February 12, 2023.

<sup>145</sup> Indonesian Regional Facts and Info, “Aceh & Papua Complete Military Operations Area”, (2018), <https://www.faktadaerah.com/2017/12/daerah-operasi-militer-aceh-papua.html>, accessed: February 12, 2023.

<sup>146</sup>Merdeka Network, “Military Operations in Papua”, (West Papua Support Network, 2020), <https://www.papua-merdeka.org/post/military-operations-in-papua-operasi-militer-di-papua>, accessed: February 12, 2023.

resulted in the expulsion of Papuan elites from important positions, and some were killed, imprisoned or went into exile as refugees outside of West Papua.

The demographic composition was mixed by migrants from Indonesia who are often the family members of the military and police. The Indonesian military filled all the administrative posts from provincial to district levels and controlled all the affairs of the province. It changed the public service's overall makeup and the territory's general demography. It tipped the demographic balance from that of the West Papuan majority to almost half<sup>147</sup>.

*7.3: Strengthening of the security apparatus, its reorganization or mobilization against protected groups, populations, or individuals.* The Indonesian military organized themselves from the district level up to the provincial level to constantly watch the movements of Papuans. They established military posts (*KODIMS*) and police posts (*POSPOL*) every one to two kilo meters distance in towns and set up a network of spies everywhere to constantly watch and report on the activities of Papuans<sup>148</sup>.

*7.4: Acquisition of large quantities of arms and ammunition or of other objects that could be used to inflict harm.* The conflict in Papua has been that the well-trained and equipped Indonesian military has been fighting with OPM, mostly civilians armed with traditional weapons. The Indonesian military is well-armed and funded by the government. The Indonesian military ensures that the OPM does not have access to weapons and aid from the international community or any sources of support to keep their strength at low levels.

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<sup>147</sup> Jim Elmslie, "The Great Divide: West Papuan Demographics Revisited; Settlers Dominate Coastal Regions but the Highlands still Overwhelmingly Papuan", (Asia Pacific Journal, 2017), Vol: 15, Issue: 2, No. 1, Art. ID: 5005, <https://apjjf.org/2017/02/Elmslie.html>, accessed: February 12, 2023.

<sup>148</sup> Mathew N. Davies, "TNI & POLRI Forces in West Papua: Restructuring & Reasserting Sovereignty", (Nautilus.org, 2012), <https://nautilus.org/wp-content/uploads/2012/02/0628s-davies.pdf>, accessed: February 12, 2023.

*7.5: Creation of, or increased support to, militia or paramilitary groups.* Apart from the Indonesian military and police, there are BRIMOB, SATPOL PP, KOPASSUS, BAIS, and anti-protest militia groups often created during protests that do not have uniforms but are armed with military-issued weapons and act like thugs. The casualties that these thugs produce are unaccounted for. During the 2019 protests, for instance, the militia groups killed a student in a raid on a dormitory in Kamkey, Jayapura.

*7.6: Imposition of strict control on the use of communication channels, or banning access to them.* The Indonesian military media control dictates news on what to publish and what not to publish during the New Order era. Internet access in the Papua region is often restricted occasionally during a public protest. The media is still under scrutiny up to date.

*7.7: Expulsion or refusal to allow the presence of NGOs, international organizations, media, or other relevant actors, or imposition of severe restrictions on their services and movements.* The restrictions placed on NGOs inside West Papua are still effective, especially within the conflict zones. It has made humanitarian work difficult for NGOs. The restrictions on international organizations, media, or other relevant actors remain.

*7.8: Increased violations of the right to life, physical integrity, liberty or security of members of protected groups, populations, or individuals, or recent adoption of measures or legislation that affect or deliberately discriminate against them.* The conflict in West Papua has increased rapidly since the 2018 killing of 19 construction workers by the TPNPB-OPM in Nduga. The number of armed contacts has increased with kidnapping and murder by the Indonesian military and police against the people of West Papua. The extension of Special Autonomy endangers the survival of Papuans collectively because

more military and police posts would be built, and more Indonesian immigrants to enter the Papua region.

*7.9: Increased serious acts of violence against women and children, or creation of conditions that facilitate acts of sexual violence against those groups, including as a tool of terror.* The sexual violence and intimidation of Papuan women and girls by the Indonesian military and police in the IDP settlements have increased since 2018. The Indonesian military and police set up check points at the airports and confiscated donations for IDPs to the camps for the daily upkeep of the IDP families displaced by the armed conflicts. Those who died due to armed conflicts between 2018 and 2022 were women and children, most of whom died of hunger-related courses<sup>149</sup>.

*7.10: Imposition of life-threatening living conditions or the deportation, seizure, collection, segregation, evacuation, or forced displacement or transfer of protected groups, populations, or individuals to camps, rural areas, ghettos, or other assigned locations.* The movement of people from one location to another due to unbearable circumstances occurred in West Papua due to the exploitation of natural resources and armed conflicts.

There were three occasions in West Papua; (1) displacement of the Amungme people of Freeport from the mountains to the mosquito-infested swamp lands where most of their people died due to malaria, (2) the refugee crisis of 1984, where many West Papuans moved to Papua New Guinea many of them died in the jungles due to lack of food and medication, most of them are now living in ghettos in Papua New Guinea without governments attention, (3) IDPs forced out of their home villages into the jungles due to armed conflicts, many died of hunger and lack of access to essential health services.

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<sup>149</sup> International Coalition for Papua and Papua Action Network, 28 – 33.

*7.11: Destruction or plundering of essential goods or installations for protected groups, populations or individuals, or property related to cultural and religious identity.*

The Indonesian government introduced the strategy of Indonization known as *mengindonesiakan* to transform West Papuans into Indonesians. The process led to the destruction of West Papuan cultures and languages and the demonization of every aspect of Papuan culture, including their race. They include skin whitening bleaches and intermarriages and continue to ban the promotion of Papuan cultural symbols.

*7.12: Marking of people or their property based on affiliation to a group.* Every West Papuan leader is marked by Indonesian intelligence to watch over every move they make, including monitoring their phone conversations, social media accounts and travel history. Leaders of West Papuan-led organizations in West Papua are often marked as leaders of the independent movement and link them with the OPM. The murder of Theys Iloway, and Musa Marko Tabuni, including the imprisonment of Victor Yeimo are a few examples of how the Indonesian military mark West Papuan leaders and murders them.

*7.13: The increased politicization of identity, past events, or motives to engage in violence.* In West Papua, any issue raised by West Papuans is always politicised by Indonesians, who were often tagged as members of the OPM or supporters of the independence movement. It includes issues related to land grabbing, the environment, climate change, culture and human rights. The corruption case of Lucas Enembe, governor of Papua province, can be a perfect example; the Indonesian military and police attempted to frame the governor as one of the funding sources for the OPM without evidence<sup>150</sup>.

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<sup>150</sup> Yayan Isro Roziki, "Allegedly Flowing Corruption Proceeds to OPM, Papua Governor Lukas Enembe", (Tribun News, 2023), <https://muria.tribunnews.com/2023/02/11/diduga-alirkan-dana-hasil-korupsi-ke-opm-gubernur-papua-lukas-enembe-nkr-harga-mati>, accessed: February 12, 2023.

7.14: *Increased inflammatory rhetoric, propaganda campaigns, or hate speech targeting protected groups, populations, or individuals.* The current increase in hate speech targeting West Papuans has been coming from top Indonesian leaders, ensuring the hatred against the people of West Papua by the Indonesian public soar daily. The Indonesian leaders continue to discuss ways to ‘move’ or ‘relocate’ Papuans publicly to lower the nationalist sentiments in Papua<sup>151</sup>. Online bullying is common, with thousands, if not millions, of Indonesian bots flooding the online space with fake news about West Papua and hate speeches against Papuans and their leaders<sup>152</sup>.

Table 8: Risk Factor Number 8

<b>Risk Factor 8. Triggering factors</b>	
Events or circumstances that, even if seemingly unrelated to atrocity crimes, may seriously exacerbate existing conditions or may spark their onset.	
	<b>Indicators</b>
8.1	The sudden deployment of security forces or commencement of armed hostilities.
8.2	Spill-over of armed conflicts or serious tensions in neighbouring countries.
8.3	Measures were taken by the international community are perceived as threatening to a States’ sovereignty.
8.4	Abrupt or irregular regime changes, transfers of power, or changes in the political power of groups.
8.5	Attacks against the life, physical integrity, liberty, or security of leaders, prominent individuals, or members of opposing groups. Other serious acts of violence, such as terrorist attacks.
8.6	Religious events or real or perceived acts of religious intolerance or disrespect, including outside national borders.
8.7	Acts of incitement or hate propaganda targeting particular groups or individuals.
8.8	Census, elections, pivotal activities related to those processes, or measures that destabilize them.
8.9	Sudden changes that affect the economy or the workforce, including as a result of financial crises, natural disasters, or epidemics.
8.10	Discovery of natural resources or launching of exploitation projects that have a serious impact on the livelihoods and sustainability of groups or civilian populations.
8.11	Commemoration events of past crimes or traumatic or historical episodes that can exacerbate tensions between groups, including the glorification of perpetrators of atrocities.

<sup>151</sup> Normshed Papua, 2022.

<sup>152</sup> Benjamin Strick & Famega Syavira, “Papua unrest: Social media bots Skewing the narrative”, (BBC News, 2019), <https://www.bbc.com/news/world-asia-49983667>, accessed: February 12, 2023.

8.12 Acts related to accountability processes, particularly when perceived as unfair.

*Risk factor 8. Triggering factors: Events or circumstances that, even if seemingly unrelated to atrocity crimes, may seriously exacerbate existing conditions or may spark their onset.* Several triggering factors in the history of West Papua continue to exist between the people of West Papua and the Indonesian government. The historical triggering factors that continue to exist are; (1) the deprivation of the decolonization process for West Papua in the 1960s, (2) the 1962 New York Agreement, and (3) the 1969 act of free choice. The current major triggering factor is the extension of the 2001 Special Autonomy Law in 2021. The other potential triggering factors include; a high unemployment rate among Papuans, immigration from Indonesia into West Papua, military build-up, systemic racism, and armed conflicts in several locations between TPNPB-OPM and Indonesian security forces.

*8.1: The sudden deployment of security forces or commencement of armed hostilities.* The Indonesian government has been deploying military and building-up heavily throughout West Papua since 2018 positioning themselves strategically and continuing to carry out intelligence and military operations in six regencies. From the West Papua people's point of view, the conflict continues the sixty-year-old West Papua struggle for independence. The Indonesian government ignorantly interpret it as an internal law and order issue that does not have linkages to historical aspects of the conflict.

*8.2: Spill-over of armed conflicts or serious tensions in neighbouring countries.* The people of West Papua share the border with Papua New Guinea, which seem to have no serious conflicts apart from random tribal disputes. However, the people of West Papua have been closely following up on the arrangements between the government of Papua New Guinea and the people of Bougainville on their autonomy arrangements. The

spill over effect of the post-referendum in Bougainville is likely to trigger tensions in West Papua.

*8.3: Measures were taken by the international community are perceived as threatening to a states' sovereignty.* Indonesian government continue to restrict UN access to the Papua region because of old wounds that continue to scare Indonesia. Indonesia's annexation of West Papua in 1963 was not in line with the UN Charter on Trusteeship. The Indonesian government fears that if it allows the international community to involve, the international community through the UN might open up the historical mistakes made against West Papuans and force Indonesia to give back administration to the United Nations. Which would eventually lead to West Papua's independence; Indonesia does not want to take that risk.

*8.4: Abrupt or irregular regime changes, transfers of power, or changes in the political power of groups.* The dramatic change in the demographic landscape of the Papua region from that of Melanesian dominated to Indonesian domination today triggers uneasy feelings in the minds of the Melanesian population. This demographic change leads to political aspects where the Indonesians occupy most of the local parliamentary seats. To add to this discomfort, the Indonesian government in Jakarta constantly sacks and appoints top public servants in the province based on its set criteria. The position of the provincial secretary, deputy governor, and governor are but a few recently changed positions in the province between 2020 and 2023.

*8.5: Attacks against the life, physical integrity, liberty, or security of leaders, prominent individuals, or members of opposing groups. Other serious acts of violence, such as terrorist attacks.* The attacks against leaders are often organized and planned officially by the Indonesian intelligence (KOPASSUS) to eliminate leaders of the Papuan organizations. The Papuan leaders engaged with the Indonesian government's public



service are often racially abused when their views seem to go against the Indonesian point of view. Threats and attacks against West Papuan elites by the Indonesian military have been constant throughout the occupation. Constant propaganda targeted against West Papuans filled social media every day. The case of Natalius Pigai, former chairman of the Indonesian human rights commission and the current case of Lucas Enembe, the governor of Papua, are a few examples of the public assault that Papuan leaders experience<sup>153</sup>.

8.6: *Religious events or real or perceived acts of religious intolerance or disrespect, including outside national borders.* West Papuan's fear that Muslims are taking over their Christian-dominated areas remains high. Cases of burning mosques in the highlands of Papua are common, but they are often protected well by the Indonesian military and police<sup>154</sup>. The same protection is not given to Christians in Muslim-dominated neighbourhoods in other parts of Indonesia.

8.7: *Acts of incitement or hate propaganda targeting particular groups or individuals.* The incitement of hate propaganda against the people of West Papua has been constant throughout the Indonesian occupation. The hate expressions *monyet hitam* (black monkey), *kera* (monkey), and *anjing* (dogs) are often the common hate slang spoken by Indonesians against the people of West Papua. The Indonesians demonized black and anything associated with blackness and glorified white and anything associated with lightness. This underestimation based on race has been institutionalized, and even the top leaders of Indonesians speak out publicly against Papuans without reservations<sup>155</sup>.

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<sup>153</sup> Rossy Goddess Arianti Saptoyo, "The case of Alleged Racialism against Natalius Pigai: This is what the state needs to know", (Kompas news, 2021), <https://www.kompas.com/tren/read/2021/01/27/204500865/kasus-dugaan-rasialisme-terhadap-natalius-pigai-ini-yang-perlu-dilakukan?page=all>, accessed: February 13, 2023.

<sup>154</sup> Yenny Herawati, "Mosque burning in Tolikara Triggers Religious Conflict in Papua", (Benar News, 2015), [https://www.benarnews.org/indonesian/berita/pembakaran\\_masjid\\_papua\\_memicu\\_konflik-07202015182625.html](https://www.benarnews.org/indonesian/berita/pembakaran_masjid_papua_memicu_konflik-07202015182625.html), accessed: February 13, 2023.

<sup>155</sup>The Conversation, "Let's talk more about racism in Indonesia", (The Conversation, 2019), <https://theconversation.com/lets-talk-more-about-racism-in-indonesia-123019>, accessed: February 13, 2023.

8.8: *Census, elections, pivotal activities related to those processes, or measures that destabilize them.* The policy of “noken voting” for some regencies in the highlands is undemocratic as it<sup>156</sup> allows only the leaders of tribes to cast the ballot on behalf of their communities; this policy only applies to a handful of regencies in the highlands and not throughout West Papua.

The 1969 act of free choice, which led to Indonesia's annexation of West Papua, has been one of the primary triggers of the West Papua conflict. Out of more than 700 000 population in the territory, only 1026 people were chosen under gun point and commanded to raise their hands to be with Indonesia<sup>157</sup>. It was not even a secret ballot which degraded the human dignity of Papuans and questioned the process of democracy.

8.9: *Sudden changes that affect the economy or the workforce, including as a result of financial crises, natural disasters, or epidemics.* The extension of the Papua Special Autonomy Law brought sudden changes to the administration and created spaces for employment opportunities but lacked sufficient funding for public service throughout the newly created provinces putting strain on the Papua province. The budget for the newly created provinces is still tied to the existing provinces, which makes it somewhat cumbersome. There is no cash in the regencies though opportunities are opening up through the new appointments and creation of new districts, villages and positions.

The case of Freeport Mine, which affected more than 800 employees, is still yet to be settled peacefully. The Freeport Mine 2017 sacked 840 employees without reasonable explanation, causing a public outcry throughout Papua but to no avail. The Indonesian leaders did not convince the Mine management to accept the sacked

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<sup>156</sup> Noken voting or system noken is a recycle of what happened in the 1969 Act of Free Choice

<sup>157</sup> Salford, 61 – 65; Budiardjo and Liong, 17 – 20; and Osborne, 117 – 130.

employees, which is currently one of the leading causes of concern in the Mining township of Timika<sup>158</sup>.

*8.10: Discovery of natural resources or launching of exploitation projects that have a serious impact on the livelihoods and sustainability of groups or civilian populations.* The discovery and exploitation of minerals, including timber and other resources, seriously impact the livelihoods of West Papuans. The projects always hire the Indonesian military for security, who have committed atrocity crimes with impunity over the last sixty years. Significant projects that exclude the participation of Papuans include; Freeport Mine, Block Wabu project, and Bintuni LNG, among others. The Block Wabu is a recently identified gold mining project revealed when NGOs sponsored study publicised a network of military business deals under Luhut Binsar Panjaitan<sup>159</sup>.

*8.11: Commemoration events of past crimes or traumatic or historical episodes that can exacerbate tensions between groups, including the glorification of perpetrators of atrocities.* West Papuans commemorate important dates as a nation to remember the sacrifices their parents went through. The common events remembered every year are; the 1<sup>st</sup> December Morning Star flag raising, the 15<sup>th</sup> August New York Agreement and the 1<sup>st</sup> July unilateral declaration of independence. These events are so dear to Papuans because many people lost their lives defending their flag and idea of a nation of West Papua that was shot lived after its introduction on 1<sup>st</sup> December 1961. Indonesian military and police have been intimidating, killing, and imprisoning Papuans during the celebration of these events every year.

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<sup>158</sup> Asia Pacific Report, “Freeport Mine in Papua sacks 840 striking workers following May day”, (Asia Pacific Report, 2017), <https://asiapacificreport.nz/2017/05/18/freeport-mine-in-papua-sacks-840-striking-workers-following-may-day/>, accessed: February 13, 2023.

<sup>159</sup> Muhammad Idris, “Getting to know the Wabu Block, the Golden mountain in the Luhut vs Haris Azar conflict”, (Kompas, 2021).

8.12: Acts related to accountability processes, particularly when perceived as unfair. The Indonesian government continually deny any occurrence of serious human rights violations in West Papua. The Indonesian courts are generally corrupt, and justice has no place in the lives of Papuans. Ordinary Papuans do not consider themselves Indonesians; one of the surprising aspects about Papuans is that they are excluded when they speak of Indonesia. The perception of ordinary Papuans has been that there has been no accountability for the unjust treatment of Papuans, and the perception of ‘unfairness’ is written all over the people of West Papua collectively.

### 4.3. Presence of Specific Human Rights Risk Factors in West Papua

Table 9: Risk Factor Number 9

<b>Risk Factor 9. Intergroup tensions or patterns of discrimination against protected groups</b>	
Past or present conduct that reveals serious prejudice against protected groups and that creates stress in the relationship among groups or with the State, generating an environment conducive to atrocity crimes.	
	<b>Indicators</b>
9.1	Past or present serious discriminatory, segregationally, restrictive, or exclusionary practices, policies, or legislation against protected groups.
9.2	Denial of the existence of protected groups or recognition of elements of their identity.
9.3	History of atrocity crimes committed with impunity against protected groups.
9.4	Past or present serious tensions or conflicts between protected groups or with the State, with regards to access to rights and resources, socioeconomic disparities, participation in decision-making processes, security, expressions of group identity, or perceptions about the targeted group.
9.5	Past or present serious tensions or conflicts involving other types of groups (political, social, cultural, geographical, etc.) that could develop along national, ethnic, racial, or religious lines.
9.6	Lack of national mechanisms or initiatives to deal with identity-based tensions or conflict.

*Risk factor 9. Intergroup tension or patterns of discrimination against the protected group: Past or present conduct that reveals serious prejudice against protected groups and that creates stress in the relationship among groups or with the State, generating an environment conducive to atrocity crimes.* The fundamental patterns of

intergroup tensions that exist between Indonesians and West Papuans in are based on; (1) race, (2) nationalism, (3) religion, and (4) culture. The two groups were forced to coexists based on fear as a result of heavy militarization in the region.

The Indonesian government, from the beginning, had created a pattern of forced assimilation of Asian culture, nationalism, and religion into West Papuans, officially attempting to force the West Papuans into accepting Asian values while disregarding the Melanesian values. The West Papuans' response was to preserve their culture, religion, race and nationalism from annihilation. The West Papua conflict, as it is known today, is, thus, a battle for assimilation on the Indonesian side and preservation on the West Papuan side.

The most surprising aspect of the conflict has been that the international community allowed, supported, funded and continues to back Indonesia to continue this pattern of assimilation for sixty years, even after establishing the 1948 UN Convention on Genocide. The act is so subtle that the destructive policies and development initiatives designed to eliminate indigenous Papuans, in the long run, were appraised and even supported by the regional and international institutions that were meant to protect the ideals of democracy and human rights.

*9.1: Past or present serious discriminatory, segregationally, restrictive, or exclusionary practices, policies, or legislation against protected groups.* The exclusionary and destructive policies that Indonesia established in West Papua were; (1) 1961 Operations *Trikora*<sup>160</sup>, (2) 1965 *Daerah operasi militer*<sup>161</sup> (military operations zone), (3) restrictions on international media and INGOs to visit the Papua region, and (4) more than 20 emergency military operations undertaken by Indonesia over 50 years

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<sup>160</sup> Yuda Prinada, "History of Operations Trikora: Background, Contents, Objectives, and Figures", (Tirto.id, 2021), <https://tirto.id/sejarah-operasi-trikora-latar-belakang-isi-tujuan-dan-tokoh-gaV7>.

<sup>161</sup> al Rahab (2016), Anderson (2015), Elmslie & Webb-Gannon, (2013), and Brundigje E. et al., (2004).

period in West Papua. The current military operations are the *Operasi Damai Cartenz* ‘Operations Peace Cartenz’ following the first operations that began in 2018 codenamed *Operasi humniter* ‘Humanitarian Operations’<sup>162</sup>.

*9.2: Denial of the existence of protected groups or recognition of elements of their identity.* The Indonesians also excluded West Papuans and their identity<sup>163</sup> from all textbooks and history books, aimed to force West Papuans to learn Indonesian culture and promote lightness in skin colour as the ideal Indonesian. The Indonesians carried out what they called ‘*operasi koteka*’<sup>164</sup> (penis guard operations) to clothe West Papuans from their nakedness, denying that penis guard was the culture of West Papua highlanders. It is a generational tradition and forms part of their identity. Psychological and social implications of *operasi koteka* demonized West Papuans and their culture while placing Indonesians as liberators.

*9.3: History of atrocity crimes committed with impunity against protected groups.* The history of atrocity crimes committed against the people of West Papua dates back to the 1961 invasion of Indonesia through the operations *Trikora*. The military operations continued after 1965 when the territory was designated an official military operations zone. West Papua has 37 years of buried history of atrocity crimes committed by the Indonesian military and police against the people of West Papua from 1961 to 1998. This chapter of Papuan history was closed without any reconciliation. The detailed reports of historical atrocity crimes were compiled by Pastor Neles Tebay, Budiardjo & Liong, and Robin Osborne.

*9.4: Past or present serious tensions or conflicts between protected groups or with the State, with regards to access to rights and resources, socioeconomic disparities,*

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<sup>162</sup>Merdeka Network, “Military Operations in Papua”, (West Papua Support Network, 2020), <https://www.papua-merdeka.org/post/military-operations-in-papua-operasi-militer-di-papua>.

<sup>163</sup> Muro (2013)

<sup>164</sup> Wijaya (2018)

*participation in decision-making processes, security, expressions of group identity, or perceptions about the targeted group.* The armed conflict in six regencies is the continuation of the sixty years old secessionist movement started by West Papuans under OPM in 1965 against the Indonesian state<sup>165</sup>. West Papua people have been fighting for national self-determination, a rightful demand that should have been granted in the 1960s. Still, the international community ignored their calls for support and recognition.

*9.5: Past or present serious tensions or conflicts involving other types of groups (political, social, cultural, geographical, etc.) that could develop along national, ethnic, racial, or religious lines.* Other existing tensions are induced by racial, tribal, religious, resource exploitation, and economic disparities between the immigrants and West Papuans, which often flare up occasionally. The TPNPB-OPM has now turned to attack Indonesian immigrants claiming that they have been spying for Indonesian military and police in civilian clothes, especially in conflict zones. Within West Papuans, tribal enmity often transferred rivalries into modern internal politics, economics, and access to power<sup>166</sup>. The existence of Indonesian nationalist groups such as Barisan Mera Putih (Red and White Movement), KNPI (Indonesian Youth), and other organizations are real threat to the people of West Papua.

*9.6: Lack of national mechanisms or initiatives to deal with identity-based tensions or conflict.* The West Papua conflict is a secessionist armed conflict based on identity nationalism. West Papua fulfilled the UNGA resolution 1514 of 14 December 1960, which indicates that Indonesia has been colonizing a different territory in contravention of the spirit of the United Nations Charter. The Indonesian government, up to date, does not have plans to resolve the West Papua conflict peacefully. Indonesia has been unwilling to resolve the dispute. It lacked the national initiative to resolve the

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<sup>165</sup> International Coalition for Papua & Papua Netzwerk, 33 – 47.

<sup>166</sup> Bobby Anderson, *Papua's Insecurity: State Failure in the Indonesian Periphery*. 6 – 22.

conflict peacefully and often approached it militarily throughout the sixty years of the conflict.

*Table 10: Risk Factor Number 10*

<b>Risk Factor 10. Signs of an intent to destroy in whole or in part a protected group</b>	
Facts or circumstances suggest an intent, by action or omission, to destroy all or part of a protected group based on its national, ethnic, racial, or religious identity, or the perception of this identity.	
	<b>Indicators</b>
10.1	Official documents, political manifests, media records, or any other documentation through which a direct intent, or incitement, to target a protected group is revealed or can be inferred in a way that the implicit message could reasonably lead to acts of destruction against that group.
10.2	Targeted physical elimination, rapid or gradual, of members of a protected group, including only selected parts of it, which could bring about the destruction of the group
10.3	Widespread or systematic discriminatory or targeted practices or violence against the lives, freedom, or physical and moral integrity of a protected group, even if not yet reaching the level of elimination
10.4	Development of policies or measures that seriously affect the reproductive rights of women, or that contemplate the separation or forcible transfer of children belonging to protected groups
10.5	Resort to methods or practices of violence that are particularly harmful against or that dehumanize a protected group, that reveal an intention to cause humiliation, fear, or terror to fragment the group, or that reveal an intention to change its identity.
10.6	Resort to means of violence that are particularly harmful or prohibited under international law, including prohibited weapons, against a protected group
10.7	Expressions of public euphoria at having control over a protected group and its existence.
10.8	Attacks against or destruction of homes, farms, businesses, or other livelihoods of a protected group and/or of their cultural or religious symbols and property.

*Risk factor 10. Signs of an intent to destroy in whole or in part a protected group:*

*Facts or circumstances suggest an intent, by action or omission, to destroy all or part of a protected group based on its national, ethnic, racial, or religious identity, or the perception of this identity. The people of West Papua differ completely from Indonesia regarding national, ethnic, racial, religious, and cultural identities. West Papua geographically encompasses a different island completely separated from the Indonesian*



archipelago. What Indonesia has been doing in West Papua has been nothing but assimilation and destruction of West Papua people's culture, ethnic composition, racial composition, and other aspects subtly. It would likely lead to achieving ethnic homogeneity in the long run for Indonesia.

*10.1: Official documents, political manifests, media records, or any other documentation through which a direct intent, or incitement, to target a protected group is revealed or can be inferred in a way that the implicit message could reasonably lead to acts of destruction against that group.* The Indonesian government issued several public declarations of military operations to kill and destroy the members of the Organisasi Papua Merdeka (OPM) and their sympathisers in West Papua. The members of the OPM are ethnic Papuans who are of different races, cultures, religions, political beliefs and separate geographical locations away from Indonesia.

The public declarations that Indonesia, through its leaders, made officially to eliminate members and sympathisers of OPM in West Papua include; (1) Operations “Trikorā” on the 19<sup>th</sup> of December 1961 by Sukarno<sup>167</sup>, (2) the imposition of martial law in 1965 under *Daerah Operasi Militer* by Suharto<sup>168</sup>, (3) several military operations declared between 1970 and 1998<sup>169</sup>, (4) Humanitarian Operations (2018 – 2019), and (5) Operations Peace Cartenz (2020 – 2023). These official military operations conducted in the past and continue to be conducted today in West Papua constitute an “official issuance of intent to destroy” West Papua people as a group in whole or in part, which is in line

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<sup>167</sup>Yuda Prinada, “History of Operations Trikorā: Background, Contents, Objectives, and Figures”, (Tirto.id, 2021), <https://tirto.id/sejarah-operasi-trikorā-latar-belakang-isi-tujuan-dan-tokoh-gaV7>.

<sup>168</sup> Amirudin al Rahab, 3 – 13.

<sup>169</sup>Merdeka Network, “Military Operations in Papua”, (West Papua Support Network, 2020), <https://www.papua-merdeka.org/post/military-operations-in-papua-operasi-militer-di-papua>.

with the definition given in Article 2 of the Prevention and Punishment of the Crime of Genocide.

*10.2: Targeted physical elimination, rapid or gradual, of members of a protected group, including only selected parts of it, which could bring about the destruction of the group.* Over the years, the Indonesian government's target has been to carry out rapid physical elimination of members of the OPM and its sympathisers in West Papua. The Indonesian government's target is challenging to eliminate physically at once because the OPM's members are West Papuans, who now have more than 2 million people occupying some of the most difficult terrains in the world.

Amirudin al Rahab's view of the situation in West Papua during the martial law period (1965 – 1998) confirms that what the Indonesian military did at the time was according to the established norms. He stated, "in the minds of every military leader and member of the ABRI (Indonesian military), every Papuan in West New Guinea has to be a separatist. Unless that person can deny their membership to the OPM"<sup>170</sup> or deny the existence of West Papuan nationalism in general. It indicates that the Indonesian military targeted the Melanesian ethnic group as their target during the martial law period. The low natural increase in the population of West Papua between 1970 and 2020 confirms that the acts of violence perpetrated against the people of West Papua by the Indonesian military and police significantly contributed to the result<sup>171</sup>.

*10.3: Widespread or systematic discriminatory or targeted practices or violence against the lives, freedom, or physical and moral integrity of a protected group, even if not yet reaching the level of elimination.* A climate of fear exists among West Papuans due to widespread systemic killings of West Papuans daily in conflict zones, in cities,

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<sup>170</sup> Amirudin al Rahab 3-4, translated from Indonesian.

<sup>171</sup> Elmslie and Webb-Gannon, "A Slow-Motion Genocide: Indonesian Rule in West Papua." 152 – 158.

hospitals, hotels, on the roads, and in restaurants through food poisoning<sup>172</sup>. From 2018 up to 2022, several senior West Papuan leaders died of food poisoning, and two died in a hotel room in Jakarta in mysterious circumstances<sup>173</sup>. The burning of Waghete town in December of 2022 by West Papuans was as a result of speculations of food poisoning from the restaurants within the township among the West Papuans<sup>174</sup>.

The Indonesian military and police are now targeting ethnic and tribal groups from the conflict zones through ethnic profiling and monitoring. Overall, the highlands people of West Papua have been the target since 2018. So far, this group of people from West Papua has the highest number of people who died due to armed conflicts, the highest number of IDPs, and highly discriminated groups within Indonesia and among Papuans.

*10.4: Development of policies or measures that seriously affect the reproductive rights of women, or that contemplate the separation or forcible transfer of children belonging to protected groups.* Implementing contraceptives (KB) in West Papua among Papuan women has harmed West Papua's population growth and the reproductive health of women in general. There were experiences of mothers being forced to accept contraceptives by the nurses, most often by the Indonesian nurses. There was an incident of forcible transfer of West Papuan children from Papua to Jakarta for indoctrination of Indonesian culture, noted by Elmslie and Webb-Gannon on genocide in West Papua<sup>175</sup>.

*10.5: Resort to methods or practices of violence that are particularly harmful against or that dehumanize a protected group, that reveal an intention to cause humiliation, fear, or terror to fragment the group, or that reveal an intention to change*

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<sup>172</sup> The practices were well noted also by Brundigje E. et al., 2004; Tebay, 2005; and Elmslie & Webb-Gannon, 2013 on the subject of West Papuan deaths.

<sup>173</sup> See Appendix 3. Threats of food poisoning in West Papua.

<sup>174</sup> The West Papuans often burn stores when protests went violent throughout Papua due to the perceptions of food poisoning that exist within West Papuans.

<sup>175</sup> See Elmslie and Webb-Gannon, 152 – 153.

*its identity*. Indonesian military applied various inhuman methods to drive fear and terror into Papuans, including splitting open pregnant mothers in public view, forcing people to drink murdered human blood, and other types of mistreatment<sup>176</sup>. Recently four West Papuans were murdered by the Indonesian military, and their bodies were chopped into pieces. The pieces of body parts were parcelled in bags and thrown in the bushes only to be discovered by the local people after days of search in Timika.

*10.6: Resort to means of violence that are particularly harmful or prohibited under international law, including prohibited weapons, against a protected group.* Indonesians applied “napalm chemical weapons against Papuan villages during a military operation in the 1980s”<sup>177</sup> the recent application was in 2019 aerial bombardment of villages in Nduga that destroyed homes, food gardens, water sources and people’s lives. The people of Nduga still feel the effect of the bombs after some weeks and months.

*10.7: Expressions of public euphoria at having control over a protected group and its existence.* The expression of public euphoria and praise for the Indonesian military against West Papuans is common on social media and online fake news being written and promoted by the Indonesian public. The phrase ‘*Indonesia Harga mati*’/ ‘*Papua monyet*’ (Indonesia fixed price/Papuans are Monkeys) and other descriptive words often flood social media. The phrase means Papuans are monkeys (animals) that cannot rule themselves, and thus the Indonesians have possessed the island as theirs for life.

Making fun of Papuan leaders by Indonesians is common, including derogatory comments like *anjing* (dog) and other absurd adjectives<sup>178</sup>. On the other hand, the Indonesian leaders spend so much time on the mainstream media on ‘moving’ Papuans out of Papua and ‘replacing’ them with Indonesians. These types of public discussions

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<sup>176</sup> Tebay, 9 – 10.

<sup>177</sup> See Brundigje E. et al., 2, 29 and 59, and Osborne, 88 and 147.

<sup>178</sup> See Appendix 4. Racism in West Papua.

have been coming from top leaders of Indonesia. General H.A. Hendropriyono even suggested “moving the 2 million people of Papua to Manado and replace them with Manado people.”<sup>179</sup>

*10.8: Attacks against or destruction of homes, farms, businesses, or other livelihoods of a protected group and/or of their cultural or religious symbols and property.* The pattern of attack against the people of West Papua by the Indonesian military and police in their engagement with the OPM has been somewhat inhuman. First, they do aerial bombardment of villages, gardens and other food and water sources in the areas where the OPM members are perceived to be present. Second, they moved into the area after the bombing and took control by converting public facilities like schools or aid posts into their residence. Third, use local spies to gather information on the whereabouts of the Papuan civilians that fled due to bombings. And lastly, they distribute food and supplies to the devastated civilians in exchange for information on the whereabouts of the OPM members<sup>180</sup>.

Aerial bombardment of villages and food gardens and converting schools, churches, and aid posts to military posts are common in conflict zones. The OPM members are not in the villages but have separate bases in the bush away from the villages. The perception among Papuans has been that the target has been the people of Papua in general because of the way the Indonesian military and police have been engaging in Papua.

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<sup>179</sup> Normshed Papua, “H.A. Hendropriyono Menghina, Melecehkan Dan Merendahkan Martabat Orang Manado Dan Orang Papua”, (2022), <https://normshedpapua.com/h-a-hendropriyono-menghina-melecehkan-dan-merendahkan-martabat-orang-manado-dan-orang-papua/>, accessed: February 12, 2023.

<sup>180</sup> See appendix 5. Photos Indonesian activities in West Papua.

The other pattern of destruction of cultural objects is the Indonesian military and police obsession with the destruction of cemeteries of Papuan leaders and robbery of culturally significant objects from traditional men’s houses. It has been going on since the 1960s. The case of *Iwol Kikonmirip* in Oksibil was a typical example. In 1977 when the people of Kasipka left Oksibil due to repression, the Indonesian military ransacked the *Kikonmirip* men’s house and stole a culturally significant object. It was part of their attempt to weaken the tribe due to the cultural beliefs attached to it.

*Table 11: Risk Factor Number 11*

<b>Risk Factor 11. Signs of a widespread or systematic attack against any civilian population</b>	
Signs of violent conduct include but are not limited to, attacks involving the use of force, against any civilian population that suggests massive, large-scale, and frequent violence (widespread), or violence with patterns of periodicity, similitude, and organization (systematic).	
	<b>Indicators</b>
11.1	Signs of patterns of violence against civilian populations, or against members of an identifiable group, their property, livelihoods, and cultural or religious symbols
11.2	Increase in the number of civilian populations or the geographical area targeted, or in the number, types, scale, or gravity of violent acts committed against civilian populations.
11.3	Increase in the level of organization or coordination of violent acts and weapons used against a civilian population.
11.4	Use of the media or other means to provoke or incite violent acts.
11.5	Signs of a plan or policy to conduct attacks against civilian populations.
11.6	Establishment of new political or military structures that could be used to commit violent acts.
11.7	Access to or increasing use of significant public or private resources for military or belligerent action, including the acquisition of large quantities of weaponry or other instruments that can cause death or serious harm.
11.8	Signs of development or increased use of means or methods of violence that are incapable of distinguishing between civilian and military targets or that are capable of mass destruction, persecution, or weakening of communities.

*Risk factor 11. Signs of a widespread or systematic attack against any civilian population: Signs of violent conduct include but are not limited to, attacks involving the*

*use of force, against any civilian population that suggests massive, large-scale, and frequent violence (widespread), or violence with patterns of periodicity, similitude, and organization (systematic).*

Typical attack pattern that has been occurring in West Papua since the 1960s has been between the TPNPB-OPM members and the Indonesian military and police. The civilian population in West Papua has been at the receiving end of the conflict and endured unthinkable cruelty, most often at the hands of the Indonesian military and police. The tide of a widespread attack on civilians and public properties is changing; the TPNPB-OPM is now attacking immigrants found in conflict zones and public properties to show that they disapprove of Jakarta's development plans for the Papua region under the Special Autonomy. Several cases of burning public properties and killing of immigrants in Oksibil and Nduga between 2018 and 2023 suggest that this pattern of attacks is likely to increase.

The Indonesian military and police have also changed their pattern of attacks and targets, zeroing in on tribes from conflict zones. The ethnic profiling of people from conflict zones and constant spying on their moves to block any aid, including food aid to conflict zones, from the outside has been in place since 2018. The murder and mutilation of four Nduga tribal people in Timika suggest this pattern of attacks against Papuan civilians by the Indonesian military and police.

*11.1: Signs of patterns of violence against civilian populations, or against members of an identifiable group, their property, livelihoods, and cultural or religious symbols.* The violence committed against West Papuans by the Indonesian military has been occurring for years, excluding those that die due to food poisoning, drug overdose, hit-and-run road accidents, and mothers that die during labour or due to other circumstances. The current ethnic profiling and targeting by the Indonesian military and

police on tribes and ethnic groups from conflict zones is a serious problem because many civilians were kidnapped and killed or falsely accused as sympathisers of the TPNPB-OPM by the Indonesian military and thrown into prison.

West Papuans love to wear body decorations such as armbands, bags, shirts, earrings, hairstyles and other body decorations which identify them with their cultures and nationality. These body decorations come with the national colours of West Papua, blue, red, and white stripes or their Morning Star flag. Sadly, the people with body decorations have been an easy target for the Indonesian military and police in West Papua. When they are arrested during protests, the police use the body decorations as evidence of being an OPM member or sympathiser. This pattern of profiling West Papuans have been going on for years. Moreover, these acts also coincide with destroying graveyards belonging to West Papuan leaders and the stealing of cultural objects from West Papuan traditional men's houses or *honai* by the Indonesian military and police.

*11.2: Increase in the number of civilian populations or the geographical area targeted, or in the number, types, scale, or gravity of violent acts committed against civilian populations.* In Indonesia, West Papua has been one of the three areas targeted as the hotspot of conflict designated as military operations zone since 1965. The gravity of violence committed since the 1961 Indonesian invasion of the territory is massive against the people of West Papua. The current trend inside West Papua has been focused towards the highlands of West Papua. All conflict zones are located in the highlands of West Papua, and all the civilian casualties from the Papuan side are highlanders. The gravity of violent acts committed against the highlands people of West Papua have been massive since 2018.

Thousands of people were forced out of their homes, their food gardens and livelihoods destroyed and displaced internally due to the armed conflicts between



TPNPB-OPM and Indonesian military and police. The ICP recorded that 60 000 to 100 000 people have become IDPs, all from the highlands of West Papua<sup>181</sup>. West Papua people have lived outside West Papua as refugees since 1984.

*11.3: Increase in the level of organization or coordination of violent acts and weapons used against a civilian population.* The increase in the mobilization and deployment of the Indonesian military to West Papua since 2018 is noticeable throughout West Papua. Indonesia continues to purchase spare parts for helicopters and other weapons from neighbouring countries to wage war on West Papuan soil. Creating new provinces also means increased military and police personnel, budget, and bases in West Papua.

*11.4: Use of the media or other means to provoke or incite violent acts.* Using mainstream and social media to provoke West Papuans based on race and cultural identity has been a norm in Indonesia. Indonesian bots spread millions of online propaganda and fake news about development and conditions in West Papua to attempt to shut down the concerns for human rights violations raised by the CSOs in West Papua. Diversion of the West Papua conflict by mainstream media in Indonesia has been observed clearly, often biased towards the Indonesian government. For instance, the name tag applied to West Papua National Liberation Army has been enormous, from just *Kerombolan* in the 1960s to Terrorists and *Kerombolan Kriminal Bersenjata* at present.

Hiding facts and realities in West Papua from public view has also been a norm for the Indonesian government. For instance, *Papua Tanah Damia*, or ‘Papua Land of Peace’, has been one of the official slogans the Indonesian government has promoted since 2001 under the Special Autonomy package. They promote the agenda through

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<sup>181</sup> International Coalition for Papua and the West Papua-Network, “Human Rights in West Papua 2021.” 125 – 129.

churches and erect billboards throughout major towns in Papua, ignoring the grim realities of conflict inside West Papua for ages.

*11.5: Signs of a plan or policy to conduct attacks against civilian populations.*

The Indonesian government has established a ‘security approach’ to address the West Papua conflict since 2018<sup>182</sup>. So far, it has launched two military operations under the codenamed ‘Humanitarian operations’ and ‘Operations peace Cartenz’, which are still in operation. Civilians heavily bear the casualties in all the engagements of the conflict between the West Papua National Liberation Army and the Indonesian Military and Police. The TPNPB-OPM has also announced through their spokesperson that immigrant civilians in conflict zones will be killed if they don’t leave the area.

*11.6: Establishment of new political or military structures that could be used to commit violent acts.* The current arrangement under Special Autonomy to create new provinces enables the Indonesian military to establish new political, economic, and military structures to commit violent acts against the people of West Papua.

The extract below is from Davies on the structures of Indonesian military expansion plans for West Papua<sup>183</sup>;

West Papua caught the greatest attention for build-up and projected cost compared with other regional Indonesian military expansions and plans. Local force restructuring plans for the longer term (to 2019) would ensure previous levels of troop deployments in West Papua were far exceeded by the shift to new locally based units. By the time of writing, new army territorial units either filled the gap from reduced outside deployments or increased troop numbers in some areas. As elsewhere in Indonesia, local TNI infantry expansion was intended to reduce Jakarta’s reliance on rotated unit deployments of non-local

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<sup>182</sup> International Coalition for Papua and the West Papua-Network. 136 – 137.

<sup>183</sup> Mathew N. Davies, “TNI & POLRI Forces in West Papua: Restructuring & Reasserting Sovereignty”, (Nautilus.org, 2012), 6 – 8.

infantry to high-priority areas, especially in the areas of the Freeport mining complex, remote highland centres of insurgency, and along the generally porous Indonesia—PNG border. However, infantry and restructured special forces from outside of West Papua continued to deploy there for this period.

*11.7: Access to or increasing use of significant public or private resources for military or belligerent action, including the acquisition of large quantities of weaponry or other instruments that can cause death or serious harm.* The Indonesian military operations in West Papua are funded by the national government and businesses operating in West Papua, especially the multi-national companies such as PT Freeport Indonesia<sup>184</sup>. Other funding sources for the Indonesian military and police exist mainly from extensive military business networks. Mathew Davies outlines some known funding sources for the Indonesian military and police in his analysis<sup>185</sup>.

*11.8: Signs of development or increased use of means or methods of violence that are incapable of distinguishing between civilian and military targets or that are capable of mass destruction, persecution, or weakening of communities.* The military operations in West Papua have been promoted as law-and-order operations. Indonesian officials claim that only the police are doing the operations and the military support them, but that is not always the case in conflict zones. The Indonesian military has been the lead organization in deploying spy networks and carrying out intelligence gathering among the communities, including kidnapping and murdering innocent people in the process.

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<sup>184</sup>Mines and Communities, “Freeport paid the Indonesian military US\$ 5.6 million in Protection money”, (MAC, 2003), <http://www.minesandcommunities.org/article.php?a=985#:~:text=Jakarta%20%28JP%29%3A%20The%20U.S.%20Freeport%20company%20paid%20the,Papua%20province%2C%20according%20to%20a%20report%20released%20Thursday.>

<sup>185</sup> Mathew N. Davies, “TNI & POLRI Forces in West Papua: Restructuring & Reasserting Sovereignty”, (Nautilus.org, 2012), 4 – 6.

Few of these acts have been reported from the conflict zones, while others are forced to suppress within the communities.

The reports from the conflict show extensive damage done to the civilian population in conflict zones, including destruction to properties and the lives of people<sup>186</sup>.

*Table 12: Risk Factor Number 12*

<b>Risk Factor 12. Signs of a plan or policy to attack any civilian population</b>	
Facts or evidence suggestive of a State or organizational policy, even if not explicitly stipulated or formally adopted, to commit serious acts of violence directed against any civilian population.	
	<b>Indicators</b>
12.1	Official documents, political manifestos, media records, or any other documentation through which the existence of a State or organizational plan or policy to target civilian populations or protected groups is directly revealed or could be inferred.
12.2	Adoption of discriminatory security procedures against different groups of the civilian population.
12.3	Adoption of measures that result in the alteration of the ethnic, religious, racial, or political composition of the overall population, including in defined geographical areas.
12.4	Establishment of parallel institutions or autonomous political or military structures, or organization of a network of potential perpetrators belonging to a specific ethnic, religious, national, racial, or political group.
12.5	Preparation and use of significant public or private resources, whether military or other kinds.
12.6	Access to and use of weaponry or other instruments is not easily obtained inside the country.
12.7	Preparation or mobilization of armed forces en-masse against civilian populations.
12.8	Facilitating or inciting violence against the civilian population or protected groups, or tolerance or deliberate failure to take action, to encourage violent acts
12.9	Widespread or systematic violence against civilian populations or protected groups, including only parts of them, as well as on their livelihoods, property, or cultural manifestations.
12.10	Involvement of State institutions or high-level political or military authorities in violent acts.

<sup>186</sup> See report from International Coalition for Papua and the West Papua-Netzwerk, “Human Rights in West Papua 2021.”

*Risk factor 12. Signs of a Plan or policy to attack any civilian population: Facts or evidence suggestive of a State or organizational policy, even if not explicitly stipulated or formally adopted, to commit serious acts of violence directed against any civilian population.* The current military operations codenamed *Operasi Damai Cartenz* (Cartenz Peace Operations) is an official military declaration to wage war against the West Papua National Liberation Army (TPNPB-OPM), which are ethnic Papuans fighting for West Papua's freedom. Peaceful military operations are likely to commit serious acts of violence against the Papuan civilian population because the experiences from previous military operations showed that the civilian population has often been borne with heavy casualties.

*12.1: Official documents, political manifestos, media records, or any other documentation through which the existence of a State or organizational plan or policy to target civilian populations or protected groups is directly revealed or could be inferred.*

The official establishment of military operations in 1961 through Operations Trikora and subsequent military operations from 1965 to 2022 satisfies these conditions<sup>187</sup>. The Merdeka Secretariat, a network of CSOs that monitor human rights conditions in West Papua, listed 44 military operations in West Papua that the Indonesian government conducted from 1961 to 1998. These military operations constitute acts committed by the state against the people of West Papua based on official policies<sup>188</sup>. The same government is now imposing a 'security approach', a continuation of the past military policy to resolve the West Papua conflict causing more damage than good in the lives of Papuans.

*12.2: Adoption of discriminatory security procedures against different groups of the civilian population.* Some discriminatory practices inside West Papua are; checking

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<sup>187</sup> Indicator 12 supports the reports of abuses described by Budiardjo, C., & Liong, L. S., 1983; al Rahab, 2016; Tebay, 2005; and Osborne, 1985.

<sup>188</sup> See more on risk factors 9.1 and 10.1

bags at the airports and cargo terminals, including strict application processes for passports to travel overseas. Goods sent to conflict zones must be checked thoroughly if the senders are West Papuans. ICP noted in their report of confiscating food items meant for IDPs at the airports by the Indonesian military and police<sup>189</sup>.

One aspect of West Papuan scholars being sent abroad for the study is that they have to sign an oath not to talk about West Papua human rights and other related issues. Breaking the oath would mean termination from the scholarship.

*12.3: Adoption of measures that result in the alteration of the ethnic, religious, racial, or political composition of the overall population, including in defined geographical areas.* The current extension of Special Autonomy Law enabling the creation of extra provinces is a subtle Indonesian approach to alter the ethnic, religious, racial, and cultural composition of the Papua region. Creating the new provinces would mean more military and police bases and more immigrants into West Papua. The establishment of the transmigration policy transferring Asians into West Papua was a direct attempt by the Indonesian government to alter the demographic composition of West Papua<sup>190</sup> that was established before 1998. The government officially ended the program, but immigrants continue to flood into West Papua on their own daily, especially in cities like Jayapura, Merauke, and Sorong, where direct passenger shipping to and from other Indonesian provinces is active.

*12.4: Establishment of parallel institutions or autonomous political or military structures, or organization of a network of potential perpetrators belonging to a specific ethnic, religious, national, racial, or political group.* Establishing Indonesian-based organizations like the Nusantara movement and Barisan Merah Putih Red and White Movement including the Indonesian Youth KNPI in Papua region across all the regencies,

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<sup>189</sup> West Papua Support Network, 57 – 73.

<sup>190</sup> See risk factor 7.2

are existential threats to ethnic Papuans. These groups are indoctrinated in the Indonesian Pancasila ideology, often funded and organized by the Indonesian military and police to counter attacks during public demonstrations. These organizations are all pro-Indonesia, like in East Timor in 1998. They organize public rallies and awareness campaigns both online and offline to instil Indonesian nationalism in the Papuans directly counteract with the Papuan organizations like the West Papua National Committee (KNPB) and others.

*12.5: Preparation and use of significant public or private resources, whether military or other kinds.* The Indonesian military readily uses any resources to attack TPNPB-OPM, including civilian transportation and public facilities. In conflict zones, the Indonesian military often uses government transportation and public facilities. Converting schools, administration or health facilities into temporary military accommodations in conflict zones has become a norm in Papua since 2018. The Indonesian military uses companies owned tipper trucks to transport troops and supplies to conflict zones in Oksibil. The TPNPB-OPM, as a result, have turned to attack civilians and their properties in conflict zones, especially the construction companies.

*12.6: Access to and use of weaponry or other instruments is not easily obtained inside the country.* The Indonesian military, between 2019 and 2021, dropped bombs made in Serbia obtained through illegal means.

*12.7: Preparation or mobilization of armed forces en-masse against civilian populations.* Mobilization of Indonesian military and police is directed towards the TPNPB-OPM and its sympathisers, but civilians are passively affected in the crossfire.

*12.8: Facilitating or inciting violence against the civilian population or protected groups, or tolerance or deliberate failure to take action, to encourage violent acts.* There is always a clear, deliberate failure on the part of Indonesian police to take action when it comes to controlling Indonesian nationalists. They can organize and run propaganda

campaigns based on racial and ethnic hatred and even kill Papuans during demonstrations with impunity. Indonesian nationalist organizations are funded and armed by the Indonesian military and police. Incidences of the shooting of Papuans during protests by people with civilian clothes are common in West Papua. The nationalist organization often appeal to the Indonesian military to give them weapons to kill OPM members to avoid the accusation of committing human rights violations.

*12.9: Widespread or systematic violence against civilian populations or protected groups, including only parts of them, as well as on their livelihoods, property, or cultural manifestations.* The Indonesian government’s target through its security forces has been to get rid of Papuan nationalism from the minds of Papuans and transform them into Indonesians<sup>191</sup>. They devised a military approach to crush OPM physically while psychologically instilling fear among Papuans to stop them from joining OPM in the long run. The Indonesians spread propaganda through education and awareness campaigns to train Papuans to adopt Indonesian nationalism starting from the 1970s and up. Ipenburg explains this systematic state of brainwashing in his presentation on education in Papua<sup>192</sup>.

*12.10: Involvement of State institutions or high-level political or military authorities in violent acts.* The state institutions involved in human rights violations against the people of West Papua are the Indonesian military, Police apparatus, Intelligence, and other security agencies in Indonesia.

*Table 13: Risk Factor Number 13*

<b>Risk Factor 13. Serious threats to those protected under international humanitarian law</b>
Conflict-related conduct that seriously threatens the life and physical integrity of those protected under international humanitarian law

<sup>191</sup> See risk factors 9.3 & 9.4 for further information.

<sup>192</sup> Ipenburg, “Education in West Papua.”



	<b>Indicators</b>
13.1	Fragmentation of parties to the conflict or disintegration or absence of chains of command within them.
13.2	Mistrust between opposing parties based on past or present breaches of commitments or agreements.
13.3	Increased radicalization or extremism of opposing parties within a conflict.
13.4	Promotion of ethnicity or religion as a determinant of national allegiance or allegiance to a party of the conflict.
13.5	Conduct that dehumanizes the enemy or particular groups within the population, or that exhibits disrespect for their religious, ethnic, or, in general, cultural traditions, morals, values, objects, or institutions.
13.6	Adoption of measures that severely curtail the rights of those protected under international humanitarian law, including those aligned or perceived as aligned with opposing parties but not taking an active part in hostilities.
13.7	Evidence of plans or discourse which reveals a threat of or incitement to violence against those protected under international humanitarian law, including as a means to spread terror, intimidate, demoralize, show military strength, provoke displacement, or as preliminary to further violence.
13.8	Evidence of conduct interfering with or impeding delivery or access to supplies, facilities, equipment, objects, or medical or humanitarian support is indispensable to the survival of those protected under international humanitarian law.
13.9	Evidence of preparation of personnel and logistics enabling the transportation, movement, or confinement of large numbers of people, or the conducting of medical experiments.
13.10	Evidence of conduct related to the planning, development, production, storage, acquisition, availability, or threat of use of weapons, projectiles, materials, or substances which are by their nature indiscriminate or cause superfluous injury or unnecessary suffering to people, or that can cause widespread, long-term, and severe damage to the natural environment.
13.11	Refusal to allow inspections by competent and independent bodies into allegations of conduct included in point 13.10, or action to stop such conduct.
13.12	Refusal to acknowledge detentions or places of detention or to allow visits by delegates of the International Committee of the Red Cross.
13.13	Issuance of rules of engagement or legislation that allow the disproportionate or indiscriminate use of force, or failure to take action to avoid launching such attacks or to conduct military operations in heavily populated areas or to non-military targets.
13.14	Increase in the number of any of the attacks or operations mentioned in point 13.13.
13.15	Use of methods of warfare that reveal treachery, including taking advantage of the symbols or emblems of humanitarian or peacekeeping personnel, or not wearing uniforms or distinctive combat gear to portray combatants as civilians
13.16	Threats or appropriation, seizure, pillaging, or intentional destruction or damage of civilian objects or property that belong, represent, or are part of the cultural, social, or religious identity of those protected under international humanitarian law unless used for military purposes.

13.17	Threats or orders of warfare without concessions or where there would be no survivors.
13.18	Conduct that threatens the rule of law or any other measures that limit the protection of the rights to life and physical integrity afforded by applicable international humanitarian law, including denial of its applicability

*Risk factor 13. Serious threats to those protected under International Humanitarian Law: Conflict-related conduct that seriously threatens the life and physical integrity of those protected under international humanitarian law.* In West Papua, the major conflict actors are the Indonesian security forces and West Papua National Liberation Army (TPNPB-OPM). In conflict zones, the civilian population is often threatened, including those protected under international humanitarian law. Experiences from conflict zones have shown that Indonesian security forces target those protected under international humanitarian law as collaborators of OPM.

The case of Pastor Zanambani in Intan Jaya and Pastor Nirigi in Nduga are two examples of indiscriminate shootings against those protected under international human rights law by the Indonesian military.

*13.1: Fragmentation of parties to the conflict or disintegration or absence of chains of command within them.* The Indonesian military and police are well-organized, funded and strategized to execute their plans according to the command and control of the headquarters in Jakarta. The PPNPB-OPM, on the other hand, operates on territorial independence fragmented throughout West Papua without a proper plan, budget or strategy. The groups are not connected and often operate independently in their local areas taking advantage of geography and their territorial knowledge.

*13.2: Mistrust between opposing parties based on past or present breaches of commitments or agreements.* Over the years, there has been a deep distrust between the OPM and the Indonesian government because there has been no peace agreement between the two opposition parties.

*13.3: Increased radicalization or extremism of opposing parties within a conflict.*

There has been an increased polarization of opposition parties between Papuans and Indonesians. West Papuans believe that Indonesia has been colonizing West Papua. The Indonesian military has created radical groups (pro-Indonesian groups) such as Red and White Groups who are ready to do anything upon command, are united, well-funded, and supported morally and logistically to protect Indonesian “Pancasila ideology”. During protests, the Indonesian military and police often mix with radical groups to harass and block peaceful protests by West Papuan groups.

*13.4: Promotion of ethnicity or religion as a determinant of national allegiance or allegiance to a party of the conflict.* West Papuans are racially different from Indonesians, making easy identification along racial lines. West Papuans are Christians, while Indonesians are Muslims, another distinguishing feature. National allegiance in the West Papua conflict is more to do with nationalism along with racial and ethnic identity.

*13.5: Conduct that dehumanizes the enemy or particular groups within the population, or that exhibits disrespect for their religious, ethnic, or, in general, cultural traditions, morals, values, objects, or institutions.* Dehumanizing West Papuans down to “monkeys”, stupid, and pigs is common among Indonesians on social media.

*13.6: Adoption of measures that severely curtail the rights of those protected under international humanitarian law, including those aligned or perceived as aligned with opposing parties but not taking an active part in hostilities.* The Indonesian government's long-term ban on international human rights organizations, media and other outside parties from entering West Papua severely curtails the rights of those protected under international humanitarian law to access Papua and do their work independently. Within West Papua, constant internet blockage and restrictions placed on CSOs to access conflict zones severely curtail those protected groups' work.

*13.7: Evidence of plans or discourse which reveals a threat of or incitement to violence against those protected under international humanitarian law, including as a means to spread terror, intimidate, demoralize, show military strength, provoke displacement, or as preliminary to further violence.* No direct violence or threats are purposely directed at those protected under international humanitarian law from the conflict actors. Those protected under international humanitarian law are indirect victims of the crossfire between the conflict actors in conflict zones.

*13.8: Evidence of conduct interfering with or impeding delivery or access to supplies, facilities, equipment, objects, or medical or humanitarian support is indispensable to the survival of those protected under international humanitarian law.* The Indonesian military has continuously blocked supplies to the IDPs in Wamena and other places for the last four years, causing IDPs to suffer from hunger. The OPM leaders have expressed concern that it is unfair for the Indonesian military to treat the civilians that way because the West Papua National Liberation Army marked war zones. The places of sanctuary for IDPs were also publicly announced in 2018, but the Indonesian military continues sending troops to IDP zones to kidnap and intimidate civilians.

*13.9: Evidence of preparation of personnel and logistics enabling the transportation, movement, or confinement of large numbers of people, or the conducting of medical experiments.* There is no available evidence of the conducting of medical experiments.

*13.10: Evidence of conduct related to the planning, development, production, storage, acquisition, availability, or threat of use of weapons, projectiles, materials, or substances which are by their nature indiscriminate or cause superfluous injury or unnecessary suffering to people, or that can cause widespread, long-term, and severe damage to the natural environment.* There is some evidence of the Indonesian military

applying chemical weapons like napalm and the 2019 bombing of Nduga villages of chemical bombs but no evidence of planning, development, production and storage.

*13.11: Refusal to allow inspections by competent and independent bodies into allegations of conduct included in point 13.10, or action to stop such conduct.* West Papua has been off limits to the international community; Indonesia does not allow even a visit by the UN High Commissioner for Human Rights to visit West Papua.

*13.12: Refusal to acknowledge detentions or places of detention or to allow visits by delegates of the International Committee of the Red Cross.* Several Political prisoners from West Papua are held in detention throughout Indonesia. The Red Cross are not even allowed to enter West Papua. Talk of visiting prisons is off-limits.

*13.13: Issuance of rules of engagement or legislation that allow the disproportionate or indiscriminate use of force, or failure to take action to avoid launching such attacks or to conduct military operations in heavily populated areas or to non-military targets.* The Indonesian military has engagement rules that appear good on paper but differ in practice. Indonesian military targets civilian areas in conflict zones destroying schools, clinics, and church buildings. The Indonesian military and police also turn civilian facilities into their use, like turning schools into temporary accommodations and using civilian flights to supply their logistics.

*13.14: Increase in the number of any of the attacks or operations mentioned in point 13.13.* The current military operations codenamed “Operations Peace Cartenz” was launched following the previous “Humanitarian Operations” operations. The operations appear peaceful on paper but are destructive in conflict zones. The current hostage of a New Zealand pilot by TPNPB-OPM in Nduga created a situation conducive to atrocity crimes.

*13.15: Use of methods of warfare that reveal treachery, including taking advantage of the symbols or emblems of humanitarian or peacekeeping personnel, or not wearing uniforms or distinctive combat gear to portray combatants as civilians.* The Indonesian military and police have been applying treacherous tactics to gain public trust and support and hide the gravity of human rights conditions in conflict zones in West Papua. The use of a Red Cross helicopter to attack villagers in 1996 was one such incident. The current labelling of military operations as “humanitarian” and “peace” operations appears to be treacherous, given that there is no such thing as peace when weapons are involved. It is illogical to believe that the so-called humanitarian operations have destroyed thousands of homes and displaced communities as internally displaced people in West Papua.

*13.16: Threats or appropriation, seizure, pillaging, or intentional destruction or damage of civilian objects or property that belong, represent, or are part of the cultural, social, or religious identity of those protected under international humanitarian law unless used for military purposes.* The Indonesian military and police often seize civilian objects in conflict zones. In 2022, the local customs authorities expressed dissatisfaction with the behaviours of the Indonesian military and police based in Oksibil for the search and destruction of local Men’s houses in search of the members of the OPM. They destroyed culturally significant objects in the process.

*13.17: Threats or orders of warfare without concessions or where there would be no survivors.* The threats are often issued by the Indonesian military to physically wipe out the OPM members and its sympathisers through the occupation of Indonesia. The threats are often racially biased and discriminatory, degrading and dehumanising the people of West Papua and their ethnic and racial identity.

13.18: *Conduct that threatens the rule of law or any other measures that limit the protection of the rights to life and physical integrity afforded by applicable international humanitarian law, including denial of its applicability.* The blockage of the internet for certain areas from time to time and constant military operations without a peaceful resolution to the armed conflict limit the protection of the right to life and physical integrity of the people of West Papua. The Indonesian government has a budget for military operations in Papua every year without looking for other options to resolve the conflict.

Table 14: Risk Factor Number 14

<b>Risk Factor 14. Serious threats to humanitarian or peacekeeping operations</b>	
Conflict-related conduct threatens the protection provided by international humanitarian law to humanitarian assistance or peacekeeping personnel not taking direct part in hostilities.	
	<b>Indicators</b>
14.1	Perceptions of partiality or political interference by humanitarian or peacekeeping operations, their members, the broader international community, international, regional, or national organizations, individual countries, or others sponsoring or participating in the operations.
14.2	Increase in identity-based conflicts and perceptions about humanitarian or peacekeeping operations as associated with the opponent or as an obstacle to plans of elimination, marginalization, or displacement.
14.3	Increased intensity of the conflict and scarcity of livelihoods or other resources.
14.4	Fragmentation of parties to the conflict or disintegration of chains of command within them.
14.5	Interference, limitation, or prohibition of access or movement of humanitarian or peacekeeping operations or their personnel.
14.6	Tampering with or removal of signs identifying protected objects or locations where humanitarian or peacekeeping operations are stationed or providing support.
14.7	Incidents of improper use of a flag of truce, of the flag or the military insignia and uniform of the United Nations, and the distinctive emblems of the Geneva Conventions.
14.8	Attacks against locations near humanitarian or peacekeeping operations and personnel, or on the routes taken by them during their activities.
14.9	Discourse or evidence of plans that suggest a threat, or the incitement or tolerance of acts of violence against humanitarian or peacekeeping operations and personnel.

14.10	Disrespect, threats, or increase in attacks to objects, property, or persons using the distinctive emblems of the Geneva Conventions or other humanitarian or peacekeeping operations.
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*Risk factor 14. Serious threats to humanitarian or peacekeeping operations: Conflict-related conduct threatens the protection provided by international humanitarian law to humanitarian assistance or peacekeeping personnel not taking direct part in hostilities.* West Papua currently does not have any peacekeeping activity taking place in its territory. However, it did have one in the 1960s leading up to the 1969 act of free choice. West Papua viewed the intervention by the United Nations at the time as an unjust and one-sided affair – the UN was not neutral in keeping up with its principles of democracy.

*14.1: Perceptions of partiality or political interference by humanitarian or peacekeeping operations, their members, the broader international community, international, regional, or national organizations, individual countries, or others sponsoring or participating in the operations.* The UN's involvement in the 1969 act of free choice was partially more lenient towards Indonesia and did not attempt to maintain the principles of democracy and human rights.

*14.2: Increase in identity-based conflicts and perceptions about humanitarian or peacekeeping operations as associated with the opponent or as an obstacle to plans of elimination, marginalization, or displacement.* No such perceptions exist in West Papua. West Papuans' distrust is currently held against the UN handling of the 1969 act of free choice and the Red Cross in the 1996 hostage crisis in Mapenduma in which the Indonesian military used the Red Cross helicopter to open fire on the West Papuan civilians.

*14.3: Increased intensity of the conflict and scarcity of livelihoods or other resources.* The conflict in West Papua has been occurring intermittently in several



locations due to a lack of logistics by the OPM—the intensity of armed conflict decrease and increases based on an attack by the OPM on the Indonesian establishments.

*14.4: Fragmentation of parties to the conflict or disintegration of chains of command within them.* The Indonesian military and police are under a chain of command with specific instructions and budget and operate on a rotational basis directly from Jakarta. On the other hand, the OPM is fragmented and has independent command and control structures limited by geography and communication barriers between each command.

*14.5: Interference, limitation, or prohibition of access or movement of humanitarian or peacekeeping operations or their personnel.* Prohibition of access of humanitarian personnel to conflict zones, including confiscation of food items for IDPs, has been made by the Indonesian military and police in conflict zones. Checking of bags at the airports is a norm for travellers going into conflict zones.

*14.6: Tampering with or removal of signs identifying protected objects or locations where humanitarian or peacekeeping operations are stationed or providing support.* The Indonesian military usually visits IDP camps to intimidate IDPs and do other investigations to know the information on the whereabouts of the OPM members.

*14.7: Incidents of improper use of a flag of truce, of the flag or the military insignia and uniform of the United Nations, and the distinctive emblems of the Geneva Conventions.* In West Papua, the recorded case was only the 1996 incident of the Indonesian military using the Red Cross helicopter to kill more than 150 West Papuans in Mapenduma.

*14.8: Attacks against locations near humanitarian or peacekeeping operations and personnel, or on the routes taken by them during their activities.* The attack against IDPs by the Indonesian military and police has been since 2018 in the conflict zones.

*14.9: Discourse or evidence of plans that suggest a threat, or the incitement or tolerance of acts of violence against humanitarian or peacekeeping operations and personnel.* There are no such public discourses against humanitarian personnel, but they have been indiscriminate victims of the conflict, especially in conflict zones.

*14.10: Disrespect, threats, or increase in attacks to objects, property, or persons using the distinctive emblems of the Geneva Conventions or other humanitarian or peacekeeping operations.* There were incidences of intimidation and reprisals against the church leaders in conflict zones by the Indonesian military. The killing of Pastor Zanambani in Intan Jaya and Pastor Nirigi in Nduga was pre-planned.

# **CHAPTER 5: DISCUSSION ON THE PRESENCE OF ATROCITY CRIMES IN WEST PAPUA**

## **5.1. Introduction**

This chapter discusses the results of the findings in chapter four to conclude whether there are atrocity crimes committed in West Papua by the Indonesian security forces. The results were convincing enough to assume that atrocity crimes, namely; genocide, crimes against humanity, war crimes, and ethnic cleansing against the people of West Papua, have been occurring in West Papua under the Indonesian military occupation of the territory over the last 59 years. Outside intervention is warranted under the principle of responsibility to protect in such circumstances.

This study shows a positive indication of the claims made in previous studies on genocide in West Papua. The application of the UN Framework – especially risk factors 9 and 10 indicates the existence of genocide in West Papua and also clears the doubt left by previous studies on the ‘intent’ of the perpetrator. It also reveals the existence of crimes against humanity (risk factors 11 and 12), a convincing result that can lead to ethnic cleansing as the atrocities committed are directed against the ethnic Melanesian population in West Papua.

Discussion in this chapter is divided into (1) a contextual analysis of atrocity crimes in West Papua, (2) a strong indication of the existence of atrocity crimes in West Papua, (3) the rights of West Papuans to defend themselves against abuses, and (4) international community’s moral responsibility to intervene. The chapter ends with a summary.

## **5.2. Contextual Analysis of Atrocity Crimes in West Papua**

The contextual analysis of atrocity crimes in West Papua goes back to the controversial integration of West New Guinea into the Indonesian Republic on 1<sup>st</sup> May 1963, as explored by Budiardjo & Liong (1983) Osborne (1985), Saltford (2000), Tebay (2005), Brundigje E., et al., (2004), Elmslie & Webb-Gannon, (2013), Andrew (2015), and al Rahab (2016). The controversial integration gave birth to the six types of instabilities highlighted in risk factor number one of the UN Framework, namely, non-international armed conflict (1.1), security crisis caused by the exclusion of West Papuans in the 1962 New York Agreement, and subsequent act of free choice in 1969 (1.2), the humanitarian crisis caused by the numerous military operations (1.3), political instabilities caused by the exclusion of Papuans in the affairs of the province and suppression of West Papuan nationalism (1.5, 1.6), economic fluctuations caused by the exploitation of Papuan resources and exclusion of West Papuans from participation in the formal economy (1.7, 1.8, 1.9), and social instabilities caused by planned transmigration and suppression of West Papuan culture and identity (1.10, 1.11).

The instabilities created at the beginning of integration were maintained throughout the last sixty years of Indonesian occupation in West Papua without any attempts to resolve the instabilities by the Indonesian government<sup>193</sup>. The atrocities were committed amidst the instabilities throughout the Indonesian occupation of the territory.

For the record, the intent to wage war against the people of West Papua was issued by Sukarno on 19<sup>th</sup> December 1961 in Jakarta<sup>194</sup>. Indonesians knew precisely that West Papuans had already declared their nation to be on 1<sup>st</sup> December 1961 and that the idea of a nation of West Papua was already established among the people. It was a clear ‘intent’

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<sup>193</sup> See indicators 2.4 & 9.6.

<sup>194</sup> Detailed records found in Budiardjo & Liong, viii-ix; Osborne, 28-40; Saltford, 6-178; and Tebay, 10-12.

to destroy in whole or in part the people of West Papua, declared publicly by the president of Indonesia at the time.

The people of Indonesia, including the military, took it seriously as a national priority. This declaration was further extended by his successor Suharto in 1965 establishment of ‘martial law’ secured West Papua as “daerah operasi militer” (special military operations area). These declarations fulfil the ‘intent’ aspect of the 1948 UN Genocide Convention as indicated by Indonesia’s military operations in West Papua that targeted West Papuans as a group established in previous research<sup>195</sup>.

Al Rahab (2016) puts it perfectly in his analysis of the actions of the Indonesian military at the time. He stated that: “in the minds of every military leader and member of the ABRI (Indonesian military), every Papuan in West New Guinea has to be a separatist (national of the established nation of West Papua). Unless that person can deny his membership to the OPM”<sup>196</sup> or deny the existence of West Papuan nationalism in general, which fulfils indicator (10.2) *targeted physical elimination rapid or gradual of members of protected groups* of the UN Framework.

The contextual situation creates an environment conducive to atrocity crimes in West Papua, consistent over the last sixty years of Indonesian occupation with zero attempts to resolve the conflict peacefully. It confirms the assumption that atrocity crimes are occurring in West Papua under the hands of the Indonesian military and police.

### **5.3. Strong Indication of the Existence of Atrocity Crimes in West Papua**

The establishment of the UN Framework for Atrocity crimes was to ensure the existence of any forms of atrocity crimes in societies worldwide are identified and addressed by all stakeholders to end the suffering of any kind among the members of the

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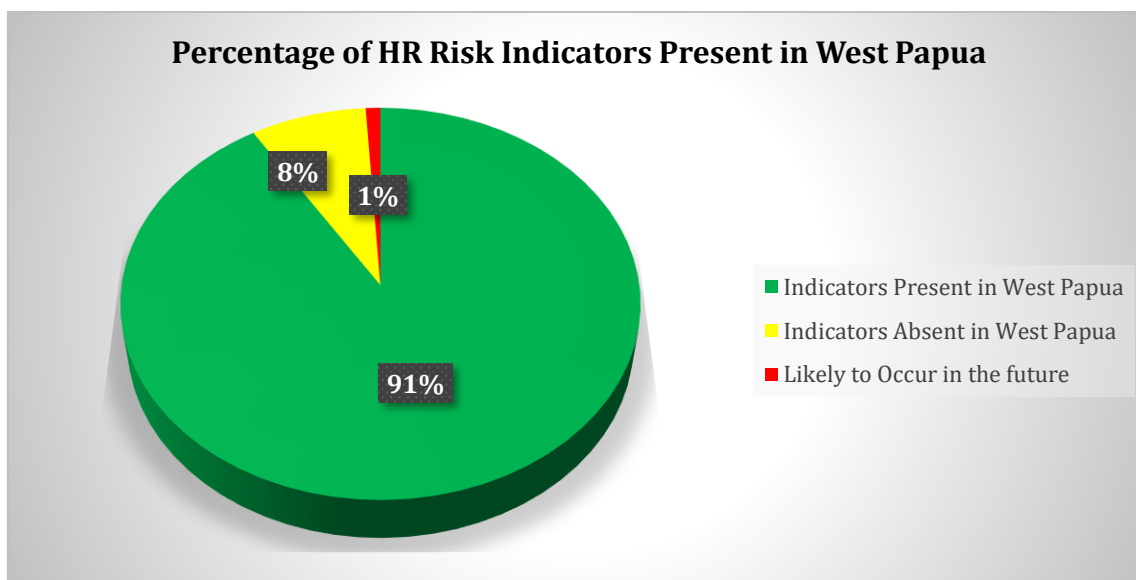
<sup>195</sup> Previous research done by Brundigje E. et al.,2004; Elmslie & Webb-Gannon, 2013; and Andrew, 2015.

<sup>196</sup> al Rahab, 3-4.

international community. The establishment of the principles of human security in the 1990s, described in chapter 3, was all about protecting human lives from all forms of suffering. In this regard, West Papuan peoples' lives are worthy of protection under the principle.

The presence of 131 (91%) indicators out of the 143 indicators of the UN Framework in West Papua indicates the existence of atrocity crimes in West Papua. Indicators for risk factors 1, 2, 4, 7, 9, 10 and 11 are all present in West Papua. Only 11 (8%) of the 143 indicators are absent, as shown in (Figure 2). The presence of risk factors 9 and 10 strongly indicate the existence of genocide positively aligned with the previous studies on the subject. The existence of risk factors 11 and 12 convincingly suggests the presence of atrocity crimes.

*Figure 2. Pie Chart*



#### **5.4. The rights of West Papuans to defend themselves against abuses**

West Papuans' demand for self-determination was based on the principle of decolonization contained in the UN General Assembly resolution 1514 (XV) of 14<sup>th</sup>

December 1960. The decolonization process in West Papua was even started as an official program by the colonial power on December 1<sup>st</sup>, 1961, establishing the embryo state of West Papua<sup>197</sup>. It makes the struggle for self-determination by West Papua people legal as per UNGA resolution 2621 (XXV)<sup>198</sup> which granted “freedom fighters” the right to fight and liberate themselves from colonial and racist regimes<sup>199</sup>. The resolution allowed the international community to assist freedom fighters in achieving self-determination.

The Office of Human Rights Commissioner for Human Rights (OHCHR) stated, based on the UN Charter, Universal Declaration of Human Rights, and the Declaration on the Granting of Independence to Colonial Countries and Peoples in its information fact sheet number 13 that;

... freedom fighters struggling to fight against colonial and racist regimes for the right to self-determination are legitimate and in full accord with the international law.<sup>200</sup>

The struggle for self-determination in West Papua is also legitimized by the presence of atrocity crimes<sup>201</sup>, which makes the situation urgent to intervene by the international community to save the people of West Papua from the Indonesian genocidal regime. The opposition against the government of Indonesia is legitimized under the circumstances described above. The international community’s action, if any, to support the people of West Papua is also legitimized under the principle of responsibility to protect (R2P). West Papua people, in this case, have the right to fight to free themselves from the Indonesian colonial genocidal regime.

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<sup>197</sup> Osborne, 134.

<sup>198</sup> [https://undocs.org/en/A/RES/2621\(XXV\)](https://undocs.org/en/A/RES/2621(XXV))

<sup>199</sup> OHCHR, “Fact Sheet No.13, International Humanitarian Law and Human Rights.”

<sup>200</sup> OHCHR (Unknown)

<sup>201</sup> UNESCO Study on Decolonization in the Pacific E/C.19/2013/12

## **5.5. International Community's Moral Responsibility to Intervene on West Papua**

As pointed out by the experts on the principles of human security and responsibility to protect, the principle of intervention also ran side by side with the principle of human security and responsibility to protect (R2P)<sup>202</sup>. The R2P pillar III calls for intervention as such collectively under the leadership of the United Nations under UN Charter Chapters VI and VIII<sup>203</sup>.

The international community is morally responsible for the conditions of the people of West Papua under the Indonesian regime because the international community through the UN was directly responsible, as discussed in chapter 2. The UN acted at the time based on the 1962 New York Agreement, believing that the welfare of the people of West Papua would be guaranteed when Indonesia took over the territory. The reality over the last sixty years since 1963 shows otherwise; Indonesia failed miserably in its responsibility to protect the people of West Papua.

The Indonesian government failed to keep up with the expectations of Pillar I of the R2P principle, reflected negatively by the presence of 131 indicators of the human rights risk factors in West Papua. Therefore, the international community through the UN must exercise Pillar II and III of the principle of responsibility to protect (R2P). It realizes the study's assumption based on the presence of atrocity crimes in West Papua, which is convincing enough for the intervention by the international community under the principle of Responsibility to Protect (R2P).

## **5.6. Chapter Summary**

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<sup>202</sup> Tadjbakhsh & Chenoy, 2007; Pattison, 2010; Badescu, 2011; Wyatt, 2019; and Bellamy & Dunne, 2016; Nahlawi, 2020; and Martin & Owen, 2014.

<sup>203</sup> Global Centre for the Responsibility to Protect, Unknown.



The contextual analysis of atrocity crimes in West Papua indicates that the Indonesian government initiated the West Papua conflict through the “Trihora” declaration of 19<sup>th</sup> December 1961. It has been intentionally maintained throughout the last sixty years, regardless of the staggering records of atrocity crimes committed by the Indonesian military against the people of West Papua.

The presence of 131 (91%) of the human rights risk indicators strongly indicates the existence of atrocity crimes in West Papua. The existing principles on “freedom fighters” posits that West Papuans have the right to defend themselves against the genocidal and racist regime of the Indonesian government and that the international community has a moral responsibility to intervene to assist West Papua people under Pillar III of the R2P principle.

## **CHAPTER 6. CONCLUSIONS AND RECOMMENDATIONS**

### **6.1. Findings and Conclusion**

This case study applied the UN Framework to explore the human rights situation in West Papua. The information on the existence of atrocity crimes was gathered via the literature review. It explored West Papua's controversial integration into Indonesia, subsequent human rights violations by the Indonesian military, and the West Papuans' fight for self-determination under the OPM leadership. The information gathered was later analysed in the 14 human rights risk factors of the UN Framework.

The study found that; (1) West Papua's integration into Indonesia was illegal, the United Nations breached the UN Charter on Trusteeship system as it applied a non-existent law to transfer the administration of West Papua from the UN to Indonesia in 1963, (2) Indonesia and West Papua developed their nationalism separately, and that West Papuans' struggle for self-determination remains an unfinished business of decolonization process from the 1960s, and (3) Indonesian government declaration of Trikora Operations in 1961 and subsequent imposition of martial law in 1965 designating West Papua as a special military operations zone was an 'intent' to destroy in whole or in part the West Papuan people, thus, fulfilled the 'intent' aspect of the 1948 Geneva Convention on Genocide.

The findings are convincing enough to conclude that Indonesia is guilty of committing genocide and atrocity crimes against the people of West Papua. The West Papuans' struggle for self-determination is legitimate under the existing international law. The international community has a moral responsibility to intervene to assist West Papua people under Pillar III of the R2P principle.

## **6.2. Recommendation for the OPM**

The OPM maintains its struggle for self-determination and independence through military and diplomatic means. The OPM can maintain the effort by consolidating all the West Papuan people's support both at home and abroad in order to; (1) seek diplomatic support from the international community, (2) maintain communication with the United Nations through the proper procedure to address the West Papua problem.

## **6.3. Recommendation for the Indonesian Government**

The Indonesian government is to uphold Pillar I of the R2P principle and open up with the international community to ensure Pillar II of the R2P principle is realized in West Papua. Indonesia must also seek peaceful options to resolve the West Papua conflict in the future, as military options have continued producing the same results over the last sixty years.

## **6.4. Recommendation for the international community**

Through the United Nations, the international community should apply Pillar III of the R2P principle. The international community should; (1) maintain pressure on Indonesia to open up West Papua for the international community to intervene, (2) seek the International Court of Justice (ICJ) interpretation/opinion on the legal status of West Papua to correct the mistake made in in the 1960s.

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## APPENDIX 1: EIGHT TECHNIQUES OF GENOCIDE

<b>Types of Techniques</b>	<b>Description</b>
<b><i>Political</i></b>	Cessation of self-government and local rule, and their replacement by that of the occupier. 'Every reminder of former national character was obliterated. Local elites may be appointed to rule but often have close watch by the occupier.
<b><i>Social</i></b>	Entail attacking the intelligentsia, 'because this group largely provides the national leadership and organizes resistance against Nazification.' The point of such attacks is to 'weaken the national, spiritual resources.
<b><i>Cultural</i></b>	Ban the use of native language in education, and inculcate youth with propaganda. The demonization of the local cultures and way of life and glorify the occupiers' culture.
<b><i>Economic</i></b>	Shift economic resources from the occupied to the occupier, often exploitative and militaristic.
<b><i>Biological</i></b>	Decrease the birth rate of occupied people through official birth control techniques that often do not consider the local population.
<b><i>Physical</i></b>	Rationing of food, endangering of health, and mass killing to accomplish the 'physical debilitation and even annihilation of national groups in occupied countries. The budget may be often controlled by the occupier to control the behaviours of local elites.
<b><i>Religious</i></b>	Try to disrupt the national and religious influences of the occupied people. Often indoctrinate the local people by the occupier's religion.
<b><i>Moral</i></b>	Policies 'to weaken the spiritual resistance of the national group'. This technique of moral debasement entails diverting the 'mental energy of the group' from 'moral and national thinking' to 'base instincts'. The aim is that 'the desire for cheap individual pleasure be substituted for the desire for collective feelings and ideals based upon a higher morality.' Lemkin mentioned the encouragement of pornography and alcoholism in Poland as an example. Prostitution and sexualization of Papuan women in West Papua case.

\*Source: *Bloxham, D., & Moses, A. D. (Eds.). (2010, pp. 34-35).*

## APPENDIX 2: TABLE OF MILITARY OPERATIONS IN WEST PAPUA

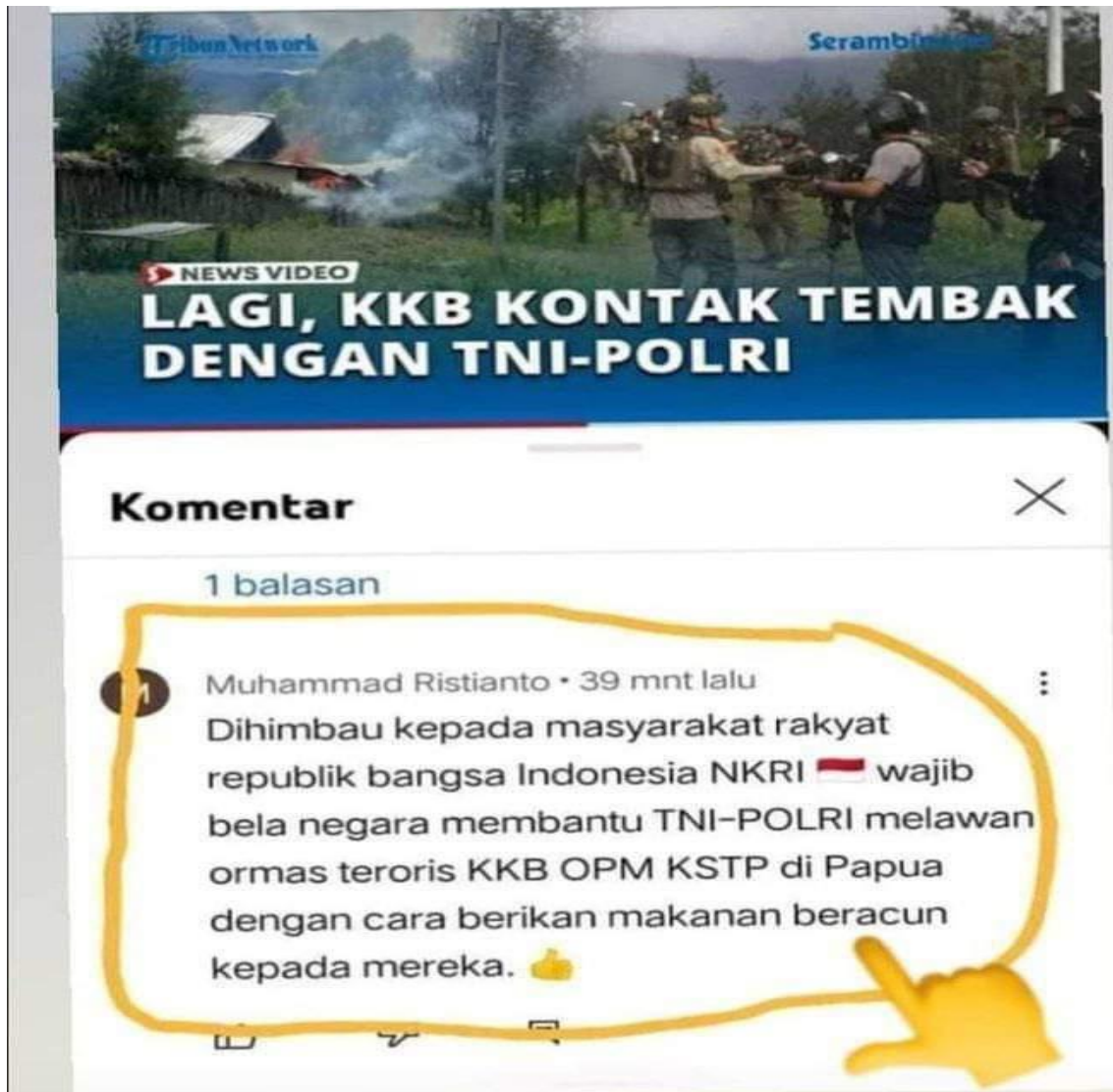
List of Names of Military Commanders under Command XVII/Tjendrawasih Command the military operations in West Papua.

No	Name of General in Charge	Length of Operation	Name of Operations
1	Brigjen Suharto	19 December 1961 - 1963	Operations Trikora
2	Brigjen U Rukman	Mei 1963 —17 April 1964	Operations Wisnumurti I & II,
3	Brigjen Inf. Kartidjo	17 April 1964 —	Operations Wisnumurti III & IV Operations Giat & Tangkas, Operations Sadar these Operations led by Danrem 171 Manokwari Lefthn.Col Djaka Wargadinata.
4	Brigjen TNI R. Bintoro	23 Maret 1966	Operasi Brathayudha, operasi penghancuran perlawanan dan untuk memenangkan Pepera
5	Brigjen TNI Sarwo Edi Wibowo	25 Juni 1968	Operasi Sadar dan Bratayudha Operasi Wibawa (Persiapan Penyelenggaraan Pepera)
6	Brigjen Acub Zainal	26 Januari 1970 — 1974	Operasi Pamungkas
7	Brigjen Imam Munandar	1977—1978	Operasi di Sepanjang Perbatasan
8	Brigjen C.I. Santosa		1978—1982
9	Brigjen RK. Sembiring Meliala		1982—1985
10	Mayjen H. Simanjuntak*	1985—1986	Operasi Gagak I
11	Mayjen Setiana	1986—1987	Operasi Gagak II
12	Mayjen Wismoya Arismunandar	1987—1989	Operasi Kasuari I dan II

13	Mayjen Abinowo	1989—1991	Operasi Rajawali I dan II
14	Mayjen I Ketut Wardhana		1994—1995
15	Mayjen Joni Lumintang		1995—1996
16	Mayjen Amir Sembiring	1998—1999**	Pengamanan Daerah Rawan
17	Mayjen Mahidin Simbolon	1999—2002	Operasi Pengendalian Pengibaran Bendera
18	Mayjen Nurdin Zainal	2002—2004	Operasi Penyisiran di Wamena
19	Mayjen Yosua Pandit Sembiring	2018 - 2022	Operations Nemangkawi
20	Mayjen Ignatius Yugo Triyono	2022 -	Operations Peace Cartenz

*\*Source: Table adapted and edited from al Rahab A. (2016, p. 23).*

## APPENDIX 3: THREATS OF FOOD POISONING IN WEST PAPUA



The above is a comment from Muhammad Ristiano an Indonesian Naval Officer appealing to the Indonesian public to give poisoned food to the members of the OPM in a commentary section of a major online Indonesian news portal Tribun News:

“Appealing to the people of the Republic of Indonesia, the general public of Indonesia to be obliged to defend the country to help the TNI-POLRI fight the KKB OPM KSTP terrorist organizations in Papua by giving them poisoned food”.

## APPENDIX 4: RACISM IN WEST PAPUA



Ambroncius Nababan is an Indonesian Parliamentarian comparing Natalius Pigai a West Papuan leader and former Chairman for Indonesian Human Rights Commission to “Gorilla”/Orang Hutan. This happened in 2020 during the heat of Covid-19 crisis and the debate that followed with regard to the import and application of Covid-19 Vaccine.

This is only an example that happened on the highest level of the nation where respect, tolerance and discipline are expected to be maintained at all times. Racism in Indonesia is systematic against and has long been institutionalized making Papuans difficult to access government services due to the color of their skin.

## APPENDIX 5: PHOTOS OF SOME ACTIVITIES OF INDONESIAN MILITARY AND POLICE IN WEST PAPUA



SENTANI, 10 NOVEMBER 2020

HIDUP DAN MATI SEORANG PEJUANG  
BESAR AKAN TERUS DALAM  
BAYANG-BAYANG PENJAJAH  
DORTHEYS HIYO ELUAY



INDONESIAN ATTEMPT AT ERASING THE  
HISTORY OF WEST PAPUA CULTURAL IDENTITY  
AND NATIONAL CONSCIOUSNESS

Photo No. 1 & 2: Indonesian military in one of the schools in Jayapura putting up posters in the classroom indoctrinating students.

Photo No. 3: The Tomb Stone of West Papua leader Theys Eluay murdered by Indonesian Intelligence in 2000 was painted by Morning Star flag but the Indonesian military repainted it (to the right). West Papuans are painting again after the destruction (left), November, 2020. The destruction of tomb stone engravings are occurring throughout the region, Indonesian military and police go into graves and deface the graveyards of West Papuan leaders. In 2020 alone, they defaced a graveyard of a West Papua National Committee Leader in Yahukimo and the tomb of Yudas Kogoya in Nduga one of the military commanders of the West Papua National Liberation Army.

*\*Source: Photo compilation by Solidarity for Indigenous Papuans (SIP files).*



**INDONESIAN MILITARY AND POLICE VISITING A SCHOOL TAKING PHOTOS FOR THEIR ONLINE PROPAGANDA IN WEST PAPUA 2020.**

Photo No. 1: Indonesian Police distributing Indonesian flags and sweets to West Papua community school children 2020.

Photo No. 2: Indonesian military in a classroom teaching Indonesian Pancasila ideology to West Papua high school students.

Photo No. 3: Indonesian military and police visiting a community school taking pictures for their propaganda. The visit is often sudden, and students are often forced to take part in the photo shoots.





2



1



3

INDONESIAN MILITARY POSING AS TEACHERS IN CONFLICT ZONES

Photo No. 1: An Indonesian military officer teaching in one of the remotes schools in the highlands in full military uniform 2020.

Photo No. 2: Another Military officer teaching in one of the schools up in the highlands, 2020.

Photo No. 3: Indonesian military take turns to teach a group of children in Nduga, 2020.



**INDONESIAN MILITARY IN THE CHURCHES IN WEST PAPUA**

The photo above was taken in one of the remote Catholic churches in Asmat Regency in West Papua to the south west of West Papua bordering Nduga and Star Mountain regencies two of the conflict hotspots in the region. Most of the IDPs from the conflict zones have moved into Asmat regency, Indonesian military was in there to collect information from the IDPs traumatizing the people in the process. It's really a mental torture on the part of the people of West Papua for ages, a clear violation of their freedom of thought.



**INDONESIAN MILITARY IN THE CHURCHES**

Indonesian military personnel in full gear posing for a photo with church leaders in one of the protestant churches in the highlands of West Papua, 2021. The difference here is that they are in full uniform in the Church without a threat.

